

§3-83-53. APPLICATION; PENALTY FOR FALSE STATEMENTS.

§3-83-53.1. License Applications; Notice of Hearing; Affidavits.

- (a) An applicant applying for a new license or for the transfer of an existing license of a manufacturer, restaurant, wholesale, retail, dispenser, club, annual transient vessel, tour or cruise vessel, cabaret, hotel, brewpub, or condominium hotel shall file in support of the application:
- (1) With the application:
 - (i) If the applicant is a sole proprietor or an unincorporated association, a personal history and affidavit for each natural person listed in the application on forms provided by the Commission.
 - (ii) If the applicant is a partnership, the partnership agreement, a certificate of good standing from the Department of Commerce and Consumer Affairs that is not more than 60 days old, and a list of the current partners to the partnership. For each partner, a personal history and affidavit on a form provided by the Commission or, if the partner is not a natural person, the partnership agreement, articles of organization, articles of incorporation, or other agreement, as applicable, of that partner, and a list of current principals of that partner.
 - (iii) If the applicant is a limited liability company, the articles of organization and operating agreement, a certificate of good standing from the Department of Commerce and Consumer Affairs that is not more than 60 days old, and a list of the current managers and current members of the company with their percentage of ownership. For each manager and member, a personal history and affidavit on a form provided by the Commission or, if the manager or member is not a natural person, the partnership agreement, articles of organization, articles of incorporation, or other agreement, as applicable, of that manager or member, and a list of current principals of that manager or member.
 - (iv) If the applicant is a corporation, the articles of incorporation, a certificate of good standing from the Department of Commerce and Consumer Affairs that is not more than 60 days old, and a list of current officers, current directors, and current stockholders of 25% or more of the

- outstanding capital stock of the corporation. For each officer, director, or stockholder of 25% or more of the outstanding capital stock, a personal history and affidavit on a form provided by the Commission or, if the stockholder is not a natural person, the partnership agreement, articles of organization, articles of incorporation, or other agreement, as applicable, of that stockholder, and a list of current principals of that stockholder.
- (v) Except for a condominium hotel license, a floor plan to scale of the licensed premises or proposed licensed premises with the area to be licensed demarcated in red and showing all fixtures, a square footage calculation for the area to be licensed, and the scale and orientation of the plan, and, in the case of an application regarding a license for consumption on the premises, the restrooms for the premises and a preliminary approval stamp from the State Department of Health. If the applicant is applying for a class or category of license that permits dancing, the designated dance floor shall be shown on the floor plan.
 - (vi) A copy of the floor plan required by paragraph (v) on an 8½-inch by 11-inch piece of paper.
 - (vii) A copy of the deed, lease, sublease, assignment of lease, rental agreement, or other conveyance of the use of the property to the applicant permitting the activity for which the license is applied. A copy of the executed document with applicable consents shall be submitted before the license is issued and may be submitted in fulfillment of the requirement of this paragraph.
 - (viii) For applications for new licenses and for the transfer of an existing dispenser or cabaret license, a tax map drawn to a scale of one inch to each forty, fifty, or sixty feet showing the area within 500 feet of the licensed area or proposed licensed area of the premises and also indicating 100 feet from the premises.
 - (ix) For applications for new licenses and for the transfer of an existing dispenser or cabaret license, a list of names and addresses of all property owners, recorded lessees, condominium projects, and cooperative apartment projects within 500 feet of the premises, which list shall also designate those owners, lessees, condominiums, and cooperatives which are within 100 feet of the premises.
 - (x) Except in the matter of a hotel as defined in HRS Section 486K-1, a restaurant, or a convenience store, for applications for new licenses and for the transfer of an existing dispenser or cabaret license, a list of small businesses within 500 feet and of small businesses within 100 feet of the premises.
 - (xi) A full, true, and accurate statement of the complete financial condition of the applicant, which shall not be over six months old, or that is less than one year old and certified by the applicant to be substantially correct.
 - (xii) Documents substantiating the financial statement and showing sufficient finances to cover proposed expenditures related to the application and including initial operating expenses for the first six months of operation.

- (xiii) For the transfer of a license, an instrument documenting the consideration for the proposed transfer.
- (xiv) Except when the applicant will do business under its own name, exactly, for an application for a new license, a Certificate of Registration of trade name from the Department of Commerce and Consumer Affairs or other sufficient documentation of the permitted use of the trade name in accordance with §3-81-17.58, or for an application for the transfer of a license, a statement of what trade name is proposed to be used, which shall be confirmed before the transfer is effected by a Certificate of Registration of trade name or other sufficient documentation.
- (xv) A description detailing the kind of business that the applicant proposes to operate.
- (xvi) A 4-inch by 6-inch photoimage or photograph of the front of the licensed premises or proposed licensed premises and a 4-inch by 6-inch photoimage or photograph showing the licensed premises or proposed licensed premises street location.
- (xvii) For applications for new condominium hotel licenses or for the transfer of an existing condominium hotel license:
 - a. A list of the condominium hotel guest rooms within the proposed licensed premises as of the application date.
 - b. A copy of the application for registration of the condominium hotel operator approved by the real estate commission, if applicable.
 - c. A floor plan (which may be a copy of all or portions of the recorded condominium map) marked to show:
 - (i) the portion or portions of the licensed premises or proposed licensed premises in which alcoholic beverages will be served, with such portion or portions marked in red and showing all fixtures and any designated dance floor in such portion or portions; a square footage calculation of such portion or portions; the scale of the map; and, if liquor will be consumed within such portion or portions, the restrooms for such portion or portions;
 - (ii) the locations of all condominium hotel guest rooms in the condominium hotel (which locations may be indicated by narrative description or coloring of the condominium map); and
 - (iii) the locations of the apartments, common elements and/or limited common elements over which access will be provided to and from the portion or portions of the licensed premises or proposed licensed premises in which alcoholic beverages will be served and the condominium hotel guest rooms (which locations may be indicated by narrative description or coloring of the condominium map).
 - d. A preliminary approval stamp from the State Department of Health for the portion or portions of the licensed premises or proposed licensed premises in which alcoholic beverages will be served.

- e. The identity of the AOA manager and, if the applicant is not a rental program manager for condominium hotel guest rooms in the condominium hotel, the rental program manager that manages the most condominium hotel guest rooms in the condominium hotel.
- (2) Concurrent with filing the application:
 - (i) A request for criminal history record clearance for liquor license, for each person required to submit a personal history and affidavit, with the Hawaii Criminal Justice Data Center.
 - (ii) A request for zoning clearance with the Department of Planning and Permitting, Aloha Tower Development Corporation, or Hawaii Community Development Authority, as appropriate.
 - (iii) A request for the required list of registered voters, if required, with the City Clerk. A statement that each request has been made, with the date that it was made, shall accompany the application filed with the Commission.
 - (3) During the processing of the application:
 - (i) Each person required to submit a personal history and affidavit is required to submit fingerprints on a fingerprint card provided by the Commission. Fingerprints for those principals not fingerprinted by an investigator for the Commission shall be submitted, with a letter of authority by the person who made the fingerprints, with the application or as soon after its submission as possible. The Commission in its discretion may waive part or all of this requirement.
 - (ii) Each applicant required to make a mailing of notification of public hearing following the preliminary hearing shall submit an affidavit of mailing on a form provided by the Commission and the master mailing lists for the mailing as provided by law.
 - (iii) Each applicant required to notify the registered voters in the area of the premises and each applicant who can be denied its application by a percentage of the voters shall submit the list of registered voters within 500 feet and within 100 feet to the Commission with the affidavit of mailing and the master mailing lists.
 - (iv) The zoning clearance shall be submitted to the Commission as soon as possible and before the license is issued or the transfer is effected.
 - (v) Each applicant for a new license shall directly notify the chair of the neighborhood board in which the applicant's place of business is to be located, in writing and delivered by certified mail, return receipt requested. The Commission, for just cause, may waive this requirement.
 - (b) Except as excused by HRS Section 281-52 or 281-57, an application for a change of location, change of class, change of kind, or change of category will be treated as a new application.
 - (c) An applicant for a special license, other than a one-day special license for a fund raising event by a not for profit organization, shall fulfill the requirements of paragraphs (a)(1)(i)-(iv) and (xv), (a)(2)(i) and (ii), and (a)(3)(i), (iv), and (v). Additionally, the applicant shall submit a detailed floor plan and site plan with dimensions, permission of the landlord for the event or other document conveying the use of the premises to the

applicant, or permission from the government entity property owner allowing the sale or consumption of liquor on the premises, and a detailed description of the event and kind of business that the applicant proposes to conduct.

- (d) An applicant for a transient vessel license shall file in or with the application:
- (1) If the application is made by an agent for the owner, a copy of a contract or other document establishing the agent's relationship with the vessel's owner and a document establishing the identity of the agent.
 - (2) The pier and port at which the vessel will berth and the times and dates of arrival and departure.
 - (3) The name, city, and state or country of the vessel's fee titled owner.
 - (4) A personal history and affidavit, partnership agreement, articles of organization, articles of incorporation, or other organizational document of the proposed licensee.
 - (5) If the proposed licensee is not a sole proprietor, a list of the principals of the proposed licensee.
 - (6) A current financial statement of the proposed licensee.
 - (7) A photograph of the vessel.
 - (8) A description of the vessel and deck plans showing proposed liquor outlets, dance floors, and so forth.
- (e) An applicant for a caterer license shall file with the application a detailed floor plan and site plan with dimensions, permission of the landlord for the event or other document conveying the use of the premises to the applicant, or permission from the government entity property owner allowing the sale or consumption of liquor on the premises, and a detailed description of the event and kind of business that the applicant proposes to conduct.
- (f) After granting of a new license or the transfer of an existing license other than for special license, transient vessel license, or caterer license and before the license is issued or transferred, the applicant shall request a final inspection of the proposed licensed premises by Commission staff. Before the issuance of a license allowing live music or other entertainment, Commission staff will evaluate the premises regarding its suitability for live music or other entertainment.
- (g) If a new license is not issued or the transfer of a license is not effected within six months from the date of granting, the Commission will review the granting. The applicant may show good cause why the license has not been effected, and the Commission may, at the hearing, reconsider its granting.
- (h) If the Commission finds that the applicant has made a false statement as part of the application, it may deny the application, suspend or revoke any current license, or assess and collect a penalty.

§3-83-53.2. License Applicant Background Verification.

The license applicant shall ensure that every person named in an application discloses to the Commission any felony convictions. The obligation to disclose such information shall be continuing even after the license is issued.