

## SMALL BUSINESS REGULATORY REVIEW BOARD

Department of Business, Economic Development & Tourism (DBEDT)  
No. 1 Capitol District Bldg., 250 South Hotel St. 5<sup>th</sup> Fl., Honolulu, Hawaii 96813  
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804

Tel 808 586-2594

David Y. Ige  
Governor

Luis P. Salaveria  
DBEDT Director

### Members

Anthony Borge  
Chairperson  
Oahu

Harris Nakamoto  
Vice Chairperson  
Oahu

Barbara Bennett  
2<sup>nd</sup> Chairperson  
Kauai

Kyoko Y. Kimura  
Maui

Robert Cundiff  
Oahu

Nancy Atmospera-Walch  
Oahu

Phillip Kasper  
Maui

Garth Yamanaka  
Hawaii

Director, DBEDT  
Voting Ex Officio

### AGENDA

Wednesday, July 15, 2015 ★ 9:30 a.m.  
No. 1 Capitol District Building  
250 South Hotel Street - Conference Room 436

#### I. Call to Order

#### II. Approval of June 24, 2015 Meeting Minutes

#### III. Old Business

- A. Discussion and Action on Proposed New Rules, **Real Property Tax Classification Rules**, 12, under Section 5A-6.4 of the Kauai County Code 1987, as amended, and the Small Business Statement After Public Hearing, promulgated by Department of Finance, County of Kauai – attached and incorporated as Exhibit 1

#### IV. New Business

- A. Discussion and Action on Proposed Amendments to Hawaii Administrative Rules, Title 23 Chapter 200, **Regulations of Controlled Substances**, and Chapter 201, **Regulated Chemicals for the Manufacture of Controlled Substances**, promulgated by Department of Public Safety – attached and incorporated as Exhibit 2

#### V. Administrative Matters

- A. Discussion with Mr. Shawn Richey, Procurement Specialist from Hawaii State Procurement Office (SPO) regarding the Board's "**Small Business Bill of Rights**," and how SPO may be able to incorporate these "Rights" into a Proposed "Small Business Office" – attached and incorporated as Exhibit 3
- B. Discussion and Action on:
- 1) Reviewing the Possibility of Amending the Board's Statute, Chapter 201M, Hawaii Revised Statutes (HRS)
  - 2) Game-plan for 2016 Legislative Session, in accordance with Chapter 201M, HRS
  - 3) Board's On-going Outreach Efforts to Hawaii's Small Business Community, in accordance with Chapter 201M, HRS

#### VI. Next Meeting: Scheduled for Wednesday, August 19, 2015, at 9:30 a.m., Conference Room 436, Capitol District Building, Honolulu, Hawaii

#### VII. Adjournment

If you require special assistance or auxiliary aid and/or services to participate in the public hearing process (i.e., sign language, interpreter, wheelchair accessibility, or parking designated for the disabled), please call (808) 586-2594 at least three (3) business days prior to the meeting so arrangements can be made.

\* Dmit Forget to Add: "DBausson/Lead in Board members agenda" \* Aug = Pull = NA

## July 15, 2015 ~ SBRRB Meeting Checklist

Member Attendance				
	Airline Preference	From	Details	Attend
Anthony Borge, Chair	(P) NA	Oahu	Parking Pass	Yes
Barbara Bennett, 2nd Vice Chair	HA	Kauai	Parking Pass	No
Kyoko Kimura (T) Requested	HA	Maui	Parking Pass	No
Harris Nakamoto	NA	Oahu	NA	No
Director's ex officio Mark Richey	(P) NA	Oahu	NA	Yes
Robert Cundiff	NA	Oahu		No
Nancy Atmospera-Walch	NA	Oahu		Yes
Phillip Kasper (T) Requested	(P) HA	Maui		Yes
Garth Yamanaka (T) Requested	(P) HA	B.I.		Yes

Pre Meeting Checklist	
Conference Room #436 (Confirm each month)	X
Make 12 - 15 copies of rule packages for board packets	✓
Poll board attendance <i>Rob Cundiff?</i>	5 ✓
Prepare TAF's for Director's approval - ASAP (Linda) <i>qartm / Phw</i>	✓✓
Airline booking ASAP - Linda <i>Phw / qartm /</i>	✓✓
Draft Agenda to Chair <i>7-6-15 Approved</i>	✓
Post approved agenda on 1) SBRRB website, 2) State Calendar, 3) Lte. Governor's Office <i>X X X</i>	✓✓✓
Send Agendas to those people who requested it - IMPORTANT Add Jennifer (CoFC) to Distribution list <del>X X X</del>	✓ <i>D</i>
Mail approved agenda to Board members, Deputy AG	✓
Mail board packets July 8th and 9th	✓
Photographer - Contact David H.	No
Include parking permits in Board members' agenda packets. <i>X Dmit Forget</i>	✓

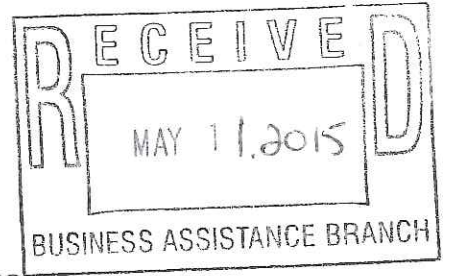
STAFF				
Margaret Ahn				Yes
Dori Palcovich				Yes

Post Meeting Checklist	

# Visitors Sign-in-Sheet - Small Business Regulatory Review Board - July 15, 2015

	Name	Title	Organization	Email	Phone
1	KEITH KAMITA	CHIEF	Pharmaceuticals Enforcement	Keith.T.Kamita@Hawaii.gov	8378470
2	Robyn Paul	Procurement Specialist	SPC	Tobyn.paul@hawaii.gov	
3	Shawn Richey	Procurement Specialist	SPC	Shawn.L.Richey@hawaii.gov	586 0577
4	Shannon Alivado		General Contractors Assn of HI	shannon@spcahawaii.org	
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# Exhibit 1



DEPARTMENT OF FINANCE  
COUNTY OF KAUA'I  
REAL PROPERTY ASSESSMENT DIVISION

REAL PROPERTY TAX CLASSIFICATION RULES

Administrative Rules of the Director of Finance Relating to Real Property Tax Rate Classifications under Section 5A-6.4 of the Kauai County Code 1987, as amended.

§RP-12-1 **Purpose.** These rules implement the provisions of Section 5A-6.4 of the Kauai County Code ("K.C.C.") relating to tax rate classification. These rules are further intended to ensure that the referenced provisions are applied in a uniform and equitable manner. These rules and any definitions in these rules apply only to K.C.C. § 5A-6.4.

§RP-12-2 **Authority.** These rules are promulgated pursuant to K.C.C. § 5A-1.2(j) under the Director of Finance's authority to effectuate the purpose of K.C.C. § 5A-6.4.

§RP-12-3 **Retroactive effective date.** These rules shall be effective and applied retroactively to the furthest extent allowable by law.

§RP-12-4 **Definitions.** As used in these rules, except as otherwise required by context:

"Actual use" means how the owner uses the property as of the date of assessment.

"Definite established uses" includes categories of actual uses included in a general class, but the general class is not limited to the included definite established uses.

"Home office" means a portion of the taxpayers' property dedicated to work-related activities but is not advertised or operated as a place of business.

"Household" means a single person or a number of related or unrelated people who reside in a living unit.

"Living unit" means an apartment, condominium, house, portion of a house, or structure occupied by a household.

"Long term rental" means a residential rental agreement for a period of at least one hundred and eighty days. This also includes month to month tenancy, if it is the same tenant for at least one hundred and eighty days. Rental agreements must be signed by the owner, signature by the owner's agent is not sufficient.

"Owner" is defined in K.C.C. § 5A-7.1.

“Place of business” means a structure where a person engages in a trade or business evidenced by customer parking, client traffic, advertising, or signage.  
“Principal residence” means the primary location that a person inhabits. Criteria for determination of a principal residence are outlined in the Department of Finance Home and Related Exemption Rules Section RP-10.4.  
“Productive” means producing a benefit or income, which depend on the physical attributes, locational attributes, legal entitlements, or improvements.  
“Short term rental” means a residential rental agreement for a period of less than one hundred and eighty days.

§RP-12-5 **Procedure.** Real property shall be classified into a general class provided in K.C.C. § 5A-6.4 for tax rate purposes. Assignment to a general class is based on the actual use of the property on October 1<sup>st</sup> preceding each tax year.

§RP-12-6 **Clarification of general classes.** The general classes are defined and definite established uses for tax classification are provided. The definite established uses provided are not exhaustive. If a property’s actual use is included in the definite established uses, the property shall be assigned to that class. If a property’s actual use is not found in the definite established uses, or a definite established use is not provided, the definitions as well as definite established uses are to be read together to properly classify a property.

- (a) “Residential” includes use as a residence.
  - (1) Definite established uses: long-term rental, second home exclusively used by the owner(s), vacant residential structures, and a part time residence not occupied as a principle residence.
- (b) “Vacation rental” includes the renting out of an apartment, condominium, living unit or house on a temporary basis to a person(s) as an alternative to a hotel for a period of less than one hundred-eighty consecutive days.
  - (1) A property subject to the Hawai’i Transient Accommodation Tax, other than those classified as Hotel & Resort, will be considered a vacation rental.
  - (2) Advertising of any sort which offers a property or portion of a property as a vacation rental or short term rental shall constitute prima facie evidence of the operation of a vacation rental.
- (c) “Commercial” includes the use of the property to generate income, monetary gain or economic benefit.
  - (1) Definite established uses: golf course, retail space, commercial office space, shopping centers, strip malls, hospital facilities, medical offices, dental offices, restaurants, theatres, fitness centers,

churches, schools, recreational enterprises conducted for profit, amusement enterprises conducted for profit, ceremonial enterprises conducted for profit, places where commodities or services are offered for sale, and spa facilities.

(2) The retail sale of products grown and sold on agricultural lands does not constitute a commercial use, unless a commercial use permit is granted. However, the retail sale of any other product constitutes commercial use.

(3) Commercial use does not include a home office as defined in these rules.

(d) "Industrial" includes pertaining to manufacturing or processing, including the performance of mechanical or chemical operations.

(1) Definite established uses: manufacturing facilities, warehouse space, auto repair, paint or body shops, chemical production, chemical storage, mini-storage space, energy production facilities, communication towers, and processing and packing facilities.

(e) "Agricultural" includes the science or practice of farming, including cultivation of the soil for the growing of crops and the rearing of animals to provide food, wool, and other products.

(1) Definite established uses: farming or plant cultivation, ranching livestock, beekeeping, dairy farming, forestry, aquaculture, plant nurseries, horticulture structures, equestrian buildings, agricultural production facility, agricultural packaging facility, and farm worker housing.

(f) "Conservation" is a classification reserved for vacant properties zoned within a conservation state or county land use district.

(g) "Hotel and Resort" includes an establishment providing rooms and amenities for transient tenants as a place where people go for rest, recreation, or sport.

(1) Definite established uses: hotel operations, resorts, motels, and timeshare units.

(h) "Homestead" means a property which is used exclusively as the owner's principal residence, provided that the owner has been granted a home exemption according to K.C.C. § 5A-11.4.

(1) Criteria for qualification:

(A) The property must be the owner's principal residence.

(B) Submittal of a State of Hawai'i Resident Income Tax Return, or any other sufficient documentation approved by the Director of Finance, with a reported address in the State of Hawai'i.

(i) Sufficient documentation may include the documents referred to in Section RP-10.4, Home and Related Exemption Rules.

(ii) If the owner is not required to file an Income Tax Return, a notarized affidavit must be filed indicating the owner's principle address and indicating the dates of residency in the County of Kaua'i.

(iii) Non-resident and part-year resident State of Hawai'i income tax returns do not qualify for the home exemption.

(2) Properties that have multiple living units must have owner-occupants with qualified home use exemptions and long-term affordable rental occupants in the other living units to be eligible.

(3) Principal residence properties that have either agriculturally dedicated lands or licensed day cares located on the same property and no other additional uses may be eligible.

(4) A home office, defined in these rules, may be included in a homestead.

(i) "Residential Investor" is a classification for residential properties that do not qualify for the home exemption, are improved with a dwelling unit(s), not vacant land, and have an assessed value of two million dollars (\$2,000,000.00) or more.

(1) This class does not include a property were all living units are rented on a long term rental basis.

(j) "Commercialized Home Use" is applicable to parcels utilized for multiple purposes, one of which is use as the taxpayer's principal residence as of the date of assessment, provided that the taxpayer has been granted a home use exemption on the property pursuant to K.C.C. § 5A-11.4.

§RP-12-7 **Vacant land.** Vacant land shall be classified as zoned until actual use is established. If the property has multiple zonings, then an assessment is made for each zoning.

(a) "Vacant land" means unimproved land, or a portion of the property verified by a special use permit, that lacks the essential appurtenant improvements required to make it productive.

(b) The following general classes are zonings for vacant land and actual uses: residential, commercial, industrial, agricultural, and hotel and resort.

§RP-12-8 **Partially Complete.** A partially complete property shall be classified as zoned until actual use of the improvements has been established.



(a) "Partially complete" means a property, that shall be added to the assessment list pursuant to K.C.C. § 5A-8.1(e), where active construction exists, but has not yet been completed establishing the actual use. This includes structures with completion between twenty percent (20%) and sixty nine percent (69%). Completion percentage is determined by the "Appraisal and Component Rating Worksheet for Incomplete Buildings" incorporated into these rules by reference. This worksheet is available from the Real Property Assessment Division.

(b) At seventy percent (70%) completion, actual use may be established.

§RP-12-9 **Criteria to change tax classification.** The following proof must be submitted, if applicable, to the Real Property Assessment Division by September 30<sup>th</sup> of the year prior to the desired change.

(a) Cessation of all previous use on the property.

(b) Removal of all signage indicating the previous use of the property.

(c) Removal of all advertisements, referencing the previous use of the property.

(d) A copy of the County of Kaua'i Planning Department's closing letter or email acknowledging compliance with any use violations.

(e) A newly completed Use Survey indicating current actual use(s).

(f) Affidavit from the owner describing the current use(s) of the property.

(g) Additional requirements to change from a "Vacation Rental" to a different class.

(1) Acknowledgment by the County of Kaua'i Planning Department that the transient vacation non-conforming use permit is forfeited.

(2) An affidavit indicating the last pre-paid or reserved booking of the vacation or short term rental use on the property.

(3) Proof of cancellation of Transient Accommodations Tax License.

(4) A copy of a current long term lease and most recent general excise tax license filing.

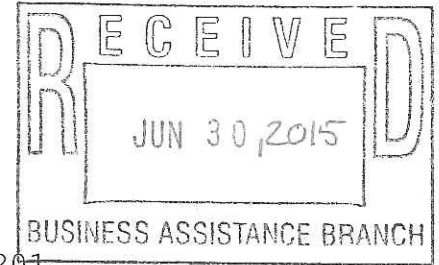
§RP-12-10 **Appeal.** The owner may appeal the property's tax rate classification as in the case of an appeal from an assessment, as provided in K.C.C. § 5A-6.4(g).

§RP-12-11 **Severability.** If any provision of these rules or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of these rules which can be given effect without

the invalid provision or application, and to this end the provisions of these rules are declared to be severable.

## Exhibit 2

Department of Public Safety



Amendments to Chapters 23-200 and 23-201  
Hawaii Administrative Rules

June 3, 2015

1. Section 23-200-4, Hawaii Administrative Rules, is amended to read as follows:

"§23-200-4 Fees for registration or re-registration. (a) For each registration or re-registration to manufacture controlled substances, the registrant shall pay an application fee of \$~~[100.00]~~195.00 for an annual registration.

(b) For each registration or re-registration to distribute controlled substances, the registrant shall pay an application fee of \$~~[75.00]~~145.00 for an annual registration.

(c) For each registration or re-registration to administer, prescribe, dispense, or to conduct instructional activities with, controlled substances listed in sections 329-16 through 329-22, Hawaii Revised Statutes (schedules II through V), the registrant shall pay an application fee of \$~~[60.00]~~115.00 for an annual registration.

(d) For each registration or re-registration to conduct research or instructional activities with a controlled substance listed in sections 329-14 through section 329-22, Hawaii Revised Statutes (schedules I through V), the registrant shall submit for approval, a research protocol of the activity to be conducted. The research protocol shall be in accordance with section 1301.13 and 1301.18, Title 21, Code of Federal Regulations. The applicant shall also pay an application fee of \$~~[60.00]~~115.00 for an annual registration.

(e) For each registration or re-registration to conduct chemical analysis with controlled substances listed in any schedule, the registrant shall pay an application fee of \$~~[60.00]~~115.00 for an annual registration.

(f) For each registration or re-registration to engage in a narcotics treatment program, including a compounder, the registrant shall pay an application fee of \$~~[60.00]~~115.00 for an annual registration.

(g) For each duplicate registration requested, the registrant shall submit a written request and shall pay a fee of \$~~[10.00]~~20.00.

[Eff 4/15/2000; am ] (Auth: HRS §§329-31, 353C-2) (Imp: HRS §§329-32, 329-33)

2. Section 23-200-5, Hawaii Administrative Rules, is amended to read as follows:

"§23-200-5. Persons required to register but exempt from fee. (a) The director shall exempt requirement of ~~[obtaining]~~ paying a registration fee for registration or re-registration:

- (1) Any hospital or other institution which is operated by an agency of the United States (including the U.S. Army, Navy, Marine Corps, Air Force, Coast Guard, Veteran's Administration), of any State, or any political subdivision or agency thereof; and
- (2) Any individual practitioners who are required to obtain an individual registration in order to carry out their duties as an official of an agency of the United States (including the U.S. Army, Navy, Marine Corps, Air Force, Coast Guard, Veteran's Administration), of any State, or any political subdivision or agency thereof.

(b) In order to claim exemption from payment of a registration or re-registration application fee, the registrant shall have completed the certification on the appropriate controlled substance application form wherein the registrant's superior (if the registrant is an individual) or officer (if the registrant is an agency) certifies to the status and address of the registrant and to the authority of the registrant to acquire, possess, or handle controlled substances.

(c) Any person who is exempt from the registration fee may apply to re-register not earlier than sixty days prior to the expiration date of the registration. A fee of \$~~[25]~~50.00 shall be paid for re-registration after the expiration date on the certificate of registration. Exemption from payment

of a controlled substance registration or re-registration fee does not relieve the registrant of any other requirements or duties prescribed by law.

(d) In order to enable law enforcement agency laboratories to obtain and transfer controlled substances for use as standards in chemical analyses, laboratories must obtain annually a registration to conduct chemical analyses. Such laboratories shall be exempted from payment of any fee for registration."  
[Eff \_\_\_\_\_;am \_\_\_\_\_] (Auth: HRS §§329-31, 353C-2) (Imp: HRS §329-32)

3. Section 23-200-7, Hawaii Administrative Rules, is amended to read as follows:

"§23-200-7 Time and method of registration. (a) Registration and re-registration fees shall be paid at the time when the application for registration or re-registration is submitted for filing. Payment shall be made in the form of a personal, certified, cashier's check or money order made payable to the narcotics enforcement division, department of public safety. Payment made in the form of stamps, foreign currency, or third party endorsed checks will not be accepted. No prorated or full refund will be issued once the certificate is processed. In the event that the application is not accepted for filing or is denied, the payment shall be refunded to the applicant.

(b) Any person who is required to be registered and who is not so registered may apply for registration at any time. No person required to be registered shall engage in any activity for which registration is required, until the application for registration is granted and a certificate of registration is issued by the administrator to such person.

(c) All controlled substance applications shall be processed by the department within 60 days after receipt of the completed application, to include all requested documentation. In the absence of a national disaster, state emergency or union strike which would

prevent the department from reviewing the application, any application pending more than 60 days after receipt of the completed application shall be deemed granted.

(d) State registration shall expire as noted on the certificate of registration. Any person who is registered may apply to be re-registered not earlier than sixty days prior to the expiration date on the certificate of registration. An additional fee of \$~~[25.00]~~50.00 shall be paid for re-registration after the expiration date on the certificate of registration.

(e) Failure to register with the department will prohibit the registrant from engaging in any activity utilizing controlled substances.

(f) The administrator may require an applicant to submit such documents or written statements of fact relevant to the application as he deems necessary to determine whether the application should be granted. The failure of the applicant to provide such documents or statements within thirty days after being requested to do so shall be deemed to be a waiver by the applicant of an opportunity to present such documents or facts for consideration by the administrator in granting or denying the application."

[Eff                   ;am           ] (Auth: HRS §§329-31, 353C-2) (Imp: HRS §329-32)

4. Section 23-200-8, Hawaii Administrative Rules, is amended to read as follows:

"§23-200-8 Modification, transfer and termination of certificate of registration. (a) Registrants may apply to modify their registration to handle additional controlled substances by filing an application in the same manner as an application for new registration. In the event of a change of a name, location or business address, the registrant shall submit a letter to the department of public safety, narcotics enforcement division. The letter shall contain the new name, location or business address and the effective date. Such notification shall be within

thirty days of such fact. No fee shall be required to be paid for the modification.

(b) Failure to report a change of name, location or business address within thirty days will invalidate the registration and require re-registration and the imposition of the \$~~[25]~~50.00 late fee.

(c) No registration or any authority conferred thereby shall be assigned or otherwise transferred.

(d) A certificate of registration issued to any ~~[persons]~~person shall terminate if and when such person dies, ceases legal existence, discontinues business or professional practices. Such person or the person's representative shall notify the administrator in writing within thirty days of such fact."

[Eff \_\_\_\_\_ ; am \_\_\_\_\_ ] (Auth: HRS §§329-31, 353C-2) (Imp: HRS §329-32)

5. Section 23-201-4, Hawaii Administrative Rules, is amended to read as follows:

"§23-201-4 Annual fees for ~~[initials]~~initial and renewal permits. (a) For each initial and renewal permit, to manufacture for distribution the applicant shall pay a fee of \$~~[100]~~195.00.

(b) For each initial and renewal permit, to conduct business as a wholesale distributor, importer; or exporter, the applicant shall pay a fee of \$~~[75]~~145.00.

(c) For each initial and renewal permit, to conduct business as a retail distributor the applicant shall pay a fee of \$~~[75]~~145.00.

(d) For each duplicate permit, the permittee shall submit a written request and shall pay a fee of \$~~[10]~~20.00."

[Eff 4/15/2000; am \_\_\_\_\_ ] (Auth: HRS §§329-31, 353C-2) (Imp: HRS §329-67)

6. Section 23-201-5, Hawaii Administrative Rules, is amended to read as follows:

"§23-201-5 Persons required to obtain a permit but exempt from fee. (a) The director shall exempt from payment~~[-a]~~ the fee for registration or re-registration ~~[of]~~



any official or agency of the U.S. Army, Navy, Marine Corps, Air Force, Coast Guard, Veteran's Administration or Public Health Service who [are]is authorized to procure or purchase regulated chemicals for official use.

(b) Any official, employee, or other civil officer or agency of the United States, State or any political subdivision or agency thereof, who is authorized to purchase regulated [~~chemical~~]chemicals, to obtain such substances from official stocks, to dispense, to conduct research, instructional activities, or chemical analyses with such substances, or any combination thereof, in the course of their official duties or employment.

(c) Any person who is exempt from the permit registration fee [~~and~~] may apply to re-register not earlier than sixty days prior to the expiration date of the permit. A fee of \$[~~25~~]50.00 shall be paid for processing of a permit after the expiration date on the permit.

(d) In order to enable law enforcement agency laboratories to obtain and transfer controlled substances for use as standards in chemical analyses, laboratories must obtain annually a registration to conduct chemical analyses. Such laboratories shall be exempted from payment of any fee for registration." [Eff: 4/15/2000; am ] (Auth: HRS §§329-31, 353C-2) (Imp: HRS §329-32)

7. Section 23-201-7, Hawaii Administrative Rules, is amended to read as follows:

"§23-201-7 Time and method of registration. (a) Registration and re-registration fees shall be paid at the time when the application for registration or re-registration is submitted for filing. Payment shall be made in the form of a personal, certified or cashier's check or money order made payable to the narcotics enforcement division, department of public safety. Payment made in the form of stamps, foreign currency, or third party endorsed checks will not be accepted. No prorated or full refund will be issued once the certificate is processed. In the event that the application is not accepted for filing or is denied, the payment shall be refunded to the applicant.

(b) Any person who is required to obtain a permit and who has not obtained a permit from the department may apply for a permit at any time. No person required to obtain a permit shall engage in any transactions for which the permit is required, until the application for permit is granted and a permit is issued by the department to such person. All regulated chemical permit applications shall be processed by the department within sixty days after receipt of the completed application, including all requested documentation. In the absence of a national disaster, state emergency or union strike which would prevent the department from reviewing the permit application, any application pending more than sixty days after receipt of the completed application shall be deemed granted.

(c) Each permit shall expire annually as noted on the permit. Any permittee may apply for renewal not earlier than sixty days prior to the expiration date of their permit. An additional fee of \$[25]50.00 shall be paid for renewal after the expiration date on the permit.

(d) Failure to obtain a permit from the department will prohibit the applicant from engaging in any activity utilizing regulated chemicals designated in section 329-61, Hawaii Revised Statutes.

(e) The administrator may require an applicant to submit such documents or written statements of fact relevant to the application as he deems necessary to determine whether the application should be granted. The failure of the applicant to provide such documents or statements within thirty days after being requested to do so shall be deemed to be a waiver by the applicant of an opportunity to present such documents or facts for consideration by the administrator in granting or denying the permit application.

(f) The failure to renew the permit on a timely basis or to pay the applicable fees or payment with a check that is dishonored upon first deposit shall cause the permit to be automatically forfeited."

[Eff ;am ] (Auth: HRS §§329-31,  
353C-2) (Imp: HRS §329-67)

8. Section 23-201-8, Hawaii Administrative Rules, is amended to read as follows:

"§23-201-8 Modification, transfer, and termination of permits. (a) Any person may apply to modify his permit registration to authorize the handling of additional regulated chemicals by filing a new permit application. In the event of a change of a name or address, the permittee shall submit a letter to the department of public safety, narcotics enforcement division. The letter shall contain the new name or address and the effective date. Such notification shall be within thirty days of such fact. No fee shall be required to be paid for the modification.

(b) Failure to report a change of address will invalidate the permit and require re-registration and the imposition of the \$~~[25]~~50.00 late fee.

(c) No permit issued to a person shall be assigned or otherwise transferred to any other person.

(d) A permit issued to a person will terminate if and when the person dies, ceases legal existence, or discontinues business. The person or the person's representative, shall within thirty days, return the permit to the department." [Eff ;am ]  
(Auth: HRS §§329-31, 353C-2) (Imp: HRS §329-67)

9. Material, except source notes, to be repealed is bracketed and stricken. New statutory material is underscored.

10. Additions to update source notes to reflect these amendments are not underscored.

11. These amendments to chapters 23-200 and 23-201, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

I certify that the foregoing are copies of the

rules, drafted in the Ramseyer format pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on \_\_\_\_\_, and filed with the Office of the Lieutenant Governor.

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Director of Public Safety

APPROVED AS TO FORM:

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Deputy Attorney General

## Exhibit 3

# HAWAII SMALL BUSINESS BILL OF RIGHTS

Small business owners and operators should be informed of their rights, responsibilities and obligations and be assured that these rights will be protected throughout their contact with agencies and departments of the State of Hawaii, among them:

**I.** The right to expect state agencies to provide a prompt, accurate, and courteous response to a request for information and to work together to ensure ready access to the information needed to assist businesses in their relationships with state government;

**II.** The right to a clear, stable, and predictable regulatory and record-keeping environment with easily accessible information and administrative rules in as clear and concise language as is practicable, including the posting of all proposed administrative rule changes on the Internet website of the office of the lieutenant governor;

**III.** The right to request and receive timely notice of an agency's rulemaking proceedings. The notice should be mailed to all persons who have made a written request for such a notice;

**IV.** The right to be treated equally and fairly, with reasonable access to state services;

**V.** The right to a one-stop permitting process that will, in the long term, include a centralized Internet website-based application system. This site's goals are to have quick and responsible timeframes to process state and county permits, licenses, registrations, and approvals, when appropriate, to simplify and reduce the filing of forms affecting business;

**VI.** The right to a timely response to an application for a permit, license, registration, or approval necessary to operate the small business, within the established maximum period of time for that agency in accordance with section 91-13.5, Hawaii Revised Statutes;

**VII.** The right to renewal of essential permits, licenses, registrations, or approvals, absent a specific reason for nonrenewal. All issuing agencies shall take action to grant or deny any renewal application for a business or development-related permit, license, registration, or approval within the established maximum period of time for that agency. The reasons for a denial should be clearly stated and under conditions set forth in law;

**VIII.** Whenever a contested case hearing is provided by law, in the event a regulatory agency takes action against a business, the right to expect a timely hearing. Officials conducting such hearings should be impartial. Small businesses should be provided a full and complete hearing to present their explanation of any alleged violation, deficiency, or wrongdoing. In any hearing, there should be a presumption

that the small business did not commit an alleged violation or wrongdoing until the agency proves otherwise by a preponderance of the evidence. The small business should have the right to present evidence, both oral and written. This evidence must be fully considered by the agency. In the event of an unfavorable decision, the business should have the right to a judicial review pursuant to section 91-14, Hawaii Revised Statutes;

**IX.** The right to privacy regarding confidential and proprietary business information when competing for state procurement contracts. No state agency shall mandate the disclosure of confidential or proprietary business information as a condition of obtaining any contract or payment under any contract when a contract is to be awarded on a firm fixed price or cost plus fixed price basis;

**X.** The right to all of the protections afforded in the Taxpayer Bill of Rights, P.L. 104-168;

**XI.** The right to submit complaints regarding a violation of these rights or any other administrative acts of state and county agencies with the office of the ombudsman, in accordance with chapter 96, Hawaii Revised Statutes;

**XII.** The right to request information and an opinion from the office of information practices, in accordance with chapters 92 and 92F, Hawaii Revised Statutes, with regard to access to information from public meetings or the release of government documents;

**XIII.** The right to provide information to the division of consumer advocacy in accordance with chapter 269, Hawaii Revised Statutes, with regard to issues under the purview of the public utilities commission;

**XIV.** The right to request information from the office of consumer protection, in accordance with chapter 487, Hawaii Revised Statutes, with regard to business and consumer issues;

**XV.** The right to access the small business advocate in the department of business, economic development, and tourism regarding any dispute with a state agency to ensure government resources are coordinated on behalf of small business and the rights of businesses are being upheld; and

**XVI.** The right to administrative rule review pursuant to the Small Business Regulatory Flexibility Act by filing a petition with the small business regulatory review board in accordance with section 201M-6, Hawaii Revised Statutes.

