
A BILL FOR AN ACT

RELATING TO ECONOMIC DEVELOPMENT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that Hawaii's economic
2 success is tied to the world market, and the well being of its
3 economy and citizens is threatened by instability in the
4 worldwide economic market. In particular, Hawaii has been
5 affected by declining visitors from Asia and increasing
6 competition in the global travel and tourism market.

7 As a result of the recent economic downturn, state and
8 county governments have had to reduce or eliminate various
9 public services. In fact, the legislature has received a
10 mandate from the electorate to address the significant shortfall
11 of revenue that has threatened government services and economic
12 growth. To maintain much needed social programs, guarantee
13 quality education, expand economic growth, and compete in the
14 increasingly competitive global tourism market, the State should
15 pursue various economic opportunities to address the needs of
16 the State, specifically by allowing limited casino gaming on
17 Oahu.



1 It is essential that there be expanded economic development
2 so as to rejuvenate the urban environment on Oahu. The
3 development of limited casino gaming in the Waikiki area will
4 have a significant beneficial impact on hotels and other
5 businesses in the Waikiki area and will produce additional
6 revenues that are desperately needed by the State. Thousands of
7 jobs will be created in the casino facility itself. In
8 addition, thousands of other jobs will be created to build the
9 casino facility.

10 Because the State and the city and county of Honolulu agree
11 that future development on Oahu should occur in the Kapolei
12 area, limited casino gaming should also be located in the
13 Kapolei area. The legislature believes that casino gaming in
14 the Kapolei area, like the Waikiki area, will generate
15 construction projects and create employment opportunities for
16 the people of Hawaii. These employment opportunities should,
17 wherever possible, be subject to a collective bargaining
18 agreement.

19 It is critical to the hotel industry and the entire tourism
20 industry that the casino facility not include any hotel
21 structure. The casino facility will bring millions of new
22 tourists who will be able to stay in existing hotels and utilize



1 existing services. A casino facility in the Waikiki area will
2 help revitalize the urban area. A casino facility in the
3 Kapolei area will greatly contribute to the infrastructure
4 necessary for future development in that area. The State needs
5 to take all prudent steps to ensure the current economic crisis
6 does not continue.

7 Accordingly, the purpose of this Act is to generate
8 revenues for education, law enforcement, and economic
9 development by providing for limited casino gaming on Oahu.

10 SECTION 2. The Hawaii Revised Statutes is amended by
11 adding a new chapter to be appropriately designated and to read
12 as follows:

13 **"CHAPTER**

14 **CASINO GAMING**

15 § -1 **Limited casino gaming authorized.** Limited casino
16 gaming and a system of wagering incorporated therein, as defined
17 in this chapter, are authorized to the extent that they are
18 carried out in accordance with this chapter.

19 § -2 **Definitions.** As used in this chapter, unless the
20 context requires otherwise:

21 "Affiliate" means a person who, directly or indirectly,
22 through one or more intermediaries, controls, is controlled by,



1 or is under common control with; is in a partnership or joint
2 venture relationship with; or is a co-shareholder of a
3 corporation; a co-member of a limited liability company; or co-
4 partner in a limited liability partnership with a person who
5 holds or applies for a casino license under this chapter.

6 "Agent" means any person who is employed by any agency of
7 the State, other than the commission, who is assigned to perform
8 full-time services on behalf of or for the benefit of the
9 commission regardless of the title or position held by that
10 person.

11 "Applicant" means any person who applies for a license or
12 for registration under this chapter.

13 "Casino facility" means a freestanding, land-based
14 structure which may include structures with bars, restaurants,
15 showrooms, theaters, or other facilities but does not include
16 any structure used for hotel or other transient accommodation
17 lodging purposes.

18 "Casino gaming", "limited casino gaming", "game", or
19 "gaming" as the context may require, means the operation of
20 games licensed under this chapter including baccarat, twenty-
21 one, poker, craps, slot machine, video gaming of chance,
22 roulette wheel, Klondike table, punch-board, faro layout,



1 numbers ticket, push car, jar ticket, pull tab, or other game of
2 chance that is authorized by the commission as a wagering
3 device.

4 "Casino license" means a license to operate and maintain a
5 casino facility or facilities for casino gaming permitted under
6 this chapter.

7 "Chairperson" means the member of the Hawaii gaming control
8 commission selected by the other members of the Hawaii gaming
9 control commission pursuant to section -3(f).

10 "Commission" means the Hawaii gaming control commission as
11 defined under this chapter.

12 "Department" means the department of businesses, economic
13 development, and tourism.

14 "Executive director" means the executive director of the
15 commission.

16 "Financial interest" or "financially interested" means any
17 interest in investments, awarding of contracts, grants, loans,
18 purchases, leases, sales, or similar matters under consideration
19 or consummated by the commission, or holding a one per cent or
20 more ownership interest in an applicant or a licensee. A
21 member, employee, or agent of the commission will be considered



1 to have a financial interest in a matter under consideration if
2 any of the following circumstances exist:

3 (1) The member, employee, or agent owns one per cent or
4 more of any class of outstanding securities that are
5 issued by a party to the matter under consideration or
6 consummated by the commission; or

7 (2) The member, employee, or agent is employed by or is an
8 independent contractor for a party to the matter under
9 consideration or consummated by the commission.

10 "Gross receipts" means the total of:

- 11 (1) Cash received as winnings;
- 12 (2) Cash received in payment for credit extended by a
13 licensee to a patron for purposes of gaming; and
- 14 (3) Compensation received for conducting any game in
15 which the licensee is not party to a wager.

16 "Gross receipts" does not include:

- 17 (1) Counterfeit money or tokens;
- 18 (2) Coins of other countries that are received in
19 gaming devices;
- 20 (3) Cash taken in fraudulent acts perpetrated against a
21 licensee for which the licensee is not reimbursed; and



- 1 (4) Cash received as entry fees for contests or
2 tournaments in which patrons compete for prizes.
3 "Individual" means a natural person.
4 "Institutional investor" means:
5 (1) Any retirement fund administered by a public agency
6 for the exclusive benefit of federal, state, or local
7 public employees;
8 (2) An employee benefit plan, or pension fund that is
9 subject to the Employee Retirement Income Security Act
10 of 1974, as amended;
11 (3) An investment company registered under the Investment
12 Company Act of 1940 (15 U.S.C. 80a-1 to 80a-3 and 80a-
13 4 to 80a-64);
14 (4) A collective investment trust organized by a bank
15 under part 9 of the rules of the Comptroller of the
16 Currency;
17 (5) A closed end investment trust;
18 (6) A chartered or licensed life insurance company or
19 property and casualty insurance company;
20 (7) A chartered or licensed financial institution;
21 (8) An investment advisor registered under the Investment
22 Advisers Act of 1940 (15 U.S.C 80b-1 to 80b-21); or



1 (9) Any other person as the commission may determine for
2 reasons consistent with this chapter.

3 "Investigative hearing" means any hearing conducted by the
4 commission or its authorized representative to investigate and
5 gather information or evidence regarding pending license
6 applicants, qualifiers, licensees, or alleged or apparent
7 violations of this chapter or rules adopted by the commission.
8 Investigative hearing shall include any matter related to an
9 apparent deficiency.

10 "Kapolei casino facility development plan" means the plan
11 for a casino facility in the Kapolei area on Oahu.

12 "Occupational license" means a license issued by the
13 commission to a person or entity to perform an occupation which
14 the commission has identified as requiring a license to engage
15 in casino gaming in the State.

16 "Person" includes an individual, association, partnership,
17 estate, trust, corporation, limited liability company, or other
18 legal entity.

19 "Qualifier" means an affiliate, affiliated company,
20 officer, director, or managerial employee of the applicant, or a
21 person who holds greater than five per cent direct or indirect
22 interest in an applicant. As used in this chapter "affiliate"



1 and "affiliated company" do not include a partnership, a joint
2 venture relationship, a co-shareholder of a corporation, a co-
3 member of a limited liability company, or a co-partner in a
4 limited liability partnership that has five per cent or less
5 direct interest in an applicant and is not involved in the
6 casino as defined in rules adopted by the commission.

7 "Supplier" means a person that the commission has
8 identified under rules adopted by the commission as requiring a
9 license to provide casino licensees with goods or services
10 regarding the realty, construction, maintenance, or business of
11 a proposed or existing casino facility on a regular or
12 continuing basis, including junket enterprises, security
13 businesses, manufacturers, distributors, persons who service
14 gaming devices or equipment, garbage haulers, maintenance
15 companies, food purveyors, and construction companies.

16 "Supplier's license" means a license to furnish any
17 equipment, devices, supplies, or services to a licensed casino
18 gaming operation permitted under this chapter.

19 "Waikiki casino facility development plan" means the plan
20 for a casino facility in the Waikiki area on Oahu.

21 § -3 **Hawaii gaming control commission.** (a) There is
22 established the Hawaii gaming control commission which shall be



1 a body corporate and a public instrumentality of the State for
2 the purpose of implementing this chapter. The commission shall
3 be placed within the department of businesses, economic
4 development, and tourism. The commission shall consist of seven
5 members to be appointed by the governor with the advice and
6 consent of the senate under section 26-34. Of the seven
7 members, two shall be appointed from a list of nominees
8 submitted by the president of the senate and two shall be
9 appointed from a list of nominees submitted by the speaker of
10 the house of representatives. All appointments to the
11 commission shall be made within sixty days of the effective date
12 of this chapter. The members shall elect a chairperson from
13 among themselves.

14 (b) No person shall be appointed a member of the
15 commission or continue to be a member of the commission if the
16 person is:

- 17 (1) An elected state official;
- 18 (2) Licensed by the commission pursuant to this chapter,
19 is an official of, has a financial interest in, or has
20 a financial relationship with, any gaming operation
21 subject to the jurisdiction of this commission
22 pursuant to this chapter;



1 (3) Related to any person within the second degree of
2 consanguinity or affinity who is licensed by the
3 commission pursuant to this chapter; or

4 (4) A person who has been, under indictment for, been
5 convicted of, pled guilty or nolo contendere to, or
6 forfeited bail concerning, a felony or a misdemeanor
7 involving gambling, or fraud under the laws of this
8 State, any other state, or the United States within
9 the last ten years, or a local ordinance in a state
10 involving gambling or fraud that substantially
11 corresponds to a misdemeanor in that state within the
12 last ten years.

13 (c) The term of office of a commission member shall be
14 four years. Vacancies in the commission shall be filled for
15 the unexpired term in like manner as the original appointments.

16 (d) The governor may remove or suspend for cause any
17 member of the commission after due notice and public hearing.
18 The president of the senate or the speaker of the house of
19 representatives may request that the governor remove or suspend
20 a member of the commission that was nominated by either the
21 president of the senate or the speaker of the house of
22 representatives. Upon receipt of a request from either the



1 president of the senate or the speaker of the house of
2 representatives, the governor shall remove or suspend the member
3 or members of the commission in question.

4 (e) Members shall:

5 (1) Be residents of the State of Hawaii;

6 (2) Serve part-time;

7 (3) Be paid compensation of \$300 for each day in the
8 performance of official duties; and

9 (4) Be reimbursed for expenses, including travel expenses,
10 incurred in the performance of official duties.

11 (f) Officers of the commission, including the chairperson,
12 shall be selected by the members. The commission, subject to
13 chapter 92, shall hold at least one meeting in each quarter of
14 the State's fiscal year. Special meetings may be called by the
15 chairperson or any four members upon seventy-two hours written
16 notice to each member. Four members shall constitute a quorum,
17 and a majority vote of the members present shall be required for
18 any final determination by the commission. The commission shall
19 keep a complete and accurate record of all its meetings.

20 (g) Before assuming the duties of office, each member of
21 the commission shall take an oath that the member shall
22 faithfully execute the duties of office according to the laws of



1 the State and shall file and maintain with the director a bond
2 in the sum of \$25,000 with good and sufficient sureties. The
3 cost of any bond for any member of the commission under this
4 section shall be considered a part of the necessary expenses of
5 the commission.

6 (h) The commission shall appoint a person to serve as the
7 executive director of the commission subject to the commission's
8 supervision. The executive director shall:

- 9 (1) Hold office at the will of the commission;
- 10 (2) Be exempt from chapters 76;
- 11 (3) Devote full time to the duties of the office;
- 12 (4) Not hold any other office or employment;
- 13 (5) The executive director shall perform any and all
14 duties that the commission shall assign the executive
15 director;
- 16 (6) The executive director shall keep records of all
17 proceedings of the commission and shall preserve all
18 records, books, documents, and other papers belonging
19 to the commission or entrusted to its care; and
- 20 (7) Receive an annual salary at an amount set by the
21 commission, and shall be reimbursed for expenses



1 actually and necessarily incurred in the performance
2 of the executive director's duties.

3 (i) Except as otherwise provided by law, the executive
4 director is authorized to hire assistants, other officers, and
5 employees, who shall be exempt from chapters 76 and who shall
6 serve at the will of the executive director, and appoint
7 committees and consultants necessary for the efficient operation
8 of casino gaming; provided that no person shall be hired or
9 appointed under this subsection who is:

10 (1) An elected state official;

11 (2) Licensed by the commission pursuant to this chapter,
12 is an official of, has a financial interest in, or has
13 a financial relationship with, any gaming operation
14 subject to the jurisdiction of this commission
15 pursuant to this chapter;

16 (3) Related to any person within the second degree of
17 consanguinity or affinity who is licensed by the
18 commission pursuant to this chapter; or

19 (4) Who has been under indictment for or convicted of,
20 pled guilty or nolo contendere to, or forfeited bail
21 concerning a felony or misdemeanor concerning gambling
22 or fraud under the laws of this State, any other



1 state, or the United States within the last ten years,
2 or a local ordinance in any state involving gambling
3 or fraud that substantially corresponds to a
4 misdemeanor in that state within the last ten years.

5 (j) The salaries of employees shall be set by the
6 executive director.

7 (k) The commission shall adopt rules in accordance with
8 chapter 91 establishing a code of ethics for its employees which
9 shall include restrictions on which employees shall be
10 prohibited from participating in or wagering on any game or
11 gaming operation subject to the jurisdiction of the commission.
12 The code of ethics shall be separate from and in addition to any
13 standards of conduct set forth pursuant to chapter 84.

14 (1) A person shall not be appointed to or employed by the
15 commission if any of the following circumstances exist:

16 (1) During the three years immediately preceding
17 appointment or employment, the person held any direct
18 or indirect interest in or any employment by a person
19 who is licensed to operate a casino under this chapter
20 or in another jurisdiction, or a person who had an
21 application to operate a casino pending before the
22 commission or any other jurisdiction; provided that



1 the person may be appointed or employed to the
2 commission if the person's interest in any casino
3 licensee would not, in the opinion of the commission,
4 interfere with the objective discharge of the person's
5 employment obligations; provided further that a person
6 shall not be employed by the commission if the
7 person's interest in the casino licensee constitutes a
8 controlling interest in that casino licensee; or

9 (2) The person or the person's spouse, parent, child,
10 child's spouse, or sibling, is a member of the
11 commission, or a director of or a person financially
12 interested in any person licensed as a casino licensee
13 or casino supplier, or any person who has an
14 application for a license pending before the
15 commission.

16 (m) Each member of the commission, the executive director,
17 and each key employee as determined by the commission shall file
18 with the governor, a financial disclosure statement listing all
19 assets and liabilities, property and business interests of the
20 member, executive director, and each key employee and any of
21 their spouses affirming that the member, executive director, and
22 key employee are in compliance with the provisions of this



1 chapter. The financial disclosure statement shall be under oath
2 and shall be filed at the time of employment and annually
3 thereafter.

4 (n) Each employee of the commission shall file with the
5 commission a financial disclosure statement listing all assets
6 and liabilities, property and business interests, and sources of
7 income of the employee and the employee's spouse. This
8 subsection does not apply to the executive director or a key
9 employee.

10 (o) A member of the commission, executive director, or key
11 employee shall not hold direct or indirect interest in, be
12 employed by, or enter into a contract for service with any
13 applicant or person licensed by or registered with the
14 commission for a period of four years after the date the
15 person's membership or employment with the commission
16 terminates.

17 (p) An employee of the commission shall not acquire any
18 direct or indirect interest in, be employed by, or enter into a
19 contract for services with any applicant or person licensed by
20 or registered with the commission for a period of two years
21 after the date of the person's employment with the commission is
22 terminated.



1 (q) A commission member or a person the commission shall
2 not represent a person or party other than the State before or
3 against the commission for a period of two years after the
4 termination of member's or a person office or employment with
5 the commission.

6 (r) A business entity in which a former commission member
7 or employee or agent has an interest, or any partner, officer,
8 or employee of the business entity shall not make any appearance
9 or representation before the commission that is prohibited to
10 that former member, employee, or agent. As used in this
11 subsection, "business entity" means a corporation, limited
12 liability company, partnership, limited liability partnership
13 association, trust, or other form of legal entity,

14 § -4 **Staff.** (a) The executive director shall keep
15 records of all proceedings of the commission and shall preserve
16 all records, books, documents, and other papers belonging to the
17 commission or entrusted to its care relating to casino gaming.

18 (b) The commission may employ any personnel that may be
19 necessary to carry out its duties related to casino gaming.

20 § -5 **Powers of the commission.** The commission shall
21 have all powers necessary to fully and effectively supervise all
22 casino gaming operations including the following:



- 1 (1) To administer, regulate, and enforce the system of
2 casino gaming established by this chapter. The
3 commission's jurisdiction shall extend to every
4 person, association, corporation, partnership, trust,
5 and any other entity with a financial interest in or
6 holding a license under this chapter, or required to
7 hold a license under this chapter in casino gaming
8 operations in a county;
- 9 (2) To issue a license to operate a casino facility or
10 casino facilities pursuant to this chapter;
- 11 (3) To determine the types and numbers of occupational and
12 supplier's licenses to be permitted under this
13 chapter;
- 14 (4) To adopt standards for the licensing of all persons
15 under this chapter subject to the qualifications and
16 standards set forth herein, to issue licenses, and to
17 establish and collect fees for these licenses;
- 18 (5) To provide for the collection of all taxes imposed
19 pursuant to this chapter, and to collect, receive,
20 expend, and account for all revenues derived from
21 casino gaming within a county;



1 (6) To enter at any time, without a warrant and without
2 notice to the licensees, the premises, offices,
3 casinos, facilities, or other places of business of a
4 casino licensee, or casino supplier licensee, where
5 evidence of the compliance or noncompliance with this
6 chapter or rules adopted by the commission is likely
7 to be found for the following purposes:

8 (A) To inspect and examine all premises wherein
9 casino gaming or the business of gaming or the
10 business of a supplier is conducted, or where any
11 records of the activities are prepared;

12 (B) To inspect, examine, audit, impound, seize, or
13 assume physical control of, or summarily remove
14 from the premises all books, ledgers, documents,
15 writings, photocopies correspondence records,
16 videotapes, including electronically stored
17 records, money receptacles, other containers and
18 their contents, equipment in which the records
19 are stored, or other gaming related equipment
20 and supplies on or around the premises, including
21 counting rooms;



- 1 (C) To inspect the person, and inspect, examine, and
2 seize personal effects present in a casino
3 facility licensed under this chapter, of any
4 holder of a licensed casino facility; and
- 5 (D) To investigate and deter alleged violations of
6 this chapter or the rules promulgated by the
7 commission;
- 8 (7) To investigate alleged violations of this chapter and
9 to take appropriate disciplinary action against a
10 licensee or a holder of an occupational license for a
11 violation, or institute appropriate legal action for
12 enforcement, or both;
- 13 (8) To be present through its inspectors and agents any
14 time casino gaming operations are conducted in any
15 casino for the purpose of certifying the revenue
16 thereof, receiving complaints from the public, and
17 conducting other investigations into the conduct of
18 the casino gaming and the maintenance of the equipment
19 as from time to time the commission may deem necessary
20 and proper;



- 1 (9) To adopt appropriate standards for all casino
2 facilities as well as for electronic or mechanical
3 gaming devices;
- 4 (10) To require that the records including financial or
5 other statement of any licensee under this chapter be
6 kept in the manner prescribed by the commission and
7 that any licensee involved in the ownership or
8 management of casino gaming operations submit to the
9 commission an annual balance sheet and profit and loss
10 statement, a list of the stockholders or other persons
11 having a five per cent or greater beneficial interest
12 in the gaming activities of each licensee, and any
13 other information the commission deems necessary to
14 effectively administer this chapter;
- 15 (11) To conduct hearings, issue subpoenas for the
16 attendance of witnesses and subpoenas duces tecum for
17 the production of books, records, and other pertinent
18 documents, and to administer oaths and affirmations to
19 the witnesses, when, in the judgment of the
20 commission, it is necessary to administer or enforce
21 this chapter. The executive director or the executive
22 director's designee is also authorized to issue



1 subpoenaes and to administer oaths and affirmations to
2 witness;

3 (12) To prescribe any employment application form to be
4 used by any licensee involved in the ownership or
5 management of casino gaming operations for hiring
6 purposes;

7 (13) To eject or exclude or authorize the ejection or
8 exclusion of, any person from casino facilities where
9 the person is in violation of this chapter or where
10 the person's conduct or reputation is such that the
11 person's presence within a casino facility, in the
12 opinion of the commission, may call into question the
13 honesty and integrity of the casino gaming operation
14 or interfere with the orderly conduct thereof or any
15 other action that, in the discretion of the
16 commission, is a detriment or impediment to the casino
17 gaming operations; provided that the propriety of that
18 ejection or exclusion shall be subject to subsequent
19 hearing by the commission;

20 (14) To permit licensees of casino gaming operations to
21 utilize a wagering system whereby participants' money
22 may be converted to tokens, electronic cards, or



- 1 chips, which shall be used only for wagering within
2 the casino facility;
- 3 (15) To suspend, revoke, or restrict licenses, to require
4 the removal of a licensee or an employee of a licensee
5 for a violation of this chapter or a commission rule
6 or for engaging in a fraudulent practice;
- 7 (16) To impose and collect fines of up to \$5,000 against
8 individuals and up to \$10,000 or an amount equal to
9 the daily gross receipts, whichever is larger, against
10 licensees for each violation of this chapter, any
11 rules adopted by the commission or any other of the
12 commission, or any other action which, in the
13 commission's discretion, is a detriment or impediment
14 to casino gaming operations;
- 15 (17) To hire employees to gather information, conduct
16 investigations, and carry out other tasks contemplated
17 under this chapter;
- 18 (18) To establish minimum levels of insurance to be
19 maintained by licensees;
- 20 (19) To delegate the execution of any of its powers for the
21 purpose of administering and enforcing this chapter;
22 and



- 1 (20) To adopt rules pursuant to chapter 91 to implement
2 this chapter. All rules adopted under this chapter
3 shall not be arbitrary, capricious, or contradictory
4 to the provisions of this chapter. The rules may
5 include rules that do one or more of the following:
- 6 (A) Govern, restrict, approve, or regulate the casino
7 gaming authorized in this chapter;
- 8 (B) Promote the safety, security, and integrity of
9 casino gaming authorized in this chapter;
- 10 (C) License and regulate, consistent with the
11 qualifications and standards set forth in this
12 chapter, persons participating in or involved
13 with casino gaming authorized in this chapter;
14 and
- 15 (D) Allow any other action which may be reasonable or
16 appropriate to enforce this chapter and the rules
17 adopted under this chapter.

18 This section is not intended to limit warrantless inspections
19 except in accordance with constitutional requirements.

20 § -6 **Member, employee, or agent of commission; conduct**
21 **generally.** (a) By January 31 of each year, each member of the
22 commission shall prepare and file with the office of the



1 commission, a commission disclosure form in which the member
2 does all of the following:

- 3 (1) Affirms that the member or the member's spouse,
4 parent, child, or child's spouse is not a member of
5 the board of directors of, financially interested in,
6 or employed by a licensee or applicant;
- 7 (2) Affirms that the member continues to meet any other
8 criteria for commission membership under this chapter
9 or the rules adopted by the commission;
- 10 (3) Discloses any legal or beneficial interest in any real
11 property that is or that may be directly or indirectly
12 involved with gaming operations authorized by this
13 chapter; and
- 14 (4) Discloses any other information as may be required to
15 ensure that the integrity of the commission and its
16 work is maintained.

17 (b) By January 31 of each year, each employee of the
18 commission shall prepare and file with the office of the
19 commission an employee disclosure form in which the employee
20 does all of the following:

- 21 (1) Affirms the absence of financial interests prohibited
22 by this chapter;



1 (2) Discloses any legal or beneficial interests in any
2 real property that is or that may be directly or
3 indirectly involved with gaming or gaming operations
4 authorized by this chapter;

5 (3) Discloses whether the employee or the employee's
6 spouse, parent, child, or child's spouse is
7 financially interested in or employed by a supplier
8 licensee or an applicant for a supplier's license
9 under this chapter; and

10 (4) Discloses such other matters as may be required to
11 ensure that the integrity of the commission and its
12 work is maintained.

13 (c) A member, employee, or agent of the commission who
14 becomes aware that the member, employee, or agent of the
15 commission or his or her spouse, parent, or child is a member of
16 the board of directors of, financially interested in, or
17 employed by a licensee or an applicant shall immediately provide
18 detailed written notice thereof to the chairperson.

19 (d) A member, employee, or agent of the commission who has
20 been indicted, charged with, convicted of, pled guilty or nolo
21 contendere to, or forfeited bail concerning, a misdemeanor
22 involving gambling, dishonesty, theft, or fraud or a local



1 ordinance in any state involving gambling, dishonesty, theft, or
2 fraud that substantially corresponds to a misdemeanor in that
3 state, or a felony under Hawaii law, the laws of any other
4 state, or the laws of the United States, or any other
5 jurisdiction shall immediately provide detailed written notice
6 of the conviction or charge to the chairperson.

7 (e) Any member, employee, or agent of the commission who
8 is negotiating for, or acquires by any means, any interest in
9 any person who is a licensee or an applicant, or is affiliated
10 with such a person, shall immediately provide written notice of
11 the details of the interest to the chairperson. The member,
12 employee, or agent of the commission shall not act on behalf of
13 the commission with respect to that person.

14 (f) A member, employee, or agent of the commission may not
15 enter into any negotiations for employment with any person or
16 affiliate of any person who is a licensee or an affiliate and
17 shall immediately provide written notice of the details of any
18 such negotiations or discussions to the chairperson. The
19 member, employee, or agent of the commission shall not take any
20 action on behalf of the commission with respect to that person.

21 (g) Any member, employee, or agent of the commission who
22 receives an invitation, written or oral, to initiate a



1 discussion concerning employment or the possibility of
2 employment with a person or affiliate of a person who is a
3 licensee or an applicant shall immediately report that he or she
4 received the invitation to the chairperson. The member,
5 employee, or agent of the commission shall not take action on
6 behalf of the commission with respect to that person.

7 (h) A licensee or applicant shall not knowingly initiate a
8 negotiation for or discussion of employment with a member,
9 employee, or agent of the commission. A licensee or applicant
10 who initiates a negotiation or discussion about employment shall
11 immediately provide written notice of the details of the
12 negotiation or discussion to the chairperson as soon as that
13 person becomes aware that the negotiation or discussion has been
14 initiated with a member employee or agent of the commission.

15 (i) A member, employee, or agent of the commission, or
16 former member, employee or agent of the commission, shall not
17 disseminate or otherwise disclose any material or information in
18 the possession of the commission that the commission considers
19 confidential unless specifically authorized to do so by the
20 chairperson or the commission.

21 (j) A member, employee, or agent of the commission, or a
22 parent, spouse, sibling, child, employee, or agent of the



1 commission, may not accept any gift, gratuity, compensation,
2 travel, lodging, or anything of value, directly or indirectly
3 from any licensee or any applicant or affiliate or
4 representative of an applicant or licensee, unless the
5 acceptance conforms to a written policy or directive that is
6 issued by the chairperson or the commission. Any member,
7 employee, or agent of the commission who is offered or receives
8 any gift, gratuity, compensation, travel, lodging, or anything
9 of value, directly or indirectly, from any licensee or any
10 applicant or affiliate or representative of an applicant or
11 licensee shall immediately provide written notification of the
12 details to the chairperson.

13 (k) A licensee or applicant, or affiliate or
14 representative of an applicant or licensee, may not, directly or
15 indirectly, knowingly give or offer to give any gift, gratuity,
16 compensation, travel, lodging, or anything of value to any
17 member, employee, or agent of the commission which the member,
18 employee, or agent of the commission is prohibited from
19 accepting under subsection (j).

20 (l) A member, employee, or agent of the commission shall
21 not engage in any conduct that constitutes a conflict of
22 interest, and shall immediately advise the chairperson in



1 writing of the details of any incident or circumstances that
2 would present the existence of a conflict of interest with
3 respect to the performance of the commission related work or
4 duty of the member, employee, or agent of the commission.

5 (m) A member, employee, or agent of the commission who is
6 approached and offered a bribe in violation of this chapter
7 shall immediately provide written account of the details of the
8 incident to the chairperson and to a law enforcement officer of
9 a law enforcement agency having jurisdiction.

10 (n) A member, employee, or agent of the commission shall
11 disclose their past involvement with any casino interest in the
12 past five years and shall not engage in political activity or
13 politically related activity during the duration of their
14 appointment or employment.

15 (o) A former member, employee, or agent of the commission
16 may appear before the commission as a fact witness about matters
17 or actions handled by the member, employee or agent during their
18 tenure as a member, employee, or agent of the commission. The
19 member, employee, or agent of the commission shall not receive
20 compensation for such an appearance other than a standard
21 witness fee and reimbursement for travel expenses as established
22 by statute or court rule.



1 (p) A licensee or applicant or any affiliate or
2 representative of an applicant or licensee shall not engage in
3 ex parte communications concerning a pending application,
4 license, or enforcement action with members of the commission.

5 A member of the commission shall not engage in any ex parte
6 communications with a licensee or an applicant, or with any
7 affiliate or representative of an applicant or licensee,
8 concerning a pending application, license or enforcement action.

9 (q) Any commission member, licensee, or applicant or
10 affiliate or representative of a commission member, licensee, or
11 applicant who receives any ex parte communication in violation
12 of subsection (p), or who is aware of an attempted communication
13 in violation of subsection (p), shall immediately report details
14 of the communication or attempted communication in writing to
15 the chairperson.

16 (r) Any member of the commission who receives an ex parte
17 communication which attempts to influence that member's official
18 action shall disclose the source and content of the
19 communication to the chairperson. The chairperson may
20 investigate or initiate an investigation of the matter with the
21 assistance of the attorney general and state police to determine
22 if the communication violates subsection (p) or subsection (q)



1 or other state law. The disclosure under this section and the
2 investigation shall remain confidential. Following an
3 investigation, the chairperson shall advise the governor or the
4 commission, or both, of the results of the investigation and may
5 recommend action, as the chairperson considers appropriate.

6 (s) A new or current employee or agent of the commission
7 shall obtain written permission, from the executive director
8 before continuing outside employment held at the time the
9 employee begins to work for the commission. Permission shall be
10 denied, or permission previously granted will be revoked, if the
11 nature of the work is considered to or does create a possible
12 conflict of interest or otherwise interferes with the duties of
13 the employee or agent for the commission.

14 (t) An employee or agent of the commission granted
15 permission for outside employment shall not conduct any business
16 or perform any activities, including solicitation, related to
17 outside employment on premises used by the commission or during
18 the employee's working hours for the commission.

19 (u) Whenever the chairperson, as an employee of the
20 commission, is required to file disclosure forms or report in
21 writing the details of any incident or circumstance pursuant to



1 this section, the chairperson shall make such filings or written
2 reports to the commission.

3 (v) The chairperson shall report any action the
4 chairperson has taken or contemplates taking under this section
5 with respect to an employee or agent or former employee or
6 former agent to the commission at the next meeting of the
7 commission. The commission may direct the executive director to
8 take additional or different action.

9 (w) No member, employee, or agent of the commission may
10 participate in or wager on any gambling game conducted by any
11 licensee or applicant or any affiliate of an applicant or
12 licensee in the State or in any other jurisdiction, except as
13 follows:

14 (1) A member, employee, or agent of the commission may
15 participate in and wager on a gambling game conducted
16 by a licensee under this chapter, to the extent
17 authorized by the chairperson or commission as part of
18 the person's surveillance, security, or other official
19 duties for the commission; and

20 (2) A member, employee, or agent of the commission shall
21 advise the chairperson at least twenty-four hours in
22 advance if they plan to be present in a casino in this



1 State or in another jurisdiction operated by a
2 licensee or applicant, or affiliate of a licensee or
3 an applicant, outside the scope of their official
4 duties for the commission.

5 (x) Violation of this section by a licensee or applicant,
6 or affiliate or representative of a licensee or applicant, may
7 result in the denial of the application of licensure or the
8 revocation or suspension of licensure or other disciplinary
9 action by the commission.

10 (y) Any violation of this section by a member of the
11 commission may result in disqualification or constitute cause
12 for removal under section 3(d) or other disciplinary action as
13 determined by the commission.

14 (z) Any violation of this section by an employee or agent
15 of the commission will not result in termination of employment
16 if the commission determines that the conduct involved does not
17 violate the purpose of this chapter, or require other
18 disciplinary action, including termination of employment;
19 provided that employment will be terminated as follows:

20 (1) If, after being offered employment or beginning
21 employment with the commission, the employee or agent
22 intentionally acquires a financial interest in a



1 licensee or an applicant, or affiliate or
2 representative of a licensee or applicant, employment
3 with the commission shall be terminated;

4 (2) If a financial interest in a licensee or an applicant,
5 or affiliate or representative of a licensee or
6 applicant, is acquired by an employee or agent that
7 has been offered employment with the commission, an
8 employee of the commission, or the employee's or
9 agent's spouse, parent, or child, through no
10 intentional action of the employee or agent, the
11 individual shall have up to thirty days to divest or
12 terminate the financial interest. Employment may be
13 terminated if the interest has not been divested after
14 thirty days; or

15 (3) Employment shall be terminated if the employee or
16 agent is a spouse, parent, child, or spouse of a child
17 of a commission member.

18 (aa) Violation of this section does not create a civil
19 cause of action.

20 (bb) As used in this section:

21 "Outside employment" includes the following:

22 (1) Operation of a proprietorship;



1 (2) Participation in a partnership or group business
2 enterprise; and

3 (3) Performance as a director or corporate officer of any
4 for profit corporation, or banking or credit
5 institution.

6 "Political activity" or "politically related activity"
7 includes the following:

8 (1) Using the person's official authority or influence for
9 the purpose of interfering with or affecting the
10 result of an election;

11 (2) Knowingly soliciting, accepting, or receiving a
12 political contribution from any person;

13 (3) Running for the nomination or as a candidate for
14 election to a partisan political office; or

15 (4) Knowingly soliciting or discouraging the participation
16 in any political activity of any person who is either
17 of the following:

18 (A) Applying for any compensation, grant, contract,
19 ruling, license, permit, or certificate pending
20 before the commission; or



1 (B) The subject of or a participant in an ongoing
2 audit, investigation, or enforcement action being
3 carried out by the commission.

4 § -7 **Authorization of limited gaming.** (a) Limited
5 casino gaming shall be permitted only in the areas authorized
6 pursuant to this chapter.

7 (b) This chapter authorizes limited casino gaming in the
8 following two areas:

9 (1) The Kapolei area on Oahu. Any application for a
10 casino license to operate a casino facility in the
11 Kapolei area shall include a casino facility
12 development plan for the casino facility; and

13 (2) The Waikiki area on Oahu. Any application for a
14 casino license to operate a casino facility in the
15 Waikiki area shall include a casino facility
16 development plan for the casino facility.

17 (c) No more than one casino facility shall be permitted in
18 the Kapolei area. No more than one casino facility shall be
19 permitted in the Waikiki area.

20 (d) The commission shall adopt the necessary rules and
21 make applications for a casino license to operate a casino
22 facility in the Waikiki area available within one hundred and



1 twenty days of its appointment. An application for a casino
2 license shall be submitted to the commission no later than sixty
3 days after the date applications are made available. The
4 commission shall select the applicant who best meets all of the
5 criteria pursuant to section -9 no later than ninety days
6 after the final date applications must be submitted to the
7 commission. If the selected applicant meets all the
8 requirements of this chapter, the commission shall issue a
9 license to the applicant within one hundred and twenty days
10 after the date the applicant is selected.

11 (e) The commission shall make applications for a casino
12 license to operate a casino facility in the Kapolei area
13 available within one hundred and eighty days after the
14 commission makes applications for a casino license to operate a
15 casino facility in the Waikiki area available. An application
16 for a casino license shall be submitted to the commission no
17 later than sixty days after the date applications are made
18 available. The commission shall select the applicant who best
19 meets all of the criteria pursuant to section -9 no later
20 than ninety days after the final date applications must be
21 submitted to the commission. If the selected applicant meets
22 all the requirements of this chapter, the commission shall issue



1 a license to the applicant within one hundred and twenty days
2 after the date the applicant is selected.

3 § -8 **Application for casino license.** (a) Any person,
4 including all qualifiers, may apply to the commission for a
5 casino license to conduct a casino gaming operation. The
6 application shall be made under oath on forms provided by the
7 commission and shall contain information as prescribed by the
8 commission, including all of the following:

- 9 (1) The name, business address, telephone number, social
10 security number, and, where applicable, federal tax
11 identification number of the applicant and every
12 qualifier;
- 13 (2) An identification of any business, including, if
14 applicable, the state of incorporation or
15 registration, in which the applicant or qualifier has
16 an equity interest of more than five per cent. If the
17 applicant or qualifier is a corporation, partnership
18 or other business entity, the applicant or qualifier
19 shall identify any other corporation, partnership, or
20 other business entity in which it has an equity
21 interest of more than five per cent, including, if
22 applicable, the state of incorporation or



1 registration. The applicant or qualifier can comply
2 with this part by filing, a copy of the applicant's or
3 qualifier's registration with the Securities Exchange
4 Commission if the registration contains the
5 information required by this part;

6 (3) Whether the applicant or qualifier has been indicted,
7 convicted, pleaded guilty or nolo contendere, forfeited
8 bail concerning, a felony within the last ten years or
9 a misdemeanor involving gambling, theft, or fraud
10 within the last ten years, including the date, the
11 name and location of the court, arresting agency and
12 prosecuting agency, the case caption, the docket
13 number, the offense, the disposition, the location and
14 length of incarceration;

15 (4) Whether the applicant or qualifier has ever been
16 granted any license or certificate issued by a
17 licensing authority in the State or any other
18 jurisdiction that has been, restricted, suspended,
19 revoked, or not renewed and a statement describing the
20 facts and circumstances concerning the application,
21 denial, restriction, suspension, revocation, or



1 nonrenewal, including the licensing authority the date
2 each action was taken, and the reason for each action;

3 (5) Whether the applicant or qualifier has, within the
4 last ten years, filed or had filed against the
5 applicant or qualifier a civil or administrative
6 action or proceeding in bankruptcy or has within the
7 last ten years been involved in any formal process to
8 adjust, defer, suspend, or otherwise work out the
9 payment of any debt including the date of filing, the
10 name and location of the court, the case caption, the
11 docket number, and the disposition;

12 (6) Whether the applicant or qualifier has within the last
13 five tax years failed to pay any final amount of tax
14 due and payable under federal, state, or local law,
15 after exhaustion of all inter-agency appeals
16 processes, including, the amount, type of tax, the
17 taxing, and time periods involved;

18 (7) A statement listing the names and titles of all public
19 officials or officers of any unit of state government
20 or local government in the jurisdiction in which the
21 gaming facility is to be located, and the spouses,
22 parents, and children of those public officials or



1 officers who, directly or indirectly, own any
2 financial interest in, have any beneficial interest
3 in, are the creditors of or hold any debt instrument
4 issued by, or hold or have an interest in any
5 contractual or service relationship with, the
6 applicant or a qualifier, as used in this paragraph,
7 "public official" or "officer" does not include a
8 person who would have to be listed solely because of
9 the person's state or federal military service;

10 (8) The name and business telephone number of any
11 attorney, counsel, or any other person representing an
12 applicant or a qualifier in matters before the
13 commission; and

14 (9) For the applicant only, a description of any proposed
15 or approved casino gaming facility, including the
16 economic benefit to the community, anticipated or
17 actual number of employees, any statement from an
18 applicant regarding compliance with federal and state
19 affirmative action guidelines, projected or actual
20 admissions, projected or actual gross receipts, and
21 scientific market research.



1 (b) Information provided on the application shall be used
2 as the basis for a thorough background investigation which the
3 commission shall conduct with respect to each applicant and
4 qualifier. An incomplete application shall be cause for denial
5 of a license by the commission.

6 (c) Applicants shall submit with their application a plan
7 for training residents of the State for jobs that are available
8 at a casino facility. The plan shall take into consideration
9 the need to provide training to low-income persons so as to
10 allow such persons to qualify for jobs that will be created in
11 the casino facilities as a result of implementation of this
12 chapter.

13 (d) Each applicant and qualifier shall disclose the
14 identity of every person, association, trust, or corporation
15 having a greater than five per cent direct or indirect financial
16 interest in the casino gaming operation with respect to which
17 the license is sought. If the disclosed entity is a trust, the
18 application shall disclose the names and addresses of the
19 beneficiaries; if a corporation, the names and addresses of all
20 shareholders and directors; if a partnership, the names and
21 addresses of all partners, both general and limited.



1 (e) An application fee of \$50,000 shall be paid by each
2 applicant at the time of filing to defray the costs associated
3 with an applicant and qualifier's background investigation
4 conducted by the commission, and the search and classification
5 of fingerprints obtained by the commission with request to the
6 application. If the costs of the investigation exceed \$50,000,
7 the applicant shall pay the additional amount to the commission.
8 If the costs of the investigation are less than \$50,000, the
9 applicant shall receive a refund of the remaining amount. All
10 information, records, interviews, reports, statements,
11 memoranda, or other data supplied to or used by the commission
12 in the course of its review or investigation of an application
13 for a license shall be privileged, strictly confidential, and
14 shall be used only for the purpose of evaluating the applicant.
15 The information, records, interviews, reports, statements,
16 memoranda, or other data shall be exempt from public disclosure
17 required by chapter 92F, and shall not be admissible as
18 evidence, nor discoverable in any action of any kind in any
19 court or before any tribunal, commission, agency, or person,
20 except for any action deemed necessary by the commission.

21 (f) An applicant shall be ineligible to receive a license
22 if:



- 1 (1) The person has been convicted of a felony under the
2 laws of this State, any other state, or the United
3 States;
- 4 (2) The person has been convicted of any violation under
5 part III, chapter 712, or substantially similar laws
6 of another jurisdiction;
- 7 (3) The person has knowingly submitted an application for
8 a license under this chapter that contains false
9 information;
- 10 (4) The person is a member of the commission;
- 11 (5) The firm or corporation applying for a license employs
12 a person described in paragraph (1), (2), (3), or (4)
13 who participates in the management or operation of
14 gaming operations authorized under this chapter;
- 15 (6) A license of the person, firm, or corporation issued
16 under this chapter, or a license to own or operate
17 gaming facilities in any other jurisdiction, has been
18 revoked; or
- 19 (7) The applicant or qualifier owns any interest in,
20 operates or manages, has a contractual relationship
21 with, or is an affiliate of, a hotel, motel, or resort
22 located within thirty miles of a casino facility site



1 that might be developed under this chapter. The
2 relationship between the applicant or any of its
3 qualifiers and the hotel, motel, or resort shall be
4 determined as of the time of licensure, thus allowing
5 any applicants or their qualifiers to divest
6 themselves of such interest between the time of
7 application and licensure.

8 § **-9 Criteria for award of a casino license.** (a) The
9 commission shall issue a license to operate a casino facility in
10 the Waikiki area to the applicant who best meets all of the
11 following criteria:

- 12 (1) The applicant has submitted a casino facility
13 development plan for the casino facility to be located
14 in the Waikiki gaming zone which will have a positive
15 effect on increasing tourism generating jobs, and
16 providing revenue to the local economy;
- 17 (2) The applicant has shown economic resources so as to
18 the commission that the applicant has the financial
19 ability to construct the casino facility to be located
20 in the Waikiki gaming zone;



- 1 (3) The applicant has the financial ability to purchase
2 and maintain adequate liability and casualty insurance
3 and to provide an adequate surety bond;
- 4 (4) The applicant's sources and total amount of
5 capitalization to develop, construct, maintain, and
6 operate the proposed casino facility;
- 7 (5) The applicant has adequate capitalization to develop,
8 construct, maintain, and operate for the duration of a
9 license the proposed casino facility in accordance
10 with the requirements of this chapter and rules
11 adopted by the commission and to responsibly pay off
12 its secured and unsecured debts in accordance with its
13 financing agreement and other contractual obligations;
- 14 (6) The extent to which the applicant or any of its
15 qualifiers demonstrate that they have assisted the
16 State in developing casino gaming through their
17 commitment of resources to support, promote, and
18 establish this casino gaming development program.
19 Expenditures of time, money, and effort will all be
20 considered in connection with this criterion. The
21 timing of such participation will further influence
22 this criterion, with early participation and



1 contribution to this casino development program
2 receiving more favorable consideration;

3 (7) The extent to which the applicant or any of its
4 qualifiers demonstrate that they have at least four
5 years of experience in helping to revitalize an urban
6 area by successfully planning, developing, and opening
7 a land-based casino in an American state that
8 previously did not permit casino gaming. Such
9 experience in planning, developing, and opening a
10 land-based casino in an urban area in the past five
11 years will receive most favorable consideration for
12 this criterion. For purposes of this paragraph,
13 "urban area" means a jurisdiction with a population of
14 at least seven hundred fifty thousand;

15 (8) The applicant or any qualifier has not been indicted,
16 convicted, pleaded guilty or nolo contendere,
17 forfeited bail concerning a felony within the last ten
18 years or a misdemeanor involving gambling, theft, or
19 fraud within the last ten years;

20 (9) The applicant or any qualifier has not filed, or had
21 filed against the applicant or any qualifier, within
22 the last ten years a proceeding for bankruptcy or has



1 not, within the last ten years, been involved in any
2 formal process to adjust, defer, suspend, or otherwise
3 work out the payment of any debt;

4 (10) The applicant or any qualifier has not, within the
5 last five tax years, failed to pay any final amount of
6 tax due and payable under federal, state, or local
7 law, after exhaustion of all inter-agency appeals
8 processes; and

9 (11) The applicant meets other standards for the issuance
10 of a casino license that the commission may adopt by
11 rule. The rules adopted by under this chapter shall
12 not be arbitrary, capricious, or contradictory to the
13 expressed provisions of this chapter and shall further
14 define and clarify the above listed conditions rather
15 than creating new conditions for licensure.

16 (b) The commission shall issue a license to operate a
17 casino facility in the Kapolei area to the applicant who best
18 meets the following criteria:

19 (1) The applicant has submitted a casino facility
20 development plan for the casino facility to be located
21 in the Kapolei area which will best facilitate



- 1 entertainment and gaming at this location, generate
2 jobs, and provide revenue to the local economy;
- 3 (2) The applicant has shown economic resources so as to
4 demonstrate to the commission that the applicant has
5 the financial ability to construct the casino facility
6 to be located in the Kapolei area;
- 7 (3) The applicant's financial ability to purchase and
8 maintain adequate liability and casualty insurance and
9 to provide an adequate surety bond;
- 10 (4) The applicant's sources and total amount of
11 capitalization to develop, construct, maintain, and
12 operate the proposed casino facility;
- 13 (5) The applicant has adequate capitalization to develop,
14 construct, maintain, and operate for the duration of a
15 license the proposed casino facility in accordance
16 with the requirements of this chapter and rules
17 adopted by the commission and to responsibly pay off
18 its secured and unsecured debts in accordance with its
19 financing agreement and other contractual obligations;
- 20 (6) The extent to which the applicant or any of its
21 qualifiers demonstrate that they have assisted the
22 State in developing casino gaming through their



1 commitment of resources to support, promote, and
2 establish this casino gaming development program.
3 Expenditures of time, money, and effort will all be
4 considered in connection with this criterion. The
5 timing of such participation will further influence
6 this criterion, with early participation and
7 contribution to this casino development program
8 receiving more favorable consideration;

9 (7) The extent to which the applicant or any of its
10 qualifiers demonstrate that they have experience with
11 the development and opening of a casino in a non-urban
12 setting in a state which previously did not permit
13 casino gaming. Experience in developing and opening a
14 casino in a non-urban setting where minimum
15 infrastructure existed will receive more favorable
16 consideration;

17 (8) The applicant or any qualifier has not been indicted,
18 convicted, pleaded guilty or nolo contendere,
19 forfeited bail concerning a felony within the last ten
20 years or a misdemeanor involving gambling, theft, or
21 fraud within the last ten years;



1 (9) The applicant or any qualifier has not filed, or had
2 filed against the applicant or any qualifier, within
3 the last ten years, a proceeding for bankruptcy or has
4 not, within the last ten years, been involved in any
5 formal process to adjust, defer, suspend, or otherwise
6 work out the payment of any debt;

7 (10) The applicant or any qualifier has not, within the
8 last five tax years, failed to pay any final amount of
9 tax due and payable under federal, state, or local
10 law, after exhaustion of all inter-agency appeals
11 processes; and

12 (11) The applicant meets other standards for the issuance
13 of a casino license that the commission may adopt by
14 rule. The rules adopted by under this chapter shall
15 not be arbitrary, capricious, or contradictory to the
16 expressed provisions of this chapter and shall further
17 define and clarify the above listed conditions rather
18 than creating new conditions for licensure.

19 (c) To demonstrate financial ability pursuant to the above
20 sections of this chapter, the applicant may include the economic
21 resources of the person or persons who will actually operate the
22 casino facility and any qualifiers.



1 (d) Each applicant and qualifier shall submit with the
2 application, on forms provided by the commission, two sets of
3 the applicant's fingerprints.

4 (e) The commission may revoke the license if the licensee
5 fails to begin regular casino gaming operations within twelve
6 months of receipt of the commission's approval of the
7 application or twelve months after a certificate of occupancy
8 for the casino facility is first issued, whichever is later,
9 upon a finding by the commission that license revocation is in
10 the best interest of the State.

11 (f) The commission shall establish a process to facilitate
12 and expedite the approval of the necessary licenses and permits.
13 The commission may establish its own procedures for the issuance
14 of liquor licenses for any holder of license under this chapter;
15 provided that all state laws and county ordinances relating to
16 liquor are met.

17 (g) Nothing in this chapter shall be interpreted to
18 prohibit a licensed owner from operating a school for the
19 training of any occupational licensee.

20 § -10 **Bond of licensee.** Before a casino license is
21 issued, the licensee shall file a bond in the sum of \$200,000
22 with the department. The bond shall be used to guarantee that



1 the licensee faithfully makes the payments, keeps books and
2 records, makes reports, and conducts games of chance in
3 conformity with this chapter and the rules adopted by the
4 commission. The bond shall not be canceled by a surety on less
5 than thirty days notice in writing to the commission. If a bond
6 is canceled and the licensee fails to file a new bond with the
7 commission in the required amount on or before the effective
8 date of cancellation, the licensee's license shall be revoked.
9 The total and aggregate liability of the surety on the bond
10 shall be limited to the amount specified in the bond.

11 § **-11 Application deficiency.** (a) If in the review of
12 an application submitted under this chapter the executive
13 director identifies an apparent deficiency that, if true, would
14 require denial of the license or the disqualification of a
15 qualifier, the executive director shall notify the affected
16 applicant or qualifier in writing of the apparent deficiency.
17 The applicant or qualifier may then request an informal
18 conference with the executive director to discuss the factual
19 basis of the apparent deficiency.

20 (b) The executive director shall provide the applicant or
21 qualifier a reasonable period of time to correct the apparent
22 deficiency and, if the apparent deficiency is not corrected



1 within the reasonable time period, the executive director shall
2 make a finding that the apparent deficiency has not been
3 corrected. Following the executive director's finding that the
4 apparent deficiency has not been corrected, the affected
5 applicant or qualifier shall have an opportunity to appeal the
6 executive director's finding of an apparent deficiency to the
7 commission. The commission shall conduct an investigative
8 hearing, pursuant to section -16 of this chapter and in
9 accordance with rules promulgated under this chapter, to
10 determine whether there is sufficient evidence to support an
11 apparent deficiency finding. At the hearing, the burden of
12 proof shall be on the executive director to demonstrate that the
13 finding of an apparent deficiency is supported by law and facts.
14 Any finding by the commission about a qualifier's apparent
15 deficiency shall not constitute a final determination by the
16 commission as to the suitability of the applicant to hold a
17 license, or the suitability of a qualifier to hold an ownership
18 interest in a casino applicant.

19 (c) At any time prior to a finding by the commission that
20 a qualifier is unsuitable to hold an ownership interest in a
21 casino applicant, a qualifier shall have the ability to sell its



1 ownership interest in the casino applicant to the casino
2 applicant, another qualifier, or a third party.

3 (d) A qualifier who has been issued an apparent deficiency
4 shall have the right to request that the commission expand the
5 apparent deficiency hearing under this section to include a
6 determination of the qualifier's suitability to hold an
7 ownership interest in the casino license applicant, if such a
8 request is made, the commission shall determine the suitability
9 of the affected qualifier separate from the suitability of the
10 casino applicant and its qualifiers. A request by a qualifier
11 for an extended hearing pursuant to this section shall not
12 prevent the commission from issuing a license to the applicant.
13 Until the commission determines that a qualifier under this
14 section is suitable to hold an ownership interest in the casino
15 applicant, the casino applicant or licensee shall not do any of
16 the following:

17 (1) Make any direct or indirect payments or distributions
18 of revenue or other benefits to the qualifier which
19 are related in any way to the qualifier's interest in
20 the applicant; and

21 (2) Pay any direct or indirect compensation to the
22 qualifier for services rendered to the applicant,



1 unless specifically approved and authorized by the
2 commission.

3 § -12 **Institutional investor.** (a) Unless the
4 commission determines that an institutional investor may be
5 found unqualified, an institutional investor holding either
6 under ten per cent of the equity securities or debt securities
7 of a casino licensee's affiliate or affiliated company which is
8 related in any way to the financing of the casino licensee, if
9 the securities represent a percentage of the outstanding debt of
10 the affiliate or affiliated company not exceeding twenty per
11 cent, or a percentage of any issue of the outstanding debt of
12 the affiliate or affiliated company not exceeding fifty per
13 cent, shall be granted a waiver of the eligibility and
14 suitability requirements if such securities are those of a
15 publicly traded corporation and its holdings of such securities
16 were purchased for investment purposes only and, if requested by
17 the commission, files with the commission a certified statement
18 that it has no intention of influencing or affecting the affairs
19 of the issuer, the casino licensee, or its affiliate or
20 affiliated company.

21 (b) The commission may grant a waiver under this section
22 to an institutional investor holding, a higher percentage of



1 securities as allowed in subsection (a), upon a showing of good
2 cause and if the conditions specified in subsection (a) are met.

3 (c) An institutional investor granted a waiver under this
4 section that subsequently intends to influence or affect the
5 affairs of the issuer shall provide notice to the commission and
6 file an application for a determination of eligibility and
7 suitability before taking, any action that may influence or
8 affect the affairs of the issuer.

9 (d) Notwithstanding any provisions of this chapter, an
10 institutional investor may vote on all matters that are put to
11 the vote of the outstanding security holders of the issuer.

12 (e) If an institutional investor changes its investment
13 intent or if the commission finds that the institutional
14 investor may be found unqualified, no action other than
15 divestiture of the security holdings shall be taken until there
16 has been compliance with this chapter.

17 (f) The casino licensee or an affiliate or affiliated
18 company of the casino licensee shall immediately notify the
19 commission of any information concerning an institutional
20 investor holding its equity or debt securities, which may impact
21 the eligibility and suitable institutional investor for a
22 waiver under this section.



1 (g) If the commission finds that an institutional investor
2 holding any security of an affiliate or affiliated company of a
3 casino licensee that is related in any way to the financing of
4 the casino licensee fails to comply with the requirements of
5 this section, or if at any time the commission finds that, by
6 reason of the extent or nature of its holdings an institutional
7 investor is in a position to exercise a substantial impact upon
8 the controlling interests of a casino licensee, the commission
9 may take any necessary action to protect the public interest,
10 including requiring the institutional investor to satisfy the
11 eligibility and suitability requirements under sections -8,
12 9, and 10.

13 § -13 **Supplier's licenses.** (a) No person shall
14 furnish an excess of \$500,000 worth of equipment, devices, or
15 supplies to a licensed casino gaming operation under this
16 chapter unless the person has first obtained a supplier's
17 license pursuant to this section. The commission may issue a
18 supplier's license to any person, firm, or corporation who pays
19 a nonrefundable application fee as set by the commission upon a
20 determination by the commission that the applicant is eligible
21 for a supplier's license and upon payment by the applicant of a
22 \$5,000 license fee. Supplier's licenses shall be renewable



1 annually upon payment of the \$5,000 annual license fee and a
2 determination by the commission that the licensee continues to
3 meet all of the requirements of this chapter.

4 (b) The holder of a supplier's license may sell or lease,
5 or contract to sell or lease, gaming equipment and supplies to
6 any licensee involved in the ownership or management of casino
7 gaming operations.

8 (c) Casino gaming supplies and equipment shall not be
9 distributed unless supplies and equipment conform to standards
10 adopted by rules of the commission.

11 (d) A person, firm, or corporation shall be ineligible to
12 receive a supplier's license if:

13 (1) The person who has been convicted of a felony under
14 the laws of this State, any other state, or the United
15 States;

16 (2) The person has been convicted of any violation under
17 chapter III, chapter 712, or substantially similar
18 laws of another jurisdiction;

19 (3) The person has knowingly submitted an application for
20 a license under this chapter that contains false
21 information;

22 (4) The person is a member of the commission;



- 1 (5) The firm or corporation is one in which a person
2 defined in paragraph (1), (2), (3), or (4) is an
3 officer, director, or managerial employee;
- 4 (6) The firm or corporation employs a person defined in
5 paragraph (1), (2), (3), or (4) who participates in the
6 management or operation of casino gaming authorized
7 under this chapter; or
- 8 (7) The license of the person, firm, or corporation issued
9 under this chapter, or a license to own or operate
10 casino gaming facilities in any other jurisdiction,
11 has been revoked.
- 12 (e) A supplier shall:
- 13 (1) Furnish to the commission a list of all equipment,
14 devices, and supplies offered for sale or lease in
15 connection with casino games authorized under this
16 chapter;
- 17 (2) Keep books and records for the furnishing of
18 equipment, devices, and supplies to gaming casino
19 operations separate and distinct from any other
20 business that the supplier might operate;
- 21 (3) File a quarterly return with the commission listing
22 all sales and leases;



1 (4) Permanently affix its name to all its equipment,
2 devices, and supplies, for casino gaming operations;
3 and

4 (5) File an annual report listing its inventories of
5 casino gaming equipment, devices, and supplies.

6 (f) Any person who knowingly makes a false statement on an
7 application is guilty of a petty misdemeanor.

8 (g) Any casino gaming equipment, devices, or supplies
9 provided by any licensed supplier may either be repaired in the
10 casino facility or be removed from the casino facility to a
11 facility owned by the holder of an operator's license for
12 repair. Any supplier's equipment, devices, and supplies that
13 are used by any person in an unauthorized gaming operation shall
14 be forfeited to the county.

15 § -14 Occupational licenses. (a) The commission may
16 issue an occupational license to an applicant upon the payment
17 of nonrefundable application fee as set by the commission, upon
18 a determination by the commission that the applicant is eligible
19 for an occupational license, and upon payment of an annual
20 license fee in an amount set by the commission. To be eligible
21 for an occupational license, an applicant shall:



- 1 (1) Be at least twenty-one years of age if the applicant
2 will perform any function involved in casino gaming by
3 patrons. Any applicant seeking an occupational
4 license for a non-gaming function shall be at least
5 eighteen years of age;
- 6 (2) Not have been convicted of a felony offense, or a
7 similar statute of any other jurisdiction, or a crime
8 involving dishonesty or moral turpitude;
- 9 (3) Have demonstrated a level of skill or knowledge that
10 the commission determines to be necessary to operate
11 casino games in a casino facility; and
- 12 (4) Have met standards for the holding of an occupational
13 license as provided in rules adopted by the
14 commission, including background inquiries and other
15 requirements similar to those for an operator's
16 license.
- 17 (b) Each application for an occupational license shall be
18 on forms prescribed by the commission and shall contain all
19 information required by the commission. The applicant shall set
20 forth in the application whether the applicant:
- 21 (1) Has been issued prior gaming-related licenses in any
22 jurisdiction;



1 (2) Has been licensed in any other jurisdiction under any
2 other name, and if so, the name and the applicant's
3 age at the time; or

4 (3) Has had a permit or license issued to the applicant in
5 any other jurisdiction that has been suspended,
6 restricted, or revoked, and if so, for what period of
7 time.

8 (c) Each applicant shall submit with the application two
9 sets of the applicant's fingerprints. The commission shall
10 charge each applicant a fee to defray the costs associated with
11 the search and classification of fingerprints obtained by the
12 commission with respect to the application.

13 (d) The commission may refuse an occupational license to
14 any person:

15 (1) Who is unqualified to perform the duties required of
16 the applicant;

17 (2) Who fails to disclose or states falsely any
18 information called for in the application;

19 (3) Who has been found guilty of a violation of this
20 chapter or whose prior casino gaming related license
21 or application therefore has been suspended,



1 restricted, revoked, or denied for just cause in any
2 other jurisdiction; or

3 (4) For any other just cause.

4 (e) The commission may suspend, revoke, or restrict any
5 occupation licensee:

6 (1) For any violation of this chapter;

7 (2) For any violation of the rules of the commission;

8 (3) For any cause which, if known to the commission, would
9 have disqualified the applicant from receiving a
10 license;

11 (4) For default in the payment of any obligation or debt
12 due to the State or the county; or

13 (5) For any other just cause.

14 (f) A person who knowingly makes a false statement on an
15 application is guilty of a petty misdemeanor.

16 (g) Any license issued pursuant to this section shall be
17 valid for a period of one year from the date of issuance and
18 shall be renewable annually upon payment of the annual license
19 fee and a determination by the commission that the licensee
20 continues to meet all of the requirements of this chapter.



1 (h) Any training provided for occupational licenses may be
2 conducted either in a licensed casino facility or at a school
3 with which a licensed owner has entered into an agreement.

4 § **-15 Annual report.** The commission shall file a
5 written annual report with the governor and the legislature on
6 or at least sixty days prior to the close of each fiscal year
7 and any additional reports that the governor or the legislature
8 shall request. The annual report shall include:

- 9 (1) A statement of receipts and disbursements related to
10 casino gaming pursuant to this chapter;
- 11 (2) Actions taken by the commission; and
- 12 (3) Any additional information and recommendations that
13 the commission may deem valuable or which the governor
14 or the legislature may request.

15 § **-16 Hearings by the commission.** (a) Upon order of
16 the commission, one of the commission members or a hearings
17 officer designated by the commission may conduct any hearing
18 provided for under this chapter related to casino gaming or by
19 commission rule and may recommend findings and decisions to the
20 commission. The commission member or hearings officer
21 conducting the hearing shall have all powers and rights granted
22 to the commission in this chapter. The record made at the time



1 of the hearing shall be reviewed by the commission, or a
2 majority thereof, and the findings and decisions of the majority
3 of the commission shall constitute the order of the commission
4 in that case.

5 (b) Any party aggrieved by an action of the commission
6 denying, suspending, revoking, restricting, or refusing to renew
7 a license under this chapter may request a hearing before the
8 commission. A request for a hearing must be made to the
9 commission in writing within five days after service of notice
10 of the action of the commission. Notice of the actions of the
11 commission shall be served either by personal delivery or by
12 certified mail, postage prepaid, to the aggrieved party. Notice
13 served by certified mail shall be deemed complete on the
14 business day following the date of the mailing. The commission
15 shall conduct all requested hearing promptly and in reasonable
16 order.

17 § -17 **Conduct of casino gaming.** Casino gaming may be
18 conducted by a licensed operator, subject to the following
19 standards:

20 (1) Minimum and maximum wagers on games shall be set by
21 the licensee;



- 1 (2) Agents of the commission may enter and inspect any
2 casino facility at any time for the purpose of
3 determining compliance with this chapter;
- 4 (3) Employees of the commission shall have the right to be
5 present in a casino facility or on adjacent facilities
6 under the control of the licensee;
- 7 (4) Gaming equipment and supplies customarily used in
8 conducting casino gaming must be purchased or leased
9 only from suppliers licensed under this chapter;
- 10 (5) Persons licensed under this chapter shall permit no
11 form of wagering on games except as permitted by this
12 chapter;
- 13 (6) Wagers may be received only from a person present in a
14 licensed casino facility. No person present in a
15 licensed casino facility shall place or attempt to
16 place a wager on behalf of another person who is not
17 present in the casino facility;
- 18 (7) Wagering shall not be conducted with money or other
19 negotiable currency, except for wagering on slot
20 machines;
- 21 (8) A person under age twenty-one shall not be permitted
22 in an area of a casino facility where casino gaming is



1 being conducted, except for a person of at least
2 eighteen years of age who is an employee of the casino
3 facility. No employee under age twenty-one shall
4 perform any function involved in casino gaming by
5 patrons. No person under age twenty-one shall be
6 permitted to make a wager under this chapter;

7 (9) All tokens, chips, or electronic cards used to make
8 wagers must be purchased from a licensed owner within
9 the casino facility. The tokens, chips, or electronic
10 cards may be purchased by means of an agreement under
11 which the owner extends credit to the patron. The
12 tokens, chips, or electronic cards may be used while
13 within a casino facility only for the purpose of
14 making wagers on authorized games; and

15 (10) In addition to the above, casino gaming must be
16 conducted in accordance with all rules adopted by the
17 commission.

18 § -18 **Collection of amounts owing under credit**

19 **agreements.** Notwithstanding any other law to the contrary, a
20 licensee who extends credit to a casino gaming patron shall be
21 expressly authorized to institute a cause of action to collect
22 any amounts due and owing under the extension of credit, as well



1 as the operator's costs, expenses, and reasonable attorney's
2 fees incurred in collection.

3 **§ -19 Wagering tax; rate; distribution.** A tax shall be
4 imposed on the gross receipts received from casino gaming
5 authorized under this chapter at the rate of ten per cent. One
6 per cent of the tax revenues may be utilized by the commission
7 for a compulsive gamblers program required to be established
8 pursuant to this chapter and for public security at the gaming
9 facilities. All administrative expenses of the commission shall
10 be paid from the proceeds produced by this tax.

11 **§ -20 The state gaming fund; disposition of taxes**
12 **collected.** There is established within the state treasury the
13 state gaming fund into which shall be deposited all fees, taxes,
14 and fines collected under this chapter. After payment of
15 expenses incurred for the administration and enforcement of this
16 chapter, the revenues generated by gaming shall be used for:
17 education, law enforcement, and economic development.

18 **§ -21 Legislative oversight.** (a) Beginning with the
19 fiscal year ending June 30, 2014, the auditor shall conduct a
20 biennial financial and social assessment of gaming operations.
21 In conducting the assessment, the auditor shall identify the
22 financial impacts of gaming on the state economy and the social



1 impacts of gaming upon the community. The auditor shall submit
2 a report of the findings and recommendations to the legislature
3 no later than twenty days prior to the convening of the next
4 regular session after the biennial assessment is completed.

5 (b) Beginning with the fiscal year ending June 30, 2014,
6 the auditor shall conduct a program and financial audit of the
7 Hawaii gaming commission. Thereafter, the auditor shall conduct
8 a program and financial audit every four years after the first
9 audit is completed.

10 § -22 **Compulsive gambler program.** The commission shall
11 create and implement a program to assist individuals who are
12 identified as compulsive gamblers."

13 SECTION 3. Section 92F-13, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§92F-13 Government records; exceptions to general rule.**

16 This part shall not require disclosure of:

17 (1) Government records which, if disclosed, would
18 constitute a clearly unwarranted invasion of personal
19 privacy;

20 (2) Government records pertaining to the prosecution or
21 defense of any judicial or quasi-judicial action to
22 which the State or any county is or may be a party, to



- 1 the extent that such records would not be
2 discoverable;
- 3 (3) Government records that, by their nature, must be
4 confidential in order for the government to avoid the
5 frustration of a legitimate government function;
- 6 (4) Government records which, pursuant to state or federal
7 law including an order of any state or federal court,
8 are protected from disclosure; [~~and~~]
- 9 (5) Inchoate and draft working papers of legislative
10 committees including budget worksheets and unfiled
11 committee reports; work product; records or
12 transcripts of an investigating committee of the
13 legislature which are closed by rules adopted pursuant
14 to section 21-4 and the personal files of members of
15 the legislature[~~-~~]; and
- 16 (6) Information, records, interviews, reports, statements,
17 memoranda, or other data supplied to or used by the
18 Hawaii gaming control commission pursuant to
19 section -8(e)."

20 SECTION 4. Statutory material to be repealed is bracketed.
21 New statutory material is underscored.



1 SECTION 5. This Act shall take effect upon its approval.

2

INTRODUCED BY:

Joseph M. Smith

JAN 23 2013



H.B. NO. 1063

Report Title:

Hawaii Gaming Control Commission; Casino Gaming

Description:

Establishes the Hawaii Gaming Control Commission and the framework of casino gaming in Waikiki and Kapolei.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

