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# A BILL FOR AN ACT

RELATING TO ENVIRONMENTAL REVIEW.

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

1 SECTION 1. Section 343-7, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 **"§343-7 Limitation of actions[-]; attorneys' fees.** (a)  
4 Any judicial proceeding, the subject of which is the lack of  
5 assessment required under section 343-5, shall be initiated  
6 within one hundred twenty days of the agency's decision to carry  
7 out or approve the action~~, or, if~~; provided that if the  
8 judicial proceeding involves the lack of an assessment required  
9 under section 343-5 for an action that proposes the use of land  
10 for, or construction of, an affordable housing project or clean  
11 energy project, the proceeding shall be initiated within thirty  
12 days of the agency's decision to carry out or approve the  
13 action. If a proposed action is undertaken without a formal  
14 determination by the agency that a statement is or is not  
15 required, a judicial proceeding shall be instituted within one  
16 hundred twenty days after the proposed action is started~~[-]~~;  
17 provided that if the proposed action is for the use of land for,



1       or construction of, an affordable housing or clean energy  
2       project, the judicial proceeding shall be instituted within  
3       thirty days after the proposed action is started. The office,  
4       any agency responsible for approval of the action, or the  
5       applicant shall be adjudged an aggrieved party for the purposes  
6       of bringing judicial action under this subsection. Others, by  
7       environmental court action, may be adjudged aggrieved.

8               (b) Any judicial proceeding, the subject of which is the  
9       determination that a statement is required for a proposed  
10      action, shall be initiated within sixty days after the public  
11      has been informed of such determination pursuant to section 343-  
12      3. Any judicial proceeding, the subject of which is the  
13      determination that a statement is not required for a proposed  
14      action, shall be initiated within thirty days after the public  
15      has been informed of such determination pursuant to section 343-  
16      3. The applicant shall be adjudged an aggrieved party for the  
17      purposes of bringing judicial action under this subsection.  
18      Others, by environmental court action, may be adjudged  
19      aggrieved.

20               (c) Any judicial proceeding, the subject of which is the  
21      acceptance or nonacceptance of an environmental impact statement



1 required under section 343-5, shall be initiated within sixty  
2 days after the public has been informed pursuant to section 343-  
3 3 of the acceptance or nonacceptance of such statement[–];  
4 provided that if the subject of the judicial proceeding is the  
5 acceptance or nonacceptance of a statement for an action that  
6 proposes the use of land for, or construction of, an affordable  
7 housing project or clean energy project, the proceeding shall be  
8 initiated within thirty days after the public has been informed  
9 pursuant to section 343-3 of the acceptance or nonacceptance of  
10 the statement. Affected agencies and persons who provided  
11 written comment to an accepted statement during the designated  
12 review period shall be adjudged aggrieved parties for the  
13 purpose of bringing judicial action under this subsection;  
14 provided that for aggrieved parties, the contestable issues  
15 shall be limited to issues identified and discussed in the  
16 written comment, and for applicants bringing judicial action  
17 under this section on the nonacceptance of a statement, the  
18 contestable issues shall be limited to those issues identified  
19 by the accepting authority as the basis for nonacceptance of the  
20 statement.



1                   (d) An appeal from a decision of the environmental court  
2                   that involves an action that proposes the use of land for, or  
3                   construction of, an affordable housing or clean energy project  
4                   shall constitute a case involving a question of imperative or  
5                   fundamental public importance under section 602-58(a)(1) for  
6                   purposes of transferring the case to the supreme court pursuant  
7                   to section 602-58.

8                   (e) No court shall award attorneys' fees in a judicial  
9                   proceeding initiated pursuant to this section that involves an  
10                   action that proposes the use of land for, or construction of, an  
11                   affordable housing project or clean energy project.

12                   (f) For the purposes of this section:

13                   "Affordable housing project" means a housing project:

14                   (1) As defined by the controlling law or ordinance  
15                   governing a state or county agency proposing or  
16                   approving an affordable housing project;  
17                   (2) In which the owner has executed a declaration of  
18                   restrictive covenants or other legally binding  
19                   agreement that ensures compliance with county  
20                   affordable housing ordinances;



1       (3) Under county jurisdiction pursuant to section 46-15.1  
2       or that is subject to any county ordinance or funding  
3       that has an income restriction requirement; or  
4       (4) In which the acquisition, financing, construction,  
5       development, redevelopment, repair, renovation, and  
6       occupancy have been directly facilitated by a state or  
7       county program.

8       "Clean energy project" means a project, facility, or  
9       installation that is primarily for the purpose of generating or  
10      producing energy using the following sources:

11      (1) Wind;  
12      (2) Sun;  
13      (3) Falling water;  
14      (4) Geothermal; and  
15      (5) Ocean water, currents, and waves, including ocean  
16      thermal energy conversion."

17      SECTION 2. Statutory material to be repealed is bracketed  
18      and stricken. New statutory material is underscored.



1 SECTION 3. This Act shall take effect on July 1, 3000.



**Report Title:**

Environmental Review; Clean Energy Projects; Affordable Housing Projects; Judicial Proceedings; Supreme Court; Appeals; Transfer; Attorneys' Fees

**Description:**

Shortens the period for certain judicial proceedings involving environmental assessments and environmental impact statements on actions that propose the use of land for, or construction of, affordable housing or clean energy projects must be initiated. Specifies that appeals from environmental courts that involve actions that propose the use of land for, or construction of, affordable housing or clean energy projects meet one of the grounds for transfer to the Supreme Court and prohibits any court from awarding attorneys' fees in these judicial proceedings. Effective 7/1/3000. (HD1)

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

