
A BILL FOR AN ACT

RELATING TO ENVIRONMENTAL REVIEW.

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

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

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



(3) Under county jurisdiction pursuant to section 46-15.1
or that is subject to any county ordinance or funding
that has an income restriction requirement; or

(4) In which the acquisition, financing, construction,
development, redevelopment, repair, renovation, and
occupancy have been directly facilitated by a state or
county program.

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

(1) Wind;

(2) Sun;

(3) Falling water;

(4) Geothermal; and

(5) Ocean water, currents, and waves, including ocean
thermal energy conversion."

SECTION 2. Statutory material to be repealed is bracketed
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.

