

1 (1) Controls, is controlled by, or is under common
2 control;

3 (2) Is in a partnership or joint venture relationship; or

4 (3) Is a co-shareholder of a corporation, a co-member of a
5 limited liability company, or a co-partner in a
6 limited liability partnership;

7 with a person who holds or applies for a casino license under
8 this chapter.

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

14 "Applicant" means any person who applies for a license
15 under this chapter.

16 "Casino facility" means a freestanding, land-based
17 structure in which casino gaming permitted under this chapter
18 may be conducted that may include bars, restaurants, showrooms,
19 theaters, or other facilities, but does not include any
20 structure used for hotel or other transient accommodation
21 lodging purposes.



1 "Casino gaming", "limited casino gaming", "game", or
2 "gaming", as the context may require, means the operation of
3 games conducted pursuant to this chapter in a licensed casino
4 facility including but not limited to the games commonly known
5 as "baccarat", "twenty-one", "poker", "craps", "slot machine",
6 "video gaming of chance", "roulette wheel", "Klondike table",
7 "punch-board", "faro layout", "numbers ticket", "push car", "jar
8 ticket", "pull tab", or their common variants, or any other game
9 of chance that is authorized by the commission as a wagering
10 device.

11 "Casino license" means a license to operate and maintain a
12 casino facility for casino gaming permitted under this chapter.

13 "Chairperson" means the chairperson of the Hawaii gaming
14 control commission.

15 "Commission" means the Hawaii gaming control commission.

16 "Conflict of interest" means a situation in which the
17 private interest of a member, employee, or agent of the
18 commission may influence the judgment of the member, employee,
19 or agent in the performance of the member's, employee's, or
20 agent's public duty under this chapter. A conflict of interest
21 includes but is not limited to the following:



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1 (1) Any conduct that would lead a reasonable person,
2 knowing all of the circumstances, to conclude that the
3 member, employee, or agent of the commission is biased
4 against or in favor of an applicant;

5 (2) Acceptance of any form of compensation other than from
6 the commission for any services rendered as part of
7 the official duties of the member, employee, or agent
8 for the commission; or

9 (3) Participation in any business being transacted with or
10 before the commission in which the member, employee,
11 or agent of the commission or the member's,
12 employee's, or agent's parent, spouse, or child has a
13 financial interest.

14 "Department" means the department of business, economic
15 development, and tourism.

16 "Executive director" means the executive director of the
17 commission.

18 "Ex parte communication" means any communication, direct or
19 indirect, regarding a licensing application, disciplinary
20 action, or a contested case under this chapter other than
21 communication that takes place during a meeting or hearing



1 conducted under this chapter or in a manner otherwise authorized
2 by this chapter.

3 "Financial interest" or "financially interested" means any
4 interest in investments, awarding of contracts, grants, loans,
5 purchases, leases, sales, or similar matters under consideration
6 or consummated by the commission or holding a one per cent or
7 more ownership interest in an applicant or a licensee. For
8 purposes of this definition, a member, employee, or agent of the
9 commission shall be considered to have a financial interest in a
10 matter under consideration if any of the following circumstances
11 exist:

12 (1) The individual owns one per cent or more of any class
13 of outstanding securities that are issued by a party
14 to the matter under consideration or consummated by
15 the commission; or

16 (2) The individual is employed by or is an independent
17 contractor for a party to the matter under
18 consideration or consummated by the commission.

19 "Gross receipts":

20 (1) Means the total of:

21 (A) Cash received or retained as winnings by a
22 licensee;



1 (B) Cash received in payment for credit extended by a
2 licensee to a patron for purposes of gaming; and

3 (C) Compensation received for conducting any game in
4 which a licensee is not party to a wager; and

5 (2) Does not include:

6 (A) Counterfeit money or tokens;

7 (B) Coins of other countries that are received in
8 gaming devices;

9 (C) Cash taken in fraudulent acts perpetrated against
10 a licensee for which the licensee is not
11 reimbursed; and

12 (D) Cash received as entry fees for contests or
13 tournaments in which patrons compete for prizes.

14 "Individual" means a natural person.

15 "Institutional investor" means:

16 (1) Any retirement fund administered by a public agency
17 for the exclusive benefit of federal, state, or county
18 public employees;

19 (2) An employee benefit plan, or pension fund that is
20 subject to the Employee Retirement Income Security Act
21 of 1974, as amended;



- 1 (3) An investment company registered under the Investment
2 Company Act of 1940, as amended (54 Stat. 789, 15
3 U.S.C. 80a-1 to 80a-3 and 80a-4 to 80a-64);
- 4 (4) A national bank as trustee of collective investment
5 funds under title 12 Code of Federal Regulations
6 section 9.18 of the rules of the United States
7 Comptroller of the Currency;
- 8 (5) A closed end investment trust;
- 9 (6) A chartered or licensed life insurance company or
10 property and casualty insurance company;
- 11 (7) A chartered or licensed financial institution;
- 12 (8) An investment advisor registered under the Investment
13 Advisers Act of 1940 (54 Stat. 847, 15 U.S.C. sections
14 80b-1 to 80b-21 as amended); and
- 15 (9) Any other person as the commission may determine for
16 reasons consistent with this chapter.

17 "Investigative hearing" means any hearing conducted by the
18 commission or its authorized representative to investigate and
19 gather information or evidence regarding pending license
20 applicants, qualifiers, licensees, or alleged or apparent
21 violations of this chapter or rules adopted by the commission.

22 An investigative hearing shall include any matter related to an



1 apparent deficiency, except for informal conferences requested
2 under section -11.

3 "Junket enterprise" means any person other than a casino
4 licensee or applicant who employs or otherwise engages in the
5 procurement or referral of persons who may participate in a
6 junket to a casino licensed under this chapter or casino
7 enterprise whether or not those activities occur within the
8 State.

9 "Managerial employee" means a person who holds a policy
10 making position with the commission or any vendor or licensee
11 under this chapter.

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

16 "Person" means 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 an applicant, or a
21 person who holds greater than a five per cent direct or indirect
22 interest in an applicant. As used in this definition,



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

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

17 "Supplier's license" means a license that authorizes a
18 supplier to furnish any equipment, devices, supplies, or
19 services to a licensed casino facility permitted under this
20 chapter.



1 "Vendor" means a person who is not licensed under this
2 chapter who supplies any goods or services to a casino licensee
3 or supplier licensee.

4 "Wagerer" means a person who plays a gambling game
5 authorized under this chapter.

6 "Waikiki" means that area of Oahu bounded by the Ala Wai
7 Canal, the ocean, and Kapahulu Avenue.

8 § -3 **Hawaii gaming control commission.** (a) There is
9 established the Hawaii gaming control commission, which shall be
10 a body corporate and a public instrumentality of the State for
11 the purpose of implementing this chapter. The commission shall
12 be placed within the department of business, economic
13 development, and tourism for administrative purposes. The
14 commission shall consist of five members to be appointed by the
15 governor with the advice and consent of the senate under section
16 26-34. Of the five members, one shall be appointed from a list
17 of nominees submitted by the president of the senate and one
18 shall be appointed from a list of nominees submitted by the
19 speaker of the house of representatives. Appointments of
20 initial commission members shall be made within ten days of the
21 effective date of this Act.



1 (b) No person shall be appointed as a member of the
2 commission or continue to be a member of the commission if the
3 person:

4 (1) Is an elected state official;

5 (2) Is licensed by the commission pursuant to this
6 chapter, or is an official of, has a financial
7 interest in, or has a financial relationship with, any
8 gaming operation subject to the jurisdiction of this
9 commission pursuant to this chapter;

10 (3) Is related to any person within the second degree of
11 consanguinity or affinity who is licensed by the
12 commission pursuant to this chapter; or

13 (4) Has been under indictment, convicted, pled guilty or
14 nolo contendere, or forfeited bail for a felony or a
15 misdemeanor involving gambling or fraud under the laws
16 of this State, any other state, or the United States
17 within the ten years prior to appointment, or a local
18 ordinance in a state involving gambling or fraud that
19 substantially corresponds to a misdemeanor in that
20 state within the ten years prior to appointment.

21 (c) The term of office of a commission member shall be
22 five years. Vacancies in the commission shall be filled for the



1 unexpired term in like manner as the original appointments;
2 provided that the governor shall have thirty days following the
3 occurrence of a vacancy to appoint a successor member to the
4 commission.

5 (d) After due notice and public hearing, the governor may
6 remove or suspend for cause any member of the commission.

7 (e) Members of the commission shall:

8 (1) Be a resident of the State;

9 (2) Serve part-time;

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

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

14 (f) Officers of the commission, including the chairperson,
15 shall be selected by the members. The commission, subject to
16 chapter 92, shall hold at least one meeting in each quarter of
17 the State's fiscal year. The commission shall hold its initial
18 meeting within twenty days of the effective date of this Act.
19 Special meetings may be called by the chairperson or any three
20 members upon seventy-two hours written notice to each member.
21 Three members shall constitute a quorum, and a majority vote of
22 the five members present shall be required for any final



1 determination by the commission. The commission shall keep a
2 complete and accurate record of all its meetings.

3 (g) Before assuming the duties of office, each member of
4 the commission shall take an oath that the member shall
5 faithfully execute the duties of office according to the laws of
6 the State and shall file and maintain with the director a bond
7 in the sum of \$25,000 with good and sufficient sureties. The
8 cost of any bond for any member of the commission under this
9 section shall be considered a part of the necessary expenses of
10 the commission.

11 (h) The commission shall appoint a person to serve as the
12 executive director of the commission and who shall be subject to
13 the commission's supervision. The commission shall appoint an
14 interim executive director within ten days of the commission's
15 initial meeting who shall be exempt from paragraphs (3) and (4)
16 such that the interim executive director may be a current public
17 employee or regulatory official from a similar body in another
18 state who temporarily undertakes the role of interim executive
19 director. The executive director shall:

- 20 (1) Hold office at the will of the commission;
21 (2) Be exempt from chapters 76 and 89;
22 (3) Devote full time to the duties of the office;



- 1 (4) Not hold any other office or employment;
- 2 (5) Perform any and all duties that the commission
- 3 assigns; and
- 4 (6) Receive an annual salary at an amount set by the
- 5 commission, and shall be reimbursed for expenses
- 6 actually and necessarily incurred in the performance
- 7 of the executive director's duties.
- 8 (i) Except as otherwise provided by law, the executive
- 9 director may:
 - 10 (1) Hire assistants, other officers, and employees, who
 - 11 shall be exempt from chapters 76 and 89 and who shall
 - 12 serve at the will of the executive director; and
 - 13 (2) Appoint committees and consultants necessary for the
 - 14 efficient operation of casino gaming; provided that no
 - 15 person shall be hired or appointed under this
 - 16 subsection who:
 - 17 (A) Is an elected state official;
 - 18 (B) Is licensed by the commission pursuant to this
 - 19 chapter or is an official of, has a financial
 - 20 interest in, or has a financial relationship
 - 21 with, any gaming operation subject to the



1 jurisdiction of this commission pursuant to this
2 chapter;

3 (C) Is related to any person within the second degree
4 of consanguinity or affinity who is licensed by
5 the commission pursuant to this chapter; or

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

15 (j) The salaries of employees hired pursuant to subsection
16 (i) shall be set by the executive director.

17 (k) The commission shall adopt rules in accordance with
18 chapter 91 establishing a code of ethics for its employees that
19 shall include restrictions on which employees are prohibited
20 from participating in or wagering on any casino game or casino
21 gaming operation subject to the jurisdiction of the commission.



1 The code of ethics shall be separate from and in addition to any
2 standards of conduct set forth pursuant to chapter 84.

3 (1) No person shall be employed by the commission if:

4 (1) During the three years immediately preceding
5 appointment or employment, the person held any direct
6 or indirect interest in, or was employed by:

7 (A) A casino licensee under this chapter or in
8 another jurisdiction; or

9 (B) A potential casino licensee who had an
10 application to operate a casino pending before
11 the commission or any other jurisdiction;

12 except that the person seeking employment may be
13 employed by the commission if the person's interest in
14 a casino licensee would not, in the opinion of the
15 commission, interfere with the objective discharge of
16 the person's employment obligations. A person shall
17 not be employed by the commission if the person's
18 interest in the casino licensee constitutes a
19 controlling interest in that casino licensee; or

20 (2) The person or the person's spouse, parent, child,
21 child's spouse, or sibling, is a member of the
22 commission, or a director of, or a person financially



1 interested in, any person licensed as a casino
2 licensee or casino supplier, or any person who has an
3 application for a casino or occupational license
4 pending before the commission.

5 (m) Each member of the commission, the executive director,
6 and each key employee, as determined by the commission, shall
7 file with the governor a financial disclosure statement:

8 (1) Listing all assets, liabilities, and property and
9 business interests of the member, executive director,
10 key employee, and any of their spouses; and

11 (2) Affirming that the member, executive director, and key
12 employee are in compliance with this chapter.

13 The financial disclosure statement shall be made under oath and
14 filed at the time of employment and annually thereafter.

15 (n) Each employee of the commission, except the executive
16 director or a key employee, shall file with the commission at
17 the time of employment a financial disclosure statement listing
18 all assets, liabilities, property and business interests, and
19 sources of income of the employee and the employee's spouse.

20 (o) A member of the commission, executive director, or key
21 employee shall not hold direct or indirect interest in, be
22 employed by, or enter into a contract for service with, any



1 applicant or person licensed by the commission for a period of
2 five years after the date of termination of the person's
3 membership on or employment with the commission.

4 (p) An employee of the commission shall not acquire any
5 direct or indirect interest in, be employed by, or enter into a
6 contract for services with any applicant or person licensed by
7 the commission for a period of three years after the date of
8 termination of the person's employment with the commission.

9 (q) A commission member or a person employed by the
10 commission shall not represent a person or party other than the
11 State before or against the commission for a period of three
12 years after the date of termination of the member's term of
13 office or the employee's period of employment with the
14 commission.

15 (r) A business entity in which a former commission member,
16 or employee or agent has an interest, or any partner, officer,
17 or employee of the business entity, shall not make any
18 appearance or representation before the commission that is
19 prohibited to that former member, employee, or agent. As used
20 in this subsection, "business entity" means a corporation,
21 limited liability company, partnership, limited liability
22 partnership association, trust, or other form of legal entity.



1 § -4 **Staff.** (a) The executive director shall keep
2 records of all proceedings of the commission and shall preserve
3 all records, books, documents, and other papers belonging to the
4 commission or entrusted to its care relating to casino gaming.

5 (b) In addition to persons hired under section -3(i),
6 the commission may employ any personnel that may be necessary to
7 carry out its duties related to casino gaming.

8 § -5 **Powers of the commission.** (a) The commission
9 shall have all powers necessary to fully and effectively
10 supervise all casino gaming operations, including the power to:

11 (1) Administer, regulate, and enforce the system of casino
12 gaming established by this chapter. The commission's
13 jurisdiction shall extend to every person,
14 association, corporation, partnership, trust, and any
15 other entity with a financial interest in or holding a
16 license under this chapter, or required under this
17 chapter to hold a license in casino gaming operations
18 in the city and county of Honolulu;

19 (2) Issue a twenty-year casino license to operate a casino
20 facility pursuant to this chapter;



- 1 (3) Determine the types and numbers of occupational and
2 supplier's licenses to be permitted under this
3 chapter;
- 4 (4) Adopt standards for the licensing of all persons under
5 this chapter subject to the qualifications and
6 standards set forth herein, to issue licenses, and to
7 establish and collect fees for these licenses;
- 8 (5) Provide for the collection of all taxes imposed
9 pursuant to this chapter, and to collect, receive,
10 expend, and account for all revenues derived from
11 casino gaming within the city and county of Honolulu;
- 12 (6) Enter at any time without a warrant and without notice
13 to a licensee, the premises, offices, casino facility,
14 or other places of business of a casino licensee, or
15 casino supplier licensee, where evidence of the
16 compliance or noncompliance with this chapter or rules
17 is likely to be found. Entry is authorized to:
- 18 (A) Inspect and examine all premises wherein casino
19 gaming or the business of gaming or the business
20 of a supplier is conducted, or where any records
21 of the activities are prepared;



- 1 (B) Inspect, examine, audit, impound, seize, or
2 assume physical control of, or summarily remove
3 from the premises all books, ledgers, documents,
4 writings, photocopies of correspondence records,
5 videotapes, including electronically or digitally
6 stored records, money receptacles, other
7 containers and their contents, equipment in which
8 the records are stored, or other gaming related
9 equipment and supplies on or around the premises,
10 including counting rooms;
- 11 (C) Inspect the person, and inspect, examine, and
12 seize personal effects present in a casino
13 facility licensed under this chapter, of any
14 holder of a licensed casino facility; and
- 15 (D) Investigate and deter alleged violations of this
16 chapter or rules;
- 17 (7) Investigate alleged violations of this chapter and to
18 take appropriate disciplinary action against a casino
19 licensee or a holder of an occupational or supplier
20 license for a violation, or institute appropriate
21 legal action for enforcement, or both;



- 1 (8) Be present, through its inspectors and agents, any
2 time casino gaming operations are conducted in a
3 casino for the purpose of certifying the casino's
4 revenue, receiving complaints from the public, and
5 conducting other investigations into the conduct of
6 the casino gaming and the maintenance of the equipment
7 as from time to time the commission may deem necessary
8 and proper;
- 9 (9) Adopt appropriate standards for a casino facility as
10 well as for electronic or mechanical gaming devices;
- 11 (10) Require that records including financial or other
12 statements of a casino licensee under this chapter be
13 kept in the manner prescribed by the commission and
14 that a licensee involved in the ownership or
15 management of casino gaming operations submit to the
16 commission an annual balance sheet and profit and loss
17 statement, a list of the stockholders or other persons
18 having a five per cent or greater beneficial interest
19 in the gaming activities of the licensee, and any
20 other information the commission deems necessary to
21 effectively administer this chapter;



- 1 (11) Conduct hearings, issue subpoenas for the attendance
2 of witnesses and subpoenas duces tecum for the
3 production of books, records, and other pertinent
4 documents, and to administer oaths and affirmations to
5 the witnesses, when, in the judgment of the
6 commission, it is necessary to administer or enforce
7 this chapter. The executive director or the executive
8 director's designee may issue subpoenas and administer
9 oaths and affirmations to witnesses;
- 10 (12) Eject or exclude, or authorize the ejection or
11 exclusion of, any person from casino facilities where
12 the person is in violation of this chapter or where
13 the person's conduct or reputation is such that the
14 person's presence within a casino facility, in the
15 opinion of the commission, may call into question the
16 honesty and integrity of the casino gaming operation
17 or interfere with the orderly conduct thereof or any
18 other action that, in the opinion of the commission,
19 is a detriment or impediment to the casino gaming
20 operations; provided that the propriety of that
21 ejection or exclusion shall be subject to subsequent
22 hearing and determination by the commission;



- 1 (13) Permit a casino licensee of casino gaming operations
2 to use a wagering system whereby wagerers' money may
3 be converted to tokens, electronic cards, or chips,
4 which shall be used only for wagering within the
5 casino facility;
- 6 (14) Suspend, revoke, or restrict licenses, to require the
7 removal of a licensee or an employee of a licensee for
8 a violation of this chapter or a commission rule, or
9 for engaging in a fraudulent practice;
- 10 (15) Impose and collect fines of up to \$5,000 against
11 individuals and up to \$10,000 or an amount equal to
12 the daily gross receipts, whichever is larger, against
13 a licensee for each violation of this chapter, any
14 rules adopted by the commission, or for any other
15 action which, in the commission's discretion, is a
16 detriment or impediment to casino gaming operations;
- 17 (16) Establish minimum levels of insurance to be maintained
18 by a licensee;
- 19 (17) Delegate the execution of any of its powers for the
20 purpose of administering and enforcing this chapter;
21 and



1 (18) Adopt rules pursuant to chapter 91 to implement this
2 chapter; provided that the regulations of the Nevada
3 gaming commission and Nevada state gaming control
4 board ("the Nevada regulations") that are in effect on
5 the effective date of this Act shall be the emergency
6 interim rules of the commission. As adopted under
7 this chapter, all references in the Nevada regulations
8 to "Nevada" shall mean "Hawaii" and all references to
9 any Nevada state department, agency, commission,
10 statute, or rule shall mean the equivalent or similar
11 department, agency, commission, statute, or rule of
12 the State. To the extent the Nevada regulations are
13 inconsistent with this chapter, this chapter shall
14 supersede the Nevada regulations. Due to the imminent
15 peril to public health, safety, or morals absent valid
16 rules related to gaming authorized by this chapter,
17 the commission, pursuant to chapter 91, may amend the
18 emergency interim rules to correct inconsistencies
19 between the Nevada regulations and this chapter, but
20 the commission shall retain as much of the emergency
21 interim rules as possible until at least the date on
22 which the casino licensee authorized by this chapter



1 begins operating the gaming facility authorized under
2 this chapter.

3 (b) Rules adopted under this chapter shall not be
4 arbitrary, capricious, or contradictory to the provisions of
5 chapter 91. Rules may include but need not be limited to rules
6 that:

7 (1) Govern, restrict, approve, or regulate the casino
8 gaming authorized in this chapter;

9 (2) Promote the safety, security, and integrity of casino
10 gaming authorized in this chapter;

11 (3) License and regulate, consistent with the
12 qualifications and standards set forth in this
13 chapter, persons participating in or involved with
14 casino gaming authorized in this chapter; and

15 (4) Authorize any other action that may be reasonable or
16 appropriate to enforce this chapter and rules adopted
17 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



1 commission shall prepare and file with the commission a
2 disclosure form in which the member shall:

3 (1) Affirm that the member or the member's spouse, parent,
4 child, or child's spouse is not a member of the board
5 of directors of, financially interested in, or
6 employed by, a licensee or applicant;

7 (2) Affirm that the member continues to meet all other
8 criteria for commission membership under this chapter
9 or the rules adopted by the commission;

10 (3) Disclose any legal or beneficial interest in any real
11 property that is or may be directly or indirectly
12 involved with gaming operations authorized by this
13 chapter; and

14 (4) Disclose any other information that 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 commission a
19 disclosure form in which the employee shall:

20 (1) Affirm the absence of financial interests prohibited
21 by this chapter;



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

5 (3) Disclose 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) Disclose any other information that 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 their spouse, parent, or child is a member of the
16 board of directors of, financially interested in, or employed by
17 a licensee or an applicant shall immediately provide detailed
18 written notice 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 for:



1 (1) A misdemeanor involving gambling, dishonesty, theft,
2 or fraud;

3 (2) A local ordinance in any state involving gambling,
4 dishonesty, theft, or fraud that substantially
5 corresponds to a misdemeanor in that state; or

6 (3) A felony under Hawaii law, the laws of any other
7 state, or the laws of the United States, or any other
8 jurisdiction;

9 shall immediately provide detailed written notice of the
10 conviction or charge to the chairperson.

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

18 (f) A member, employee, or agent of the commission shall
19 not enter into any negotiations for employment with any person
20 or affiliate of any person who is a licensee or an affiliate and
21 shall immediately provide written notice of the details of any
22 such negotiations or discussions to the chairperson. The



1 member, employee, or agent of the commission shall not take any
2 action on behalf of the commission with respect to that person.

3 (g) Any member, employee, or agent of the commission who
4 receives an invitation, written or oral, to initiate a
5 discussion concerning employment or the possibility of
6 employment with a person, or affiliate of a person, who is a
7 licensee or an applicant shall immediately report the invitation
8 to the chairperson. The member, employee, or agent of the
9 commission shall not take action on behalf of the commission
10 with respect to that person.

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

19 (i) A member, employee, or agent of the commission, or
20 former member, employee, or agent of the commission, shall not
21 disseminate or otherwise disclose any material or information in
22 the possession of the commission that the commission considers



1 confidential, unless specifically authorized to do so by the
2 chairperson or the commission.

3 (j) A member, employee, or agent of the commission or a
4 parent, spouse, sibling, or child of a member, employee, or
5 agent of the commission shall not accept any gift, gratuity,
6 compensation, travel, lodging, or anything of value, directly or
7 indirectly from any licensee, applicant, or any affiliate or
8 representative of an applicant or licensee, unless the
9 acceptance conforms to a written policy or directive issued by
10 the chairperson or the commission. Any member, employee, or
11 agent of the commission who is offered or receives any gift,
12 gratuity, compensation, travel, lodging, or anything of value,
13 directly or indirectly, from any licensee or any applicant or
14 affiliate or representative of an applicant or licensee shall
15 immediately provide written notification of the details to the
16 chairperson.

17 (k) A licensee or applicant, or affiliate or
18 representative of an applicant or licensee, shall not, directly
19 or indirectly, knowingly give or offer to give any gift,
20 gratuity, compensation, travel, lodging, or anything of value to
21 any member, employee, or agent of the commission that the



1 member, employee, or agent of the commission is prohibited from
2 accepting under subsection (j).

3 (l) A member, employee, or agent of the commission shall
4 not engage in any conduct that constitutes a conflict of
5 interest, and shall immediately advise the chairperson in
6 writing of the details of any incident or circumstances that
7 would present the existence of a conflict of interest with
8 respect to the performance of commission-related work or duty of
9 the member, employee, or agent of the commission.

10 (m) A member, employee, or agent of the commission who is
11 approached and offered a bribe in violation of this chapter
12 shall immediately provide a written account of the details of
13 the incident to the chairperson and to a law enforcement officer
14 of a law enforcement agency having jurisdiction.

15 (n) A member, employee, or agent of the commission shall
16 disclose past involvement with any casino interest in the past
17 five years and shall not engage in political activity or
18 politically-related activity during the duration of the person's
19 appointment or employment.

20 (o) A former member, employee, or agent of the commission
21 may appear before the commission as a witness testifying as to
22 factual matters or actions handled by the member, employee, or



1 agent during the person's tenure as a member, employee, or agent
2 of the commission. The member, employee, or agent of the
3 commission shall not receive compensation for such an appearance
4 other than a standard witness fee and reimbursement for travel
5 expenses as established by statute or court rule.

6 (p) A licensee or applicant or any affiliate or
7 representative of an applicant or licensee shall not engage in
8 ex parte communications concerning a pending application,
9 license, or enforcement action with members of the commission.
10 A member of the commission shall not engage in any ex parte
11 communications with a licensee or an applicant, or with any
12 affiliate or representative of an applicant or licensee,
13 concerning a pending application, license, or enforcement
14 action.

15 (q) Any commission member, licensee, or applicant or
16 affiliate or representative of a commission member, licensee, or
17 applicant who receives any ex parte communication in violation
18 of subsection (p), or who is aware of an attempted communication
19 in violation of subsection (p), shall immediately report details
20 of the communication or attempted communication in writing to
21 the chairperson.



1 (r) Any member of the commission who receives an ex parte
2 communication that attempts to influence that member's official
3 action shall disclose the source and content of the
4 communication to the chairperson. The chairperson may
5 investigate or initiate an investigation of the matter with the
6 assistance of the attorney general and law enforcement to
7 determine if the communication violates subsection (p) or (q) or
8 other state law. The disclosure under this section and the
9 investigation shall remain confidential. Following an
10 investigation, the chairperson shall advise the governor or the
11 commission, or both, of the results of the investigation and may
12 recommend action, as the chairperson considers appropriate.

13 (s) A new or current employee or agent of the commission
14 shall obtain written permission from the executive director
15 before continuing outside employment held at the time the
16 employee begins to work for the commission. Permission shall be
17 denied, or permission previously granted shall be revoked, if
18 the nature of the work is considered to, or does create, a
19 possible conflict of interest or otherwise interferes with the
20 duties of the employee or agent for the commission.

21 (t) An employee or agent of the commission granted
22 permission for outside employment shall not conduct any business



1 or perform any activities, including solicitation, related to
2 outside employment on premises used by the commission or during
3 the employee's working hours for the commission.

4 (u) Whenever the chairperson is required to file
5 disclosure forms or report in writing the details of any
6 incident or circumstance pursuant to this section, the
7 chairperson shall file the forms or reports to the commission.

8 (v) The chairperson shall report any action the
9 chairperson has taken or contemplates taking under this section,
10 with respect to an employee or agent or former employee or
11 former agent, to the commission at the next meeting of the
12 commission. The commission may direct the executive director to
13 take additional or different action.

14 (w) No member, employee, or agent of the commission may
15 participate in or wager on any gambling game conducted by a
16 licensee or applicant or any affiliate of an applicant or
17 licensee in the State or in any other jurisdiction, except as
18 follows:

19 (1) A member, employee, or agent of the commission may
20 participate in and wager on a gambling game conducted
21 by a licensee under this chapter, to the extent
22 authorized by the chairperson or commission as part of



1 the person's surveillance, security, or other official
2 duties for the commission; and

3 (2) A member, employee, or agent of the commission shall
4 advise the chairperson at least twenty-four hours in
5 advance if the person plans to be present in a casino
6 in this State, or in another jurisdiction, operated by
7 a licensee, applicant, or affiliate of a licensee or
8 applicant, outside the scope of their official duties
9 for the commission.

10 (x) Violation of this section by a licensee, applicant, or
11 affiliate or representative of a licensee or applicant shall
12 constitute grounds for the commission to deny the application of
13 licensure, revoke or suspend a license, or take other
14 disciplinary action.

15 (y) Violation of this section by a member of the
16 commission may result in disqualification or constitute cause
17 for removal under section -3(d) or other disciplinary action
18 as determined by the commission.

19 (z) A violation of this section by an employee or agent of
20 the commission shall not result in termination of employment or
21 require other disciplinary action if the commission determines



1 that the conduct involved does not violate the purpose of this
2 chapter. Employment shall be terminated:

3 (1) If the employee or agent is a spouse, parent, child,
4 or spouse of a child of a commission member; or

5 (2) If, after being offered employment or having begun
6 employment with the commission, the employee or agent
7 intentionally acquires a financial interest in a
8 licensee or an applicant, or affiliate or
9 representative of a licensee or applicant.

10 (aa) If a financial interest in a licensee or an
11 applicant, or affiliate or representative of a licensee or
12 applicant, is acquired by:

13 (1) An employee or agent that has been offered employment
14 with the commission;

15 (2) An employee of the commission; or

16 (3) The employee's or agent's spouse, parent, or child;
17 through no intentional action of the employee or agent, the
18 employee or agent shall have up to thirty days to divest or
19 terminate the financial interest. Employment may be terminated
20 if the interest has not been divested after thirty days.

21 (bb) Violation of this section does not create a civil
22 cause of action.



1 (cc) As used in this section:

2 "Outside employment" includes the following:

3 (1) Operation of a proprietorship;

4 (2) Participation in a partnership or group business
5 enterprise; or

6 (3) Performance as a director or corporate officer of any
7 for-profit corporation, or banking or credit
8 institution.

9 "Political activity" or "politically related activity"
10 includes any of the following:

11 (1) Using the person's official authority or influence for
12 the purpose of interfering with or affecting the
13 result of an election;

14 (2) Knowingly soliciting, accepting, or receiving
15 political contributions from any person;

16 (3) Running for nomination or as a candidate for election
17 to a partisan political office; or

18 (4) Knowingly soliciting or discouraging the participation
19 in any political activity of any person who is:

20 (A) Applying for any compensation, grant, contract,
21 ruling, license, permit, or certificate pending
22 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) Casino
5 gaming shall only be permitted in one casino facility in the
6 Waikiki. The casino facility shall only be mauka of Kalakaua
7 Avenue. Any application for a casino license to operate the
8 casino facility shall include a casino facility development plan
9 for the casino facility.

10 (b) The commission's application for a casino license to
11 operate a casino facility shall be the same applications and
12 forms required for an applicant for a non-restricted Nevada
13 gaming license that have been adopted by the Nevada gaming
14 commission and Nevada state gaming control board ("Nevada
15 application") and are in effect on the effective date of this
16 Act. In addition to the Nevada application, as part of an
17 applicant's application for a casino license to operate a casino
18 facility, an applicant shall submit all additional information
19 required by section -8. Applications for a casino license
20 shall be submitted to the commission no later than thirty days
21 after the date of the commission's initial meeting. No later
22 than ninety days after the final date for submission of



1 applications to the commission, the commission shall select one
2 applicant who in the commission's judgment best meets all of the
3 criteria pursuant to section -9. If the applicant selected
4 by the commission meets all the requirements of this chapter,
5 the commission shall issue a casino license to that applicant
6 within thirty days after the date the applicant is selected.

7 § -8 Casino license; application; fee. (a) The
8 application for a casino license under this chapter shall be
9 made under oath on forms required by this chapter and shall
10 include all of the following:

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



1 interest of more than five per cent, including, if
2 applicable, the state of incorporation or
3 registration;

4 (3) An explanation whether the applicant or qualifier has
5 developed and opened a new land-based casino in an
6 urban area within a jurisdiction in the United States
7 that previously did not allow gaming, including a
8 description of the casino, the casino's gross revenue,
9 and the amount of revenue the casino has generated for
10 state and local governments within that jurisdiction;

11 (4) A statement whether the applicant or a qualifier has
12 been indicted, convicted, pled guilty or nolo
13 contendere, or forfeited bail for any felony or for a
14 misdemeanor involving gambling, theft, or fraud. The
15 statement shall include the date, the name and
16 location of the court, arresting agency, prosecuting
17 agency, the case caption, the docket number, the
18 offense, the disposition, and the location and length
19 of incarceration;

20 (5) A statement whether the applicant or a qualifier has
21 ever been granted any license or certificate issued by
22 a licensing authority in the State, or any other



1 jurisdiction that has been restricted, revoked, or not
2 renewed. The statement shall describe the facts and
3 circumstances concerning that restriction, revocation,
4 or nonrenewal, including the licensing authority, the
5 date each action was taken, and the reason for each
6 action;

7 (6) A statement whether the applicant or a qualifier,
8 within the last ten years, has filed or had filed
9 against it a civil or administrative action or
10 proceeding in bankruptcy;

11 (7) A statement whether the applicant or a qualifier,
12 within the last five tax years, has been adjudicated
13 by a court or tribunal to have failed to pay any final
14 amount of any income, sales, or gross receipts tax due
15 and payable under federal, state, or local law, after
16 exhaustion of all inter-agency appeals processes.
17 This statement shall identify the amount of the tax,
18 type of tax, time periods involved, and resolution;

19 (8) A statement listing the names and titles of all public
20 officials or officers of any unit of state government
21 or county government in the jurisdiction in which the
22 casino facility is to be located, and the spouses,



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

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

15 (10) A description of the applicant or its qualifiers'
16 history of, or plan for, community involvement or
17 investment in the area where the casino facility will
18 be located; and

19 (11) For the applicant only, a description of any proposed
20 or approved casino gaming facility, including the
21 economic benefit to the community, anticipated or
22 actual number of employees, any statement from an



1 applicant regarding compliance with federal and state
2 affirmative action guidelines, projected or actual
3 admissions, projected or actual gross receipts, and
4 scientific market research, if any.

5 (b) Information provided on the application shall be used
6 as the basis for a thorough background investigation that the
7 commission shall conduct with respect to each applicant and
8 qualifier, but any financial information submitted by each
9 applicant and qualifier shall be kept confidential by the
10 commission. An incomplete application shall be cause for denial
11 of a license by the commission.

12 (c) Applicants shall submit with their application a plan
13 for training residents of the State for jobs that are available
14 at the casino facility. The plan shall take into consideration
15 the need to provide training to low-income persons to enable
16 those persons to qualify for jobs that will be created in the
17 casino facility.

18 (d) Each applicant and qualifier shall disclose the
19 identity of every person, association, trust, or corporation
20 having a greater than five per cent direct or indirect financial
21 interest in the casino gaming operation for which the license is
22 sought. If the disclosed entity is a trust, the application



1 shall disclose the names and addresses of the beneficiaries; if
2 a corporation, the names and addresses of all stockholders and
3 directors; if a partnership, the names and addresses of all
4 partners, both general and limited.

5 (e) A nonrefundable application fee of \$1,000,000 shall be
6 paid to the commission by an applicant at the time of filing to
7 defray the costs associated with an applicant and qualifier's
8 background investigation conducted by the commission. If the
9 costs of the investigation exceed \$1,000,000, the applicant
10 shall pay the additional amount to the commission.

11 § -9 **Criteria for award of a casino license; transfer of**
12 **license prohibited.** (a) The commission shall issue one casino
13 license to operate a casino facility to the applicant that has
14 paid the application fee required under section -8, is
15 eligible and suitable to receive a casino license under this
16 chapter and the rules adopted by the commission, and best
17 satisfies all of the following criteria:

18 (1) The applicant has submitted a casino facility
19 development plan for the casino facility that provides
20 the greatest likelihood that the applicant's casino
21 facility will increase tourism, generate jobs, provide



- 1 revenue to the local economy, and provide revenue to
2 the general fund;
- 3 (2) The applicant or its qualifiers have a history of, or
4 a bona fide plan for, community involvement or
5 investment in the area where the casino facility will
6 be located;
- 7 (3) The applicant has the financial ability to purchase
8 and maintain adequate liability and casualty insurance
9 and to provide an adequate surety bond;
- 10 (4) The applicant has provided data identifying the
11 applicant's sources of capital and demonstrating that
12 the applicant has adequate capital to develop,
13 construct, operate, and maintain the proposed casino
14 facility;
- 15 (5) The applicant has adequate capitalization to develop,
16 construct, operate, and maintain for the duration of
17 the license, the proposed casino facility in
18 accordance with the requirements of this chapter and
19 rules adopted by the commission and to responsibly pay
20 off its secured and unsecured debts in accordance with
21 its financing agreement and other contractual
22 obligations;



1 (6) The extent to which the applicant or any of its
2 qualifiers demonstrate that they have at least ten
3 years of experience within the past twenty years in
4 helping to revitalize an urban area by successfully
5 planning, developing, and opening and currently owning
6 and operating a nongovernmentally owned, commercial
7 land-based casino in an urban area in any jurisdiction
8 in the United States that previously did not permit
9 casino gaming. For purposes of this paragraph:

10 "Casino" means a lawfully operating gaming
11 facility with at least 50,000 contiguous square feet
12 of gaming space that includes at least 1,500 slot
13 machines that are controlled by random number
14 generators; and

15 "Urban area" means a county with a population of
16 at least seven hundred fifty thousand residents;

17 (7) Neither the applicant nor any of its qualifiers have
18 been indicted, convicted, pled guilty or nolo
19 contendere, or forfeited bail for any felony or for a
20 misdemeanor involving gambling, theft, or fraud;



- 1 (8) Neither the applicant nor any of its qualifiers,
2 within the last ten years, have filed, or had filed
3 against them a proceeding for bankruptcy;
- 4 (9) The extent to which an applicant or any of its
5 qualifiers have, within the last five tax years, been
6 adjudicated by a court or tribunal to have failed to
7 pay any final amount of income, sales, or gross
8 receipts tax due and payable under federal, state, or
9 local law, after exhaustion of all inter-agency
10 appeals processes;
- 11 (10) The extent to which the applicant meets other
12 standards for the issuance of a casino license that
13 the commission may have adopted by rule;
- 14 (11) To ensure the continued integrity of Hawaii collegiate
15 athletics, neither the applicant, nor any parent or
16 subsidiary of the applicant, are licensed in a
17 jurisdiction that permits wagering on Hawaii
18 collegiate athletics;
- 19 (12) The adequacy of the applicant's plan for training
20 residents of the State for jobs that are available at
21 the casino facility and the extent to which the plan
22 considers the need to provide training to low-income



1 persons to enable those persons to qualify for jobs
2 that will be created in the casino facility; and

3 (13) The caliber of the proposed casino gaming facility,
4 including the proposed casino facility's aesthetic
5 appearance, amount of economic benefit to the
6 community, anticipated or actual number of employees,
7 compliance with federal and state affirmative action
8 guidelines, and projected or actual gross receipts.

9 (b) Any rules adopted pursuant to chapter 91 shall not be
10 arbitrary, capricious, or contradictory to the expressed
11 provisions of this chapter and shall further define and clarify
12 the criteria listed in subsection (a) rather than create new
13 conditions for licensure.

14 (c) An applicant shall be ineligible to receive a casino
15 license if the applicant or any employee or qualifier of the
16 applicant:

17 (1) Has been convicted of a felony under the laws of this
18 State, any other state, or the United States;

19 (2) Has been convicted of any violation under part III of
20 chapter 712, or substantially similar laws of another
21 jurisdiction;



1 (3) Knowingly submitted an application for a license under
2 this chapter that contains false information;

3 (4) Is a member or employee of the commission; or

4 (5) Has had revoked a license to own or operate gaming
5 facilities in this State or any other jurisdiction.

6 (d) To demonstrate financial ability, the applicant may
7 include the economic resources available directly or indirectly
8 to the casino license applicant and its qualifiers.

9 (e) Simultaneous with an applicant's submission of an
10 application, each applicant and qualifier that is a natural
11 person shall submit to the commission on fingerprint cards
12 issued by the Federal Bureau of Investigation or in digital
13 format two sets of fingerprints for each applicant and
14 qualifier.

15 (f) The commission may revoke the casino license if the
16 licensee fails to begin regular casino gaming operations within
17 twelve months of receipt of the commission's approval of the
18 application or twelve months after a certificate of occupancy
19 for the casino facility is first issued, whichever is later,
20 upon a finding by the commission that the casino license
21 revocation is in the best interest of the State.



1 (g) The commission shall establish a process to facilitate
2 and expedite the approval of the necessary licenses and permits.
3 The commission may establish its own procedures for the issuance
4 of liquor licenses for any holder of a casino license under this
5 chapter and the holder of a casino license shall not be subject
6 to any requirement of the Honolulu liquor commission as to the
7 approval of forms of live/professional music, dancing, and
8 entertainment; provided that all other state laws and county
9 ordinances relating to liquor are met. The commission shall be
10 the receiving agency for any environmental assessment required
11 under chapter 343.

12 (h) Once issued, a casino license issued pursuant to this
13 chapter shall be nontransferable and shall be valid only for the
14 person or entity in whose name it was issued and for the
15 operation of the casino facility at the designated place.

16 (i) Nothing in this chapter shall be interpreted to
17 prohibit a casino licensee from operating a school to train
18 occupational licensees.

19 § -10 **Bond of licensee.** Before a casino license is
20 issued, the licensee shall file a bond in the sum of \$200,000
21 with the department. The bond shall be used to guarantee that
22 the licensee faithfully makes the payments, keeps books and



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

10 § -11 **Application deficiency.** (a) If, in the review of
11 an application submitted under this chapter, the executive
12 director identifies an apparent deficiency that, if true, would
13 require denial of the license or the disqualification of a
14 qualifier, the executive director shall immediately notify the
15 affected applicant or qualifier in writing of the apparent
16 deficiency. The applicant or qualifier may then request a
17 confidential informal conference with the executive director to
18 discuss the factual basis of the apparent deficiency.

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



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

16 (c) At any time prior to a finding by the commission that
17 a qualifier is unsuitable to hold an ownership interest in a
18 casino applicant, a qualifier shall have the ability to sell its
19 ownership interest in the casino applicant to the casino
20 applicant, another qualifier, or a third party.

21 (d) A qualifier who has been issued a finding of an
22 apparent deficiency shall have the right to request that the



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

- 14 (1) Make any direct or indirect payments or distributions
15 of revenue or other benefits to the qualifier that are
16 related in any way to the qualifier's interest in the
17 applicant; and
- 18 (2) Pay any direct or indirect compensation to the
19 qualifier for services rendered to the applicant,
20 unless specifically approved and authorized by the
21 commission.



1 § -12 Institutional investor. (a) Unless the
2 commission determines that an institutional investor is
3 unqualified, an institutional investor holding less than ten per
4 cent of the equity securities or ten per cent of the debt
5 securities of a casino licensee's affiliate or affiliated
6 company that is related in any way to the financing of the
7 casino licensee, shall be granted a waiver of the eligibility
8 and suitability requirements if:

- 9 (1) The securities represent a percentage of the
10 outstanding debt of the affiliate or affiliated
11 company not exceeding twenty per cent, or a percentage
12 of any issue of the outstanding debt of the affiliate
13 or affiliated company not exceeding fifty per cent;
- 14 (2) The securities are those of a publicly traded
15 corporation and its holdings of those securities were
16 purchased for investment purposes only; and
- 17 (3) Upon request by the commission, the institutional
18 investor files with the commission a certified
19 statement that it has no intention of influencing or
20 affecting the affairs of the issuer, the casino
21 licensee, or its affiliate or affiliated company.



1 (b) The commission may grant a waiver under this section
2 to an institutional investor holding a higher percentage of
3 securities than allowed in subsection (a) upon a showing of good
4 cause and if the conditions specified in subsection (a) are met.

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

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

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

19 (f) The casino licensee or an affiliate or affiliated
20 company of the casino licensee shall immediately notify the
21 commission of any information concerning an institutional
22 investor holding its equity or debt securities that may affect



1 the eligibility and suitability of the institutional investor
2 for a waiver under this section.

3 (g) If the commission finds that an institutional
4 investor, holding any security of an affiliate or affiliated
5 company of a casino licensee that is related in any way to the
6 financing of the casino licensee, fails to comply with the
7 requirements of this section, or if at any time the commission
8 finds that, by reason of the extent or nature of its holdings,
9 an institutional investor is in a position to exercise a
10 substantial impact upon the controlling interests of a casino
11 licensee, the commission may take any necessary action to
12 protect the public interest, including requiring the
13 institutional investor to satisfy the eligibility and
14 suitability requirements under sections -8, -9, and
15 -10.

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



1 the commission that the applicant is eligible for a supplier's
2 license and upon payment by the applicant of a \$5,000 license
3 fee. Supplier's licenses shall be renewable annually upon
4 payment of the \$5,000 annual license fee and a determination by
5 the commission that the licensee continues to meet all of the
6 requirements of this chapter.

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

11 (c) Casino gaming supplies and equipment shall not be
12 distributed unless supplies and equipment conform to standards
13 adopted by rules of the commission.

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

16 (1) The person has been convicted of a felony under the
17 laws of this State, any other state, or the United
18 States;

19 (2) The person has been convicted of any violation under
20 part III, chapter 712, or substantially similar laws
21 of another jurisdiction;



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



1 operations separate and distinct from any other

2 business that the supplier might operate;

3 (3) File quarterly returns with the commission listing all
4 sales and leases;

5 (4) Permanently affix its name to all its equipment,
6 devices, and supplies, used for casino gaming
7 operations; and

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

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

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

19 § -14 Occupational licenses. (a) The commission may
20 issue an occupational license to an applicant upon:

21 (1) The payment of a nonrefundable application fee set by
22 the commission;



1 (2) A determination by the commission that the applicant
2 is eligible for an occupational license; and

3 (3) Payment of an annual license fee in an amount set by
4 the commission.

5 (b) To be eligible for an occupational license, an
6 applicant shall:

7 (1) Be at least twenty-one years of age if the applicant
8 performs any function involved in casino gaming by
9 patrons. Any applicant seeking an occupational
10 license for a non-gaming function shall be at least
11 eighteen years of age;

12 (2) Not have been convicted of a felony offense in any
13 jurisdiction or a crime involving dishonesty or moral
14 turpitude; and

15 (3) Have met standards for the holding of an occupational
16 license as provided in rules adopted by the
17 commission, including background inquiries and other
18 requirements.

19 (c) Each application for an occupational license shall be
20 on forms prescribed by the commission and shall contain all
21 information required by the commission. The applicant shall set
22 forth in the application whether the applicant:



1 (1) Has been issued prior gaming-related licenses in any
2 jurisdiction;

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

6 (3) Has had a permit or license issued from any other
7 jurisdiction suspended, restricted, or revoked, and if
8 so, for what period of time.

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

14 (e) The commission may refuse to grant an occupational
15 license to any person:

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

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

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



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

3 (4) For any other just cause.

4 (f) The commission may suspend, revoke, or restrict any
5 occupational 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 (g) A person who knowingly makes a false statement on an
15 application is guilty of a petty misdemeanor.

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

4 § -15 Temporary supplier and occupational licenses. (a)

5 Upon written request of a person applying for a supplier or
6 occupational license under this chapter, the executive director
7 shall issue a temporary license to the applicant and permit the
8 applicant to undertake employment with, conduct business
9 transactions with, and provide goods and services to, casino
10 licensees, casino license applicants, and holders of
11 certificates of suitability; provided that all of the following
12 provisions are met:

- 13 (1) The applicant has submitted to the commission a
14 completed application, an application fee, and all
15 required disclosure forms and other required written
16 documentation and materials;
- 17 (2) Preliminary review of the application and a criminal
18 history check by the executive director and the
19 commission staff does not reveal that the applicant or
20 the applicant's affiliates, key persons, local and
21 regional managerial employees or sales and service
22 representatives, or substantial owners have been



1 convicted of a felony or misdemeanor that would
2 require denial of the application or may otherwise be
3 ineligible, unqualified, or unsuitable to permit
4 licensure under this chapter;

5 (3) There is no other apparent deficiency in the
6 application that may require denial of the
7 application; and

8 (4) The applicant has an offer of employment from, or
9 agreement to begin providing goods and services to, a
10 casino licensee, casino license applicant, or holder
11 of a certificate of suitability upon receipt of the
12 temporary license or the applicant shows good cause
13 for being granted a temporary license.

14 (b) A temporary license issued under this section shall be
15 valid for not more than one hundred and eighty days, but may be
16 renewed upon expiration by the executive director.

17 (c) An applicant who receives a temporary license under
18 this section may undertake employment with or supply a casino
19 licensee, casino license applicants, and holders of certificates
20 of suitability with goods and services subject to this chapter
21 until a license is issued by the commission pursuant to the
22 applicant's application or until the temporary license expires



1 or is suspended or revoked. During the period of the temporary
2 license, the applicant shall comply with this chapter and rules
3 adopted by the commission.

4 (d) If the temporary license expires, is not renewed, or
5 is suspended or revoked, the executive director shall
6 immediately forward the applicant's application to the
7 commission for action after first providing a reasonable time
8 for the applicant to correct any apparent deficiency in its
9 application.

10 § -16 **Annual report.** The commission shall submit a
11 written annual report to the governor and the legislature at
12 least sixty days prior to the close of each fiscal year and
13 shall submit any additional reports that the governor or the
14 legislature requests. The annual report shall include:

- 15 (1) A statement of receipts and disbursements related to
16 casino gaming pursuant to this chapter;
- 17 (2) Actions taken by the commission; and
- 18 (3) Any additional information and recommendations that
19 the commission may deem valuable or which the governor
20 or the legislature may request.

21 § -17 **Hearings by the commission.** (a) Upon order of
22 the commission, one of the commission members or a hearings



1 officer designated by the commission may conduct any hearing
2 provided for under this chapter related to casino gaming or by
3 commission rule, and may recommend findings and decisions to the
4 commission. The record made at the time of the hearing shall be
5 reviewed by the commission, or a majority thereof, and the
6 findings and decisions of the majority of the commission shall
7 constitute the order of the commission in that case.

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

19 § -18 **Conduct of casino gaming.** Casino gaming may be
20 conducted by the holder of a casino license, subject to the
21 following:



- 1 (1) The site of the casino facility shall be restricted to
2 Waikiki, mauka of Kalakaua Avenue;
- 3 (2) The casino facility shall be a stand-alone facility
4 and shall not be located within a hotel;
- 5 (3) The term of the casino license shall be twenty years
6 and shall be renewable for additional twenty-year
7 terms; provided that:
- 8 (A) The casino facility has demonstrated an effort to
9 increase tourism, generate jobs, provide revenue
10 to the local economy, and provide revenue to the
11 general fund;
- 12 (B) The casino licensee's actions have not caused the
13 casino license under this chapter to be suspended
14 or revoked; and
- 15 (C) The applicant and its qualifiers remain eligible
16 and suitable for a casino license;
- 17 (4) The casino facility may operate twenty-four hours per
18 day, each and every day of the year;
- 19 (5) Minimum and maximum wagers on games shall be set by
20 the casino licensee;
- 21 (6) The commission's agents may enter and inspect the
22 casino facility at any time for the purpose of



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



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

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

15 (14) Prior to commencing gaming operations at the casino
16 facility, the casino licensee shall enter into a
17 development agreement with the State that includes at
18 least the following terms:

19 (A) The casino licensee agrees to invest at least
20 \$50,000,000 to develop and construct a casino
21 facility;



1 (B) The casino licensee agrees to use best efforts to
2 train residents of the State for jobs that are
3 available at the casino facility;

4 (C) The casino licensee agrees that neither the
5 casino licensee, nor any parent or subsidiary of
6 the casino licensee, will operate in a
7 jurisdiction that permits wagering on Hawaii
8 collegiate athletics;

9 (D) The casino licensee shall use best efforts to
10 increase tourism, generate jobs, provide revenue
11 to the local economy, and provide revenue to the
12 State; and

13 (E) The casino licensee and the State agree that,
14 other than the one casino facility licensed under
15 this chapter, the State shall not authorize any
16 additional gaming in the State without the prior
17 written consent of the casino licensee and the
18 State; and

19 (15) In addition to the above, casino gaming shall be
20 conducted in accordance with all rules adopted by the
21 commission.



1 § -19 **Collection of amounts owing under credit**
2 **agreements.** Notwithstanding any other law to the contrary, a
3 casino licensee who extends credit to a wagerer shall be
4 expressly authorized to institute a cause of action to collect
5 any amounts due and owing under the extension of credit, as well
6 as the licensee's costs, expenses, and reasonable attorney's
7 fees incurred in collection.

8 § -20 **Wagering tax; rate; disposition.** A wagering tax
9 shall be imposed on the monthly gross receipts received from
10 casino gaming authorized under this chapter at the rate of
11 fifteen per cent. The wagering tax imposed by this section
12 shall be in lieu of all other state taxes on gross or adjusted
13 gross receipts, including taxes levied under chapters 237 and
14 239, except income taxes. All other income received by the
15 casino licensee that are not from casino gaming are not subject
16 to the wagering tax, but are subject to any other state taxes on
17 gross or adjusted gross receipts levied under chapters 237 and
18 239. Tax revenues collected under this section shall be
19 deposited into the state general fund; provided that the
20 following amounts shall be retained by the commission and
21 deposited into the state gaming fund for use by the commission
22 as follows:



1 (1) One per cent of the tax revenues to fund a compulsive
2 gamblers program and for public security at the casino
3 facility; and

4 (2) Not more than one per cent of the tax revenues to fund
5 administrative expenses of the commission.

6 § -21 **State gaming fund; disposition of taxes collected.**

7 There is established within the state treasury the state gaming
8 fund to be administered by the Hawaii gaming control commission
9 into which shall be deposited all fees, taxes, and fines
10 collected under this chapter other than the wagering tax
11 collected pursuant to section -20. Moneys from the state
12 gaming fund shall be used to fund:

13 (1) A compulsive gamblers program and for public security
14 at the casino facility; and

15 (2) Administrative expenses of the commission.

16 § -22 **Legislative oversight.** After the first full
17 fiscal year of operation, the auditor shall conduct a program
18 and financial audit of the Hawaii gaming commission.
19 Thereafter, the auditor shall conduct a program and financial
20 audit every four years after the initial audit is completed.



1 § -23 **Compulsive gamblers program.** The commission shall
2 create and implement a program to assist individuals who are
3 identified as compulsive gamblers.

4 § -24 **Disclosure of information.** The commission, upon
5 written request from any person, shall provide the following
6 information concerning the applicant or licensee, the
7 applicant's or licensee's products, services or gambling
8 enterprises, and the applicant's or licensee's business holdings
9 if the commission has the information in its possession:

- 10 (1) The name, business address, and business telephone
11 number;
- 12 (2) An identification of any applicant or licensee
13 including, if an applicant or licensee is not an
14 individual, its state of incorporation or
15 registration, its corporate officers, and the identity
16 of its qualifiers;
- 17 (3) The name and business telephone number of any
18 attorney, counsel, lobbyist, or any other person
19 representing an applicant or licensee in matters
20 before the commission; and
- 21 (4) A description of the product or service to be supplied
22 by, or occupation to be engaged in by, a licensee.



1 § -25 **License issuance fee.** In addition to any other
2 fee or payment required under this chapter, there shall be a
3 one-time fee of \$150,000,000, in cash or cash equivalent, to be
4 paid as follows:

5 (1) \$75,000,000 as a condition precedent to the issuance
6 of the casino license; and

7 (2) \$75,000,000 one year after the casino license is
8 issued.

9 Upon payment of the \$75,000,000 due one year after the casino
10 license is issued, the casino licensee shall be credited with
11 this payment against the wagering tax imposed upon the casino
12 licensee under section -20, to be amortized over a period of
13 ten years after that payment is made. The fee shall be
14 deposited into the general fund."

15 SECTION 2. Chapter 712, Hawaii Revised Statutes, is
16 amended by adding a new section to part III to be appropriately
17 designated and to read as follows:

18 "§712- **Casino gaming; exempted.** This part shall not
19 apply to casino gaming as authorized by chapter ."

20 SECTION 3. Section 46-80.5, Hawaii Revised Statutes, is
21 amended by amending subsection (e) to read as follows:

22 "(e) Exemptions.



- 1 (1) Property owned by the state or county governments or
2 entities, may be exempt from the assessment except as
3 provided in paragraph (3);
- 4 (2) Property owned by the federal government or entities,
5 shall be exempt from the assessment except as provided
6 in paragraph (3);
- 7 (3) If a public body owning property, including property
8 held in trust for any beneficiary, which is exempt
9 from an assessment pursuant to paragraphs (1) and (2),
10 grants a leasehold or other possessory interest in the
11 property to a nonexempt person or entity, the
12 assessment, notwithstanding paragraphs (1) and (2),
13 shall be levied on the leasehold or possessory
14 interest and shall be payable by the lessee;
- 15 (4) The construction of any casino facility in Waikiki
16 authorized under chapter shall be exempt from the
17 assessment and any special improvement district
18 requirements regarding redevelopment authorized by
19 subsection (a);
- 20 [~~4~~] (5) The redevelopment of the Ala Wai boat harbor
21 shall be exempt from the assessment and any special



1 improvement district requirements authorized by
2 subsection (a); and
3 ~~[(5)]~~ (6) No other properties or owners shall be exempt
4 from the assessment unless the properties or owners
5 are expressly exempted in the ordinance establishing a
6 district adopted pursuant to this section or amending
7 the rate or method of assessment of an existing
8 district."

9 SECTION 4. There is appropriated out of the general
10 revenues of the State of Hawaii the sum of \$5,000,000 or so much
11 thereof as may be necessary for fiscal year 2014-2015 for the
12 purpose of funding the operations of the Hawaii gaming control
13 commission; provided that the:

14 (1) Casino licensee shall reimburse the amount
15 appropriated by remitting \$5,000,000 to the director
16 of finance no later than the first day on which the
17 casino opens for operation;

18 (2) Casino licensee's application fee under section
19 -8(e), Hawaii Revised Statutes, shall be applied
20 as a credit against the \$5,000,000 amount due under
21 this section; and



1 (3) Amount the casino licensee reimburses the State under
 2 this section shall also be credited against the
 3 wagering tax imposed under section -20, Hawaii
 4 Revised Statutes.

5 The sum appropriated shall be expended by the department of
 6 business, economic development, and tourism for the purposes of
 7 this Act.

8 SECTION 5. Statutory material to be repealed is bracketed
 9 and stricken. New statutory material is underscored.

10 SECTION 6. This Act shall take effect on July 1, 2013;
 11 provided that section 4 shall take effect on July 1, 2014.

12

INTRODUCED BY: *[Signature]*
[Signature]

JAN 17 2013



H.B. NO. 145

Report Title:

Stand-Alone Casino Gaming; Waikiki; Appropriation

Description:

Grants 20-year license for one stand-alone casino in Waikiki not in a hotel. Establishes Hawaii Gaming Control Commission. Imposes 15% wagering tax on gross receipts. Creates State Gaming Fund and Compulsive Gambler Program. Appropriates funds. Effective 07/01/2013.

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

