

ACT 62

H.B. NO. 99

A Bill for an Act Relating to Business.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to transfer the business action center and its functions from the department of business, economic development and tourism to the department of commerce and consumer affairs.

SECTION 2. The Hawaii Revised Statutes is amended by adding to title 26 a new chapter to be appropriately designated and to read as follows:

**“CHAPTER
BUSINESS ACTION CENTER**

§ -1 **Definitions.** For purposes of this chapter, unless the context clearly requires otherwise:

“Applicant” means any person acting on the person’s own behalf or who is authorized to act on behalf of any other person for the purpose of securing required permits to engage in business activities in the state.

“Center” means the business action center established in section -2.

“Department” means the department of commerce and consumer affairs.

“Director” means the director of commerce and consumer affairs.

“Permit” means any license, certificate, registration, or any other form of authorization required by a federal, state, or county department or agency to engage in any business activity, excluding vocational and professional occupational licenses, certificates, or registration and environmental permits.

“Person” means any individual, proprietorship, partnership, association, cooperative, corporation, nonprofit organization, and any other organization required to obtain one or more permits for the conduct of its business activities.

“State agency” means any department, board, bureau, commission, division, office, council, or agency of the State, a public benefit corporation, or public authority having at least one member appointed by the governor.

§ -2 Business action center established; staff. (a) There is established within the department a business action center that shall provide information and services to coordinate, simplify, and expedite permit application processing for persons engaged in or intending to engage in business activities in the state. The center shall assist in the development of neighbor island operations that deliver similar services. The center shall also serve as an information clearinghouse that makes available to any person general information about state and federal laws and rules, county ordinances and rules, and financial assistance programs related to business activities.

(b) The center shall be headed by a supervisor who shall be appointed by the director without regard to chapter 76 and shall serve at the director’s pleasure. The director may employ such other personnel as are required to carry out the functions of the center under this chapter.

§ -3 General functions; powers and duties. The center shall have the following functions, powers, and duties:

- (1) Accept permit and license applications and associated fees on behalf of participating agencies in accordance with agreements reached with these agencies;
- (2) Provide comprehensive information on permits and licenses required for business activities in the state;
- (3) Facilitate contacts between the applicant and state agencies with permit and license functions;
- (4) Research, compile, and maintain a file of state and federal laws and rules and county ordinances and rules applicable to the various business activities for which permits and licenses are required, including but not limited to laws relating to employer requirements in such areas as state taxes, workers’ compensation, and unemployment insurance;
- (5) Research, compile, and maintain a file of various financial assistance programs available for business activities in the state;
- (6) Encourage and facilitate the cooperation and participation of federal and county government agencies in permit and license coordination;
- (7) Promote and publicize the center’s services to the public, and provide information on its services for inclusion in any public informational material for permits and licenses provided by a state agency;
- (8) Make recommendations to state agencies for eliminating, consolidating, simplifying, expediting, or otherwise improving permit and license procedures affecting business activities;
- (9) Adopt rules, procedures, instructions, and forms as are necessary to carry out the functions, powers, and duties of the center; and

- (10) Accept credit card payments and facsimile or digitized signatures for business permit, license, or registration filing fees, as authorized by the issuing agency.

§ -4 Cooperation from state agencies. (a) The director may request and shall be entitled to receive from any state agency, such assistance, services, facilities, and data the director deems necessary to carry out the duties of the center.

(b) Each state agency with permit or license issuance functions covered under this chapter shall cooperate with the center by designating a staff person to coordinate the agency's efforts to provide information to the center on its permit or license process and, to the extent possible, by providing a prompt response to requests for expediting permit or license applications or for information.

(c) The director shall be entitled to obtain personnel on a loaned basis from those agencies that issue permits or licenses to businesses, including but not limited to the department of business, economic development and tourism, department of taxation, and department of labor and industrial relations. The director may assign these loaned personnel to the center.

§ -5 Comprehensive permit and license information file. (a) Each state agency that is required to review, approve, or grant permits or licenses for business activities shall report to the center on a form prescribed by the center, each and every type of review, approval, license, and permit administered by that agency. Application forms, applicable agency rules, and the estimated time period necessary for application consideration based on experience and statutory or administrative rule requirements shall accompany each state agency report.

(b) Subsequent to the filing of the report, the state agency shall submit reports to the center on any new requirement or modifications to existing requirements together with applicable forms, rules, and other information required to be filed in the initial report. Upon receipt of those reports, the center shall establish and maintain a comprehensive information file that provides ready access to the most current information provided by the state agencies.

§ -6 Immunity from liability. The opinions offered and the services rendered by the center under this chapter shall be considered facilitative in nature and the center shall not be liable for any consequences resulting from an applicant's failure to obtain a required permit or license. Any information provided by the center or any omission of information by the center shall not relieve any applicant from, or constitute a waiver of, the obligation to secure a required permit or license.

§ -7 Compilation of statistical data; annual report. (a) The center shall obtain and keep, on an annual basis, appropriate statistical data regarding:

- (1) The number of permits, licenses, and registrations issued by state agencies;
- (2) The amount of time involved in processing the permits, licenses, and registrations;
- (3) The types of activities for which permits and licenses have been issued;
- (4) A geographic distribution of the permits and licenses issued; and
- (5) Other pertinent data the director deems necessary for analysis for future planning purposes.

(b) The department shall submit an annual report to the governor and the legislature that shall include a description of the operations of the center, summaries and analyses of statistical data compiled, and recommendations for any administrative or statutory changes required to further the purposes of this chapter."

SECTION 3. Chapter 201D, Hawaii Revised Statutes, is repealed.

SECTION 4. (a) All positions, except the position of supervisor, assigned to the business action center as of the effective date of this Act that are exempt from civil service shall be replaced by civil service positions within one calendar year from the effective date of the Act.

(b) An employee who occupies an exempt position at the time it is replaced by a civil service position shall be entitled to compete for appointment to the civil service position that replaces the employee's exempt position through an internal recruitment conducted by the department of commerce and consumer affairs; provided that the employee has occupied the exempt position for a minimum of one year prior to the effective date of this Act and the employee meets all applicable requirements for the position.

(c) If the employee is appointed to the replacement civil service position:

- (1) The employee's compensation shall be determined according to the applicable collective bargaining or executive order positions covering exempt employees who are appointed to replacement civil service positions; and
- (2) There shall be no break in service and the appointment of the employee shall be consistent with initial probation appointments to civil service positions.

(d) Notwithstanding any other law to the contrary, as of the effective date of this Act and until the date that all exempt positions are replaced by civil service positions pursuant to this section, the director may employ such personnel as are required to carry out the functions of the business action center established by section 2 of this Act, without regard to chapter 76.

SECTION 5. All rules, policies, procedures, guidelines, and other material adopted or developed by the department of business, economic development and tourism to implement provisions of the Hawaii Revised Statutes that are reenacted or made applicable to the department of commerce and consumer affairs by this Act, shall remain in full force and effect until amended or repealed by the department of commerce and consumer affairs pursuant to chapter 91, Hawaii Revised Statutes. In the interim, every reference to the department of business, economic development and tourism in those rules, policies, procedures, guidelines, and other material is amended to refer to the department of commerce and consumer affairs or director of commerce and consumer affairs as appropriate.

SECTION 6. All contracts, agreements, or other documents executed or entered into by or on behalf of the department of business, economic development and tourism pursuant to the provisions of the Hawaii Revised Statutes, which are reenacted or made applicable to the department of commerce and consumer affairs by this Act, shall remain in full force and effect. Effective upon approval of this Act, every reference to the department of business, economic development, and tourism therein shall be construed as a reference to the department of commerce and consumer affairs or the director of commerce and consumer affairs as appropriate.

SECTION 7. All appropriations, records, equipment, machines, files, supplies, contracts, books, papers, documents, maps, and other personal property heretofore made, used, acquired, or held by the department of business, economic development and tourism relating to the functions transferred to the department of commerce and consumer affairs shall be transferred with functions to which they relate.

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SECTION 8. All funds appropriated for fiscal biennium 2005-2007, directly or indirectly, relating to functions, programs, or organizational segments transferred under this Act shall be appropriately transferred to the department of commerce and consumer affairs with the functions, programs, or segments to which they relate.

SECTION 9. This Act shall take effect on July 1, 2005.

(Approved May 19, 2005.)