

## **SUMMARY OF PROPOSED COMMITTEE DRAFT:**

### **Bill 45 (2021) RELATING TO INCENTIVES FOR BUSINESSES.**

**The PROPOSED CD1** makes the following amendments:

- A. Removes the definition of "anchor institution."
- B. Establishes that a business may be certified as a qualified business only if the business meets the definition of eligible business on the date the business is to be certified.
- C. Establishes that the business must continue to employ the required number of full-time employees in the new jobs in order to retain its designation as a qualified business.
- D. Adds a requirement to Section 35-1.3(a)(4) that, in order to be certified as a qualified business, the cost of all construction materials used for construction of new facilities must be exempt from the Hawaii General Excise Tax, construction or development must be completed no later than seven years after the effective date of the ordinance, and that the business must be located on property that is owned by the business in fee simple or leased for a term that expires no less than a minimum of 30 years after date of qualification..
- E. Adds a requirement to Section 35-1.3(b)(2) that the operating site be owned by a business in fee simple or leased for a term that does not expire for a minimum of 3 years after the date of qualification.
- F. Removes Section 35-1.3(d) which stated that certain qualified businesses may be eligible for county grants of federal funds.
- G. Limits in Section 35-1.4(2) the waiver of city-imposed fees to those relating to the planning, design, and construction of improvements.
- H. Adds a new SECTION 6, which defines Property Owner in ROH Section 35-2.1 as an owner of an eligible business that either owns in fee simple or leases property under a lease that does not expire for at least 30 years or three years, as applicable, from the date of qualification, and which lease must be recorded or filed. Requires that, if the property is leased, the lessee must pay all taxes levied on the property for the duration of the lease.
- I. Clarifies in Section 35-2.2 that the qualified business must continue to meet its initial qualification as an "eligible business".

- J.     Respectively renumbers former SECTIONS 6, 7, and 8 as new SECTIONS 7, 8, and 9.
- K.     Updates the bill to reflect that the bill is amending the Revised Ordinances of Honolulu 2021 instead of the Revised Ordinances of Honolulu 1990.
- L.     Makes miscellaneous technical, non-substantive, and conforming amendments.



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RELATING TO INCENTIVES FOR BUSINESSES.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. Purpose. The purpose of this ordinance is to provide incentives to businesses located within certain areas to create new jobs and generate economic benefits for the City.

SECTION 2. The title of Chapter 35, Revised Ordinances of Honolulu 2021, is amended to read as follows:

**"INCENTIVES FOR [BUSINESS] CERTAIN BUSINESSES THAT ARE LOCATED WITHIN NEIGHBORHOOD TRANSIT-ORIENTED DEVELOPMENT PLAN AREAS TO CREATE NEW JOBS"**

SECTION 3. Section 35-1.1, Revised Ordinances of Honolulu 2021, is amended to read as follows:

**"§ 35-1.1 Definitions.**

- (a) For the purposes of this chapter, the following definitions apply unless the context clearly indicates or requires a different meaning.

**City.** The City and County of Honolulu.

**Eligible Business.** Any corporation, partnership, limited liability company, or sole proprietorship authorized to do business in the State, ~~[which]~~ that is:

- (1) Subject to the State corporate or individual income tax under HRS Chapter 235; ~~[and]~~
- (2) ~~[(A)] Engaged in [manufacturing, the wholesale sale of tangible personal property as defined in HRS § 237-4, or a service business; or] one or more of the growth industries specified in HRS § 201-19(a)(1) and identified as a "base-growth activity" or "emerging activity" by the State Department of Business, Economic Development and Tourism in the annual report required by HRS § 201-19(b); and~~  
  
~~[(B) Engaged in producing agricultural products where the business is a producer as defined in HRS § 237-5.]~~



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- (3) Located within a neighborhood transit-oriented development plan area that will result in the economic expansion of the growth industry engaged in by the business.

**Full-Time Employee.** An individual employed by a qualified business who works more than 20 hours a week during the business's payroll period~~[-]~~, including staffing configurations specific to particular targeted industries identified in HRS § 201-19.

**Neighborhood Transit-Oriented Development Plan Area.** The area specified in a neighborhood transit-oriented development plan adopted by the council in accordance with § 21-9.100-2.

**Qualified Business.** A business certified as such pursuant to § 35-1.3.

**Service Business.** Has the same meaning as defined in HRS § 209E-2.

**Wholesale.** Has the same meaning as defined in HRS § 237-4.

- (b) As used in this article, unless the context otherwise requires, "director" means the director of budget and fiscal services."

SECTION 4. Section 35-1.3, Revised Ordinances of Honolulu 2021, is amended to read as follows:

**"§ 35-1.3 Qualification for incentives.**

- (a) Any business in the city may be certified as a qualified business by the director for purposes of this chapter if the business:
- (1) Meets the definition of "eligible business" in § 35-1.1[;] on the date the business is to be certified as a qualified business;
  - (2) Begins operations after ~~[May 1, 1997]~~ January 1, 2022 at a particular site. The date on which a business begins operations at a particular site ~~[shall]~~ will be the date on which the business begins at the site:
    - (A) To provide the service; or
    - (B) To manufacture, grow, or sell wholesale the product~~[-]~~;



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Which the business was established to provide, manufacture, grow, or sell; provided that acquiring or renovating the property and other preparations necessary to provide the service or to manufacture, grow, or sell wholesale the product to be used in the business ~~[shall]~~ will not constitute beginning operations for purposes of qualifying under this chapter; ~~[and]~~

- (3) Creates and fills at the beginning of operations at the site new jobs for ~~[one hundred]~~ 100 or more full-time employees~~[-A]; provided that a job~~ ~~[shall]~~ will not be deemed a "new job" if, at the time the business begins operations at the site:
- (A) It is an existing job with an existing business that is sold to another business;
  - (B) It reincorporates under a new name, merely changes its name, or creates a subsidiary corporation; or
  - (C) It is a job filled by an employee of a business who is relocated from another site of operations of the business within the city~~[-];~~

The business must continue to employ 100 or more full-time employees in the new jobs in order to retain its designation as a qualified business;

- (4) Is involved in the construction or development of new facilities for growth industries as identified by HRS § 201-19(a)(1), and has by the date the business is certified as a qualified business:
- (A) Expended at least \$100,000,000 for improvement costs;
  - (B) Obtained an exemption from the Hawaii General Excise Tax for the cost of all construction materials used for the construction of new facilities;
  - (C) Completed construction or development of the new facilities no later than seven years after the effective date of this ordinance; and
  - (D) Located on property that is owned by the business in fee simple or is leased by the business for a term that does not expire for a minimum of 30 years after the date of qualification; and



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- (5) Provides a net benefit to the city through enhanced real property taxes and related revenues from growth around the new facilities specified in subdivision (4).
- (b) A business in the city may also be certified as a qualified business by the director for purposes of this chapter if the business:
- (1) Meets the definition of "eligible business" in § 35-1.1[;] on the date the business is to be certified as a qualified business;
  - (2) Is operating at a particular site that is owned by the business in fee simple, or is leased by the business for a term that does not expire for a minimum of 3 years after the date of qualification; and
  - (3) Creates and fills in any tax year, other than the tax year in which it begins operations, 50 new jobs at the site for 50 or more new full-time employees in addition to the number of full-time jobs at the site one year before the date of the application[;]; provided that a job [shall] will not be deemed a "new job" if, at the beginning of the tax year for which it is claimed 50 or more new jobs have been created:
    - (A) It is an existing job with an existing business that is sold to another business;
    - (B) It reincorporates under a new name, merely changes its name, or creates a subsidiary corporation; or
    - (C) It is a job filled by an employee of a business who is relocated from another site of operations of the business within the city.
- The business must continue to employ 50 or more full-time employees in the new jobs in order to retain its designation as a qualified business.
- (c) [No] A business [that has received] that is eligible for or has received incentives or been allowed regulatory flexibility pursuant to the enterprise zone ordinance, Chapter 31, [shall] may also be eligible to receive incentives or be allowed regulatory flexibility under this chapter."



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SECTION 5. Section 35-1.4, Revised Ordinances of Honolulu 2021, is amended to read as follows:

**"§ 35-1.4 Incentives for qualified businesses.**

The city shall provide the following incentives to qualified businesses:

- (1) Real property tax rebate; ~~[and]~~
- (2) Waiver of ~~[permit]~~ city-imposed fees[-] relating to the planning, design, and construction of improvements; and
- (3) Expedited permits."

SECTION 6. Section 35-2.1, Revised Ordinances of Honolulu 2021, is amended to read as follows:

**"§ 35-2.1 Definitions.**

For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

**Director.** The director of budget and fiscal services.

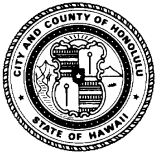
**Property Owner.** ~~[Has the same meaning as defined in § 8-7.3, modified as follows:]~~ An owner of an eligible business, as defined in § 35-1.1, that either owns in fee simple or leases real property which is the particular site used in accordance with § 35-1.3(a) or (b); provided that the lease:

- (1) ~~[Property owner includes a lessee holding real property, as defined in § 8-4.2,]~~ Is for a stated term that expires thirty years or [of] three years [or more; provided that the lease:] as applicable under § 35-1.3(a) or (b), respectively, from the date of qualification;

~~[(A)]~~

- (2) Has been duly entered into and recorded in the bureau of conveyances or filed in the office of the assistant registrar of the land court; and

~~[(B)]~~



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(3) Provides that the lessee shall pay all taxes levied on the property during the term of the lease.

~~[(2) Property owner excludes a lessee under a government lease whose stated term is less than three years.]~~

**Tax year.** Has the same meaning as defined in § 8-6.2."

SECTION 7. Section 35-2.2, Revised Ordinances of Honolulu 2021, is amended to read as follows:

**"§ 35-2.2 Real property tax rebate established.**

(a) Real property tax rebates for qualified businesses.

(1) Upon proper application, any owner of a qualified business who owned the improvements used by that business on the date of the business's first qualification pursuant to § ~~[35-1.3]~~ 35-1.3(a) and continues to own the improvements during the tax year shall be eligible for [a] an annual rebate from the city, for a period of ~~[three]~~ no more than 30 consecutive years, ~~[of the lesser of:~~

~~(1) All]~~

of all real property taxes paid on improvements at the site qualifying under § 35-1.3(a) [or (b)] by the business [which] that are in excess of the real property taxes paid upon the improvements at the site immediately preceding the date of the business's first qualification[-or]; provided that the business continues to meet its initial qualification as an "eligible business" under § 35-1.1, throughout the 30-year period.

(2) [\$100,000.] Upon proper application, any owner of a qualified business who owned improvements utilized by that business on the date of the business's first qualification pursuant to § 35-1.3(b) and continues to own the improvements during the tax year shall be eligible for an annual rebate from the city, for a period of no more than three consecutive years, of all real property taxes paid on improvements at the site qualifying under § 35-1.3(b) by the business that are in excess of the real property taxes paid upon the improvements at the site immediately preceding the date of the business's first qualification; provided that the business continues to meet its initial qualification as an "eligible business" under § 35-1.1, throughout





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the three-year period.

(b) The rebate shall apply only in those years in which the business continues to employ the number of full-time employees required by ~~§ 35-1.3.~~ §§ 35-1.3(a) or (b), as applicable. In the event the improvements are transferred after taxes have been paid, only the qualified business that paid the taxes shall be eligible for the rebate.

~~[(b)]~~ (c) A claim for a real property tax rebate may be filed for excess taxes paid during a tax year at any time during the succeeding tax year only.

~~[(e)]~~ (d) The rebate ~~[shall]~~ will apply to improvements ~~[which]~~ that are held and used by the qualified business ~~[and which are used by the qualified business].~~"

SECTION 8. Ordinance material to be repealed is bracketed and stricken. New material is underscored. When revising, compiling, or printing this ordinance for inclusion in the Revised Ordinances of Honolulu, the Revisor of Ordinances need not include the brackets, the material that has been bracketed and stricken, or the underscoring.



**CITY COUNCIL**  
CITY AND COUNTY OF HONOLULU  
HONOLULU, HAWAII

ORDINANCE \_\_\_\_\_

BILL **45 (2021), CD1**

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SECTION 9. This ordinance takes effect upon its approval; provided that qualified businesses that have been granted any incentives pursuant to Chapter 35, Revised Ordinances of Honolulu 2021, as it read prior to the effective date of this ordinance, shall continue to receive such incentives unless the incentives are canceled by the qualified business or canceled or denied by the Director of Budget and Fiscal Services in accordance with Chapter 35, Revised Ordinances of Honolulu 2021, as it read immediately prior to the effective date of this ordinance.

INTRODUCED BY:

Augie Tulba

Carol Fukunaga

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DATE OF INTRODUCTION:

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November 4, 2021  
Honolulu, Hawai'i

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Councilmembers

APPROVED AS TO FORM AND LEGALITY:

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Deputy Corporation Counsel

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

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RICK BLANGIARDI, Mayor  
City and County of Honolulu