

JAN 25 2010

A BILL FOR AN ACT

RELATING TO STANDARD TIMEFRAMES FOR APPLICATION REVIEWS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Hawaii state law currently provides incentives
2 to affordable housing developers in recognition of the critical
3 need for affordable housing throughout the state. One incentive
4 that has proven to be a successful catalyst for increased
5 affordable housing development is an expedited review and
6 approval process for permits and licenses by state and county
7 agencies. The statutory-set timetable enables developers to
8 avoid costly delays during the development process that
9 ultimately increase the cost of the project and the cost to
10 consumers.

11 The purpose of this Act is to expand the expedited review
12 and approval process established under section 91-13.5 of the
13 Hawaii Revised Statutes to include other vital projects,
14 specifically infrastructure for housing developments, mixed-use
15 development that has an affordable housing component, and clean
16 energy facilities.

17 SECTION 2. Section 91-13.5, Hawaii Revised Statutes, is
18 amended to read as follows:

SECTION 2. Section 91-13.5, Hawaii Revised Statutes, is amended to read as follows:

"§91-13.5 Maximum time period for business or development-related permits, licenses, or approvals; automatic approval; extensions. (a) Unless otherwise provided by law, an agency shall adopt rules that specify a maximum time period to grant or deny a business or development-related permit, license, or approval; provided that the application is not subject to state administered permit programs delegated, authorized, or approved under federal law.

(b) All such issuing agencies shall clearly articulate informational requirements for applications and review applications for completeness in a timely manner.

(c) All such issuing agencies shall take action to grant or deny any application for a business or development-related permit, license, or approval within the established maximum period of time, or the application shall be deemed approved; provided that a delay in granting or denying an application caused by the lack of quorum at a regular meeting of the issuing agency shall not result in approval under this subsection; provided further that any subsequent lack of quorum at a regular meeting of the issuing agency that delays the same matter shall

1 not give cause for further extension, unless an extension is
2 agreed to by all parties.

3 (d) Notwithstanding any other law to the contrary, any
4 agency that reviews and comments upon an application for a
5 business or development-related permit, license, or approval for
6 a housing project, mixed-use development project, infrastructure
7 associated with a housing development or mixed-use development
8 [deleted] under section 201H-38 or a renewable energy project
9 as defined under subsection (h) shall respond within forty-five
10 days of receipt of ~~the~~ a completed application, or the
11 application shall be deemed acceptable as submitted to the
12 agency.

13 (e) The maximum period of time established pursuant to
14 this section shall be extended in the event of a national
15 disaster, state emergency, or union strike, which would prevent
16 the applicant, the agency, or the department from fulfilling
17 application or review requirements.

18 (f) This section shall not apply to:

- 19 (1) Any proceedings of the public utilities commission; or
20 (2) Any county or county agency that is exempted by county
21 ordinance from this section.

1 (g) For purposes of this section, "application for a
2 business or development-related permit, license, or approval"
3 means any state or county application, petition, permit,
4 license, certificate, or any other form of a request for
5 approval required by law to be obtained prior to the formation,
6 operation, or expansion of a commercial or industrial
7 enterprise, or for any permit, license, certificate, or any form
8 of approval required under sections 46-4, 46-4.2, 46-4.5, 46-5,
9 and chapters 183C, 205, 205A, 340A, 340B, 340E, 340F, 342B,
10 342C, 342D, 342E, 342F, 342G, 342H, 342I, 342J, 342L, and 342P.

11 (h) For purposes of this section, "renewable energy
12 project" means any business or development-related project that
13 produces renewable energy, as defined under section 269-91, and
14 is sized to generate at least 1.5 megawatts of power."

15 SECTION 3. Section 201H-1, Hawaii Revised Statutes, is
16 amended by adding two new definitions to be appropriately
17 inserted and to read as follows:

18 "Infrastructure" means any facility, public work, or
19 utility installed or improved by the government for the
20 functioning of a community, or private or government owned
21 facility."

1 "Mixed-use development" means the combination of different
2 uses in a housing project including commercial, public
3 facilities, industrial, and residential uses, which may include
4 single family, multi-family, for sale, lease, rental, low,
5 moderate, workforce, affordable, and market housing, or
6 combinations of all of the above, but at least fifty-one per
7 cent of the housing units, developed under this chapter, must be
8 affordable to households with incomes at or below one hundred
9 forty per cent of the median family income or as may be
10 determined by the United States Department of Housing and Urban
11 Development. "Mixed-use development" shall include commercial,
12 industrial and other uses as defined in section 201H-44, Hawaii
13 Revised Statutes."

14 SECTION 4. Section 201H-38, Hawaii Revised Statutes, is
15 amended to read as follows:

16 **"§201H-38 Housing development; exemption from statutes,**
17 **ordinances, charter provisions, and rules.** (a) The corporation
18 may develop on behalf of the State or with an eligible
19 developer, or may assist under a government assistance program
20 in the development of~~[-]~~ housing projects, mixed-use development
21 projects, or infrastructure projects associated with a housing
22 or mixed-use development project, that shall be exempt from all

1 statutes, ordinances, charter provisions, and rules of any
2 government agency relating to planning, zoning, construction
3 standards for subdivisions, development and improvement of land,
4 and the construction of dwelling units thereon; provided that:

5 (1) The corporation finds the housing project, mixed-use
6 development project, or infrastructure project
7 associated with a housing or mixed-use development
8 project is consistent with the purpose and intent of
9 this chapter, and meets minimum requirements of health
10 and safety;

11 (2) The development of the proposed housing project,
12 mixed-use development project, or infrastructure
13 project associated with a housing or mixed-use
14 development project does not contravene any safety
15 standards, tariffs, or rates and fees approved by the
16 public utilities commission for public utilities or of
17 the various boards of water supply authorized under
18 chapter 54;

19 (3) The legislative body of the county in which the
20 housing project, mixed-use development project, or
21 infrastructure project associated with a housing or
22 mixed-use development project is to be situated shall

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1 have approved the project with or without
2 modifications:

3 (A) The legislative body shall approve, approve with
4 modification, or disapprove the project by
5 resolution within forty-five days after the
6 corporation has submitted the preliminary plans
7 and specifications for the project to the
8 legislative body. If on the forty-sixth day a
9 project is not disapproved, it shall be deemed
10 approved by the legislative body;

11 (B) No action shall be prosecuted or maintained
12 against any county, its officials, or employees
13 on account of actions taken by them in reviewing,
14 approving, modifying, or disapproving the plans
15 and specifications; and

16 (C) The final plans and specifications for the
17 project shall be deemed approved by the
18 legislative body if the final plans and
19 specifications do not substantially deviate from
20 the preliminary plans and specifications. The
21 final plans and specifications for the project
22 shall constitute the zoning, building,

1 construction, and subdivision standards for that
2 project. For purposes of sections 501-85 and
3 502-17, the executive director of the corporation
4 or the responsible county official may certify
5 maps and plans of lands connected with the
6 project as having complied with applicable laws
7 and ordinances relating to consolidation and
8 subdivision of lands, and the maps and plans
9 shall be accepted for registration or recordation
10 by the land court and registrar; and

11 (4) The land use commission shall approve, approve with
12 modification, or disapprove a boundary change within
13 forty-five days after the corporation has submitted a
14 petition to the commission as provided in section
15 205-4. If, on the forty-sixth day, the petition is
16 not disapproved, it shall be deemed approved by the
17 commission.

18 (b) For the purposes of this section, "government
19 assistance program" means a housing program qualified by the
20 corporation and administered or operated by the corporation or
21 the United States or any of their political subdivisions,
22 agencies, or instrumentalities, corporate or otherwise."

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1 SECTION 5. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 6. This Act shall take effect on July 1, 2010.

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INTRODUCED BY: _____

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BY REQUEST

Report Title:

Accelerated Approval; Clean Energy; Affordable Housing;
Infrastructure

Description:

Expands the application of current law as it pertains to the processing of permits and licenses for affordable housing developed under chapter 201H, Hawaii Revised Statutes, to also include mixed-use developments, infrastructure for residential developments, and renewable energy facilities.

JUSTIFICATION SHEET

DEPARTMENT: Office of the Governor

TITLE: A BILL FOR AN ACT RELATING TO STANDARD TIMEFRAMES FOR APPLICATION REVIEWS.

PURPOSE: Accelerates the permit approval process for renewable energy projects, mixed-use housing developments with an affordable housing component, and infrastructure projects associated with a housing development.

MEANS: Amends section 91-13.5, 201H-1, and 201H-38 Hawaii Revised Statutes (HRS).

JUSTIFICATION: Section 91-13.5, HRS, currently sets forth statutory deadlines for the approval of permits and licenses for affordable housing developments under chapter 201H, HRS. This accelerated approval process mitigates costly delays that occur when housing construction projects are deferred and serves as an incentive that encourages developers to construct affordable housing.

This bill expands the types of projects that qualify for expedite review under section 91-13.5, HRS, to include mixed-use housing that is comprised of fifty-one percent affordable housing and infrastructure that is part of a housing development, which by law must meet county affordable housing requirements.

Further, this bill recognizes the importance of renewable energy projects by requiring state and county agencies to meet the statutory deadlines established in section 91-13.5 for permits and licenses that are necessary for a renewable energy project that has the capacity to generate at least 1.5 megawatts of power.

Impact on the public: Expedites and encourages affordable housing and clean energy projects, two of the highest priorities identified through community planning efforts. The goal is to increase Hawaii's affordable housing stock and provide more clean energy options within the State; thereby reducing Hawaii's dependence on imported foreign oil.

Impact on the department and other agencies: Creates clear priorities and timetables for state and county agencies that process permits and licensing applications.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: None.

OTHER AFFECTED
AGENCIES: Hawaii Housing & Finance Development Corporation, Department of Business, Economic Development and Tourism, counties.

EFFECTIVE DATE: Takes effect on July 1, 2010.