
A BILL FOR AN ACT

RELATING TO ENVIRONMENTAL REVIEW.

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

1 SECTION 1. The legislature finds that the State faces
2 urgent and interconnected challenges in achieving its clean
3 energy goals and increasing the supply of affordable housing.
4 The legislature further finds that environmental review under
5 chapter 343, Hawaii Revised Statutes, plays an essential role in
6 protecting the State's natural and cultural resources and
7 ensuring informed public decision-making.

8 The legislature also finds that uncertainty and the threat
9 of prolonged judicial challenges to environmental review
10 determinations can delay projects and increase costs,
11 particularly for affordable housing and clean energy projects
12 that depend on time-sensitive financing and approvals. In some
13 cases, projects become infeasible and are abandoned because
14 challenges can extend for long periods, regardless of the
15 project's merits.

16 Accordingly, this Act establishes clearer and more
17 predictable timelines for certain judicial proceedings involving



1 environmental assessments and environmental impact statements
2 for actions that propose the use of land for, or construction
3 of, affordable housing projects and clean energy projects,
4 including by shortening the period within which specified
5 challenges must be initiated and providing a more streamlined
6 path for appellate review.

7 This Act does not eliminate or diminish environmental
8 review requirements. Through these changes, this Act seeks to
9 balance environmental stewardship with the urgent public need to
10 accelerate renewable energy deployment and the development of
11 affordable housing, while maintaining meaningful opportunities
12 for public participation and accountability.

13 Accordingly, the purpose of this Act is to:

14 (1) Shorten the period during which certain judicial
15 proceedings involving environmental assessments and
16 environmental impact statements on actions that
17 propose the use of land for, or construction of,
18 affordable housing or clean energy projects must be
19 initiated; and

20 (2) Specify that appeals from environmental courts that
21 involve actions that propose the use of land for, or



1 construction of, affordable housing or clean energy
2 projects meet one of the grounds for transfer to the
3 supreme court.

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

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



1 energy project, the judicial proceeding shall be instituted
2 within thirty days after the proposed action is started. The
3 office, any agency responsible for approval of the action, or
4 the applicant shall be adjudged an aggrieved party for the
5 purposes of bringing judicial action under this subsection.
6 Others, by environmental court action, may be adjudged
7 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~~] the 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 project or clean energy
 4 project shall constitute a case involving a question of
 5 imperative or fundamental public importance under section 602-
 6 58(a)(1) for purposes of transferring the case to the supreme
 7 court pursuant to section 602-58.

8 (e) For the purposes of this section:
 9 "Affordable housing project" means a housing project:

10 (1) As defined by the controlling law or ordinance
 11 governing a state or county agency proposing or
 12 approving an affordable housing project;

13 (2) In which the owner has executed a declaration of
 14 restrictive covenants or other legally binding
 15 agreement that ensures compliance with county
 16 affordable housing ordinances;

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

20 (4) In which the acquisition, financing, construction,
 21 development, redevelopment, repair, renovation, and



1 occupancy have been directly facilitated by a state or
2 county program.

3 "Affordable housing project" includes a housing project with
4 ancillary on-site mixed uses and any necessary on-site or off-
5 site infrastructure, and that satisfies at least one criterion
6 under this definition.

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

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

16 SECTION 3. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 4. This Act shall take effect on July 1, 3000.



Report Title:

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

Description:

Shortens the period during which 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. Effective 7/1/3000. (HD3)

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