

ACT 76

H.B. NO. 2094-78

A Bill for an Act Relating to the Administrative Procedures Act.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 91-10, Hawaii Revised Statutes, is amended to read:

**“Sec. 91-10 Rules of evidence; official notice.** In contested cases:

- (1) Any oral or documentary evidence may be received, but every agency shall as a matter of policy provide for the exclusion of irrelevant, immaterial, or unduly repetitious evidence and no sanction shall be imposed or rule or order be issued except upon consideration of the whole record or such portions thereof as may be cited by any party and as supported by and in accordance with the reliable, probative, and substantial evidence. The agencies shall give effect to the rules of privilege recognized by law.
- (2) Documentary evidence may be received in the form of copies or excerpts, if the original is not readily available; provided that upon request parties shall be given an opportunity to compare the copy with the original.
- (3) Every party shall have the right to conduct such cross-examination as may be required for a full and true disclosure of the facts, and shall have the right to submit rebuttal evidence.
- (4) Agencies may take notice of judicially recognizable facts. In addition, they may take notice of generally recognized technical or scientific facts within their specialized knowledge; but parties shall be notified either

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before or during the hearing, or by reference in preliminary reports or otherwise, of the material so noticed, and they shall be afforded an opportunity to contest the facts so noticed.

- (5) Except as otherwise provided by law, the party initiating the proceeding shall have the burden of proof, including the burden of producing evidence as well as the burden of persuasion. The degree or quantum of proof shall be a preponderance of the evidence.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 16, 1978.)

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\*Edited accordingly.