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# A BILL FOR AN ACT

RELATING TO THE ENVIRONMENTAL REVIEW PROCESS.

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

1           SECTION 1. Section 343-2, Hawaii Revised Statutes, is  
2 amended as follows:

3           1. By adding a new definition to be appropriately inserted  
4 and to read:

5           ""Finding of completion of environmental disclosure  
6 process" means a determination based on the accepting agency's  
7 assessment that a final environmental assessment meets the  
8 technical standards for completeness pursuant to section 343-5  
9 and rules adopted by the office under chapter 91, and therefore,  
10 the subject action shall not require the preparation of an  
11 environmental impact statement."

12           2. By repealing the definition of "finding of no  
13 significant impact".

14           [~~""Finding of no significant impact" means a determination~~  
15 ~~based on an environmental assessment that the subject action~~  
16 ~~will not have a significant effect and, therefore, will not~~  
17 ~~require the preparation of an environmental impact statement."]~~



1 SECTION 2. Section 343-5, Hawaii Revised Statutes, is  
2 amended as follows:

3 1. By amending subsection (c) to read:

4 "(c) For environmental assessments for which a finding of  
5 ~~[no significant impact]~~ completion of environmental disclosure  
6 process is anticipated:

7 (1) A draft environmental assessment shall be made  
8 available for public review and comment for a period  
9 of thirty days;

10 (2) The office shall inform the public of the availability  
11 of the draft environmental assessment for public  
12 review and comment pursuant to section 343-3;

13 (3) The agency shall respond in writing to comments  
14 received during the review and prepare a final  
15 environmental assessment to determine whether an  
16 environmental impact statement shall be required;

17 (4) A statement shall be required if the agency finds that  
18 the proposed action may have a significant effect on  
19 the environment; and

20 (5) The agency shall file notice of the determination with  
21 the office. When a conflict of interest may exist



1           because the proposing agency and the agency making the  
2           determination are the same, the office may review the  
3           agency's determination, consult the agency, and advise  
4           the agency of potential conflicts, to comply with this  
5           section. The office shall publish the final  
6           determination for the public's information pursuant to  
7           section 343-3.

8           The draft and final statements, if required, shall be  
9           prepared by the agency and submitted to the office. The draft  
10          statement shall be made available for public review and comment  
11          through the office for a period of forty-five days. The office  
12          shall inform the public of the availability of the draft  
13          statement for public review and comment pursuant to section  
14          343-3. The agency shall respond in writing to comments received  
15          during the review and prepare a final statement.

16          The office, when requested by the agency, may make a  
17          recommendation as to the acceptability of the final statement."

18          2. By amending subsection (e) to read:

19          "(e) Whenever an applicant proposes an action specified by  
20          subsection (a) that requires approval of an agency and that is  
21          not a specific type of action declared exempt under



1 section 343-6, the agency initially receiving and agreeing to  
2 process the request for approval shall require the applicant to  
3 prepare an environmental assessment of the proposed action at  
4 the earliest practicable time to determine whether an  
5 environmental impact statement shall be required; provided that  
6 if the agency determines, through its judgment and experience,  
7 that an environmental impact statement is likely to be required,  
8 the agency may authorize the applicant to choose not to prepare  
9 an environmental assessment and instead prepare an environmental  
10 impact statement that begins with the preparation of an  
11 environmental impact statement preparation notice as provided by  
12 rules. The final approving agency for the request for approval  
13 is not required to be the accepting authority.

14 For environmental assessments for which a finding of [~~no~~  
15 ~~significant impact~~] completion of environmental disclosure  
16 process is anticipated:

17 (1) A draft environmental assessment shall be made  
18 available for public review and comment for a period  
19 of thirty days;



1           (2) The office shall inform the public of the availability  
2           of the draft environmental assessment for public  
3           review and comment pursuant to section 343-3; and

4           (3) The applicant shall respond in writing to comments  
5           received during the review and the applicant shall  
6           prepare a final environmental assessment to determine  
7           whether an environmental impact statement shall be  
8           required. A statement shall be required if the agency  
9           finds that the proposed action may have a significant  
10          effect on the environment. The agency shall file  
11          notice of the agency's determination with the office,  
12          which, in turn, shall publish the agency's  
13          determination for the public's information pursuant to  
14          section 343-3.

15          The draft and final statements, if required, shall be  
16          prepared by the applicant, who shall file these statements with  
17          the office.

18          The draft statement shall be made available for public  
19          review and comment through the office for a period of forty-five  
20          days. The office shall inform the public of the availability of



1 the draft statement for public review and comment pursuant to  
2 section 343-3.

3 The applicant shall respond in writing to comments received  
4 during the review and prepare a final statement. The office,  
5 when requested by the applicant or agency, may make a  
6 recommendation as to the acceptability of the final statement.

7 The authority to accept a final statement shall rest with  
8 the agency initially receiving and agreeing to process the  
9 request for approval. The final decision-making body or  
10 approving agency for the request for approval is not required to  
11 be the accepting authority. The planning department for the  
12 county in which the proposed action will occur shall be a  
13 permissible accepting authority for the final statement.

14 Acceptance of a required final statement shall be a  
15 condition precedent to approval of the request and commencement  
16 of the proposed action. Upon acceptance or nonacceptance of the  
17 final statement, the agency shall file notice of the  
18 determination with the office. The office, in turn, shall  
19 publish the determination of acceptance or nonacceptance of the  
20 final statement pursuant to section 343-3.



1           The agency receiving the request, within thirty days of  
2 receipt of the final statement, shall notify the applicant and  
3 the office of the acceptance or nonacceptance of the final  
4 statement. The final statement shall be deemed to be accepted  
5 if the agency fails to accept or not accept the final statement  
6 within thirty days after receipt of the final statement;  
7 provided that the thirty-day period may be extended at the  
8 request of the applicant for a period not to exceed fifteen  
9 days.

10           In any acceptance or nonacceptance, the agency shall  
11 provide the applicant with the specific findings and reasons for  
12 its determination."

13           SECTION 3. Statutory material to be repealed is bracketed  
14 and stricken. New statutory material is underscored.

15           SECTION 4. This Act shall take effect upon its approval.

16

INTRODUCED BY: Carol Fullington



# S.B. NO. 1109

**Report Title:**

Environmental Review Process; Environmental Assessment;  
Environmental Impact Statement

**Description:**

Repeals the definition of "finding of no significant impact".  
Defines "finding of completion of environmental disclosure  
process". Makes conforming amendments.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

