

## ACT 202

H.B. NO. 2301

A Bill for an Act Relating to Appellate Jurisdiction.

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

SECTION 1. Section 11-51, Hawaii Revised Statutes, is amended to read as follows:

**“§11-51 Appeal from board [to supreme court].** Any affected person, political party, or any of the county clerks, may appeal to the ~~supreme~~ intermediate appellate court, subject to chapter 602, in the manner provided for civil appeals ~~[to the supreme court]~~ from the circuit court; provided that the appeal is brought no later than 4:30 p.m. on the tenth day after the board serves its written decision, including findings of fact and conclusions of law, upon the appellant. This written decision of the board shall be a final appealable order. The board shall not consider motions for reconsideration. Service upon the appellant shall be made personally or by registered mail, which shall be deemed complete upon deposit in the mails, postage prepaid, and addressed to the appellant’s last known address.”

SECTION 2. Section 11-52, Hawaii Revised Statutes, is amended to read as follows:

**“§11-52 Hearing; decision final.** When the appeal is perfected, the ~~supreme~~ court shall hear the ~~[cause either in term time or in vacation]~~ appeal as soon thereafter as may be reasonable. ~~[The determination by the court of the question shall be final.]”~~

SECTION 3. Section 11-53, Hawaii Revised Statutes, is amended to read as follows:

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“**§11-53 Decision, notice; action on.** Immediately upon rendering a final decision upon any appeal, the ~~[supreme]~~ court shall notify the board of registration from which the appeal was taken; and if the decision reverses the decision of the board, the board shall immediately order the register to be corrected to conform with the decision.”

SECTION 4. Section 11-54, Hawaii Revised Statutes, is amended to read as follows:

“**§11-54 Status pending appeal.** In case of an appeal from a decision of any board of registration the name of the person shall be placed or remain upon the register pending the decision of the ~~[supreme court]~~ appellate courts concerning the same. If the person so registered votes at any election before ~~[a decision of the court has been made]~~ the appeal is decided and acted upon, the ballot of such voter shall be handled in accordance with section 11-25(c).”

SECTION 5. Section 40-91, Hawaii Revised Statutes, is amended to read as follows:

“**§40-91 Appeal from comptroller ~~[to supreme court]~~.** In case of any question or difference of opinion arising between the comptroller and any officer of the State regarding the proper appropriation to which any item or amount of expense is charged, or any other matter regarding the construction of this chapter or the authority vested in either of them by this chapter, and in all cases where a claim is disallowed by the comptroller in consequence of the absence of an original warrant voucher, or upon an imperfect warrant voucher or an incorrect certificate, or if any person feels aggrieved by any decision of the comptroller, in the rejection or the surcharge of the returns or refusal to approve or allow any demand presented by the person, any of the persons concerned may appeal from the decision to the ~~[supreme]~~ intermediate appellate court, subject to chapter 602. After such investigation as the ~~[supreme court or the intermediate]~~ appellate court~~[- as the case may be,]~~ considers equitable, it may make such order directing the relief of the appellant in whole or in part as appears to the court to be just and reasonable. If the demand of the officer, bill, claim of any person, or the return of any public accountant is approved, in whole or in part by the court, the court shall so indorse its findings on the same and it shall thereafter be presented to the comptroller, who shall enter it in the proper book in like manner as other demands and indorsement shall be made by the comptroller of its having been so entered before it can be paid.”

SECTION 6. Section 47-46, Hawaii Revised Statutes, is amended to read as follows:

“**§47-46 Disputed ownership.** If there are two or more claimants claiming adversely, each to the other or others, to be the owner in due course of a bond, coupon, or both, as the case may be, alleged to have been lost, stolen, ~~[or]~~ destroyed, or defaced, the director of finance, in the director’s discretion, may require the claimants, if not within the State, to appoint agents within the State to accept service of process, or otherwise to submit to the jurisdiction of the courts of the State, and may bring suit on behalf of the State in any circuit court against the claimants, by interpleader, for the determination of the claimant or claimants entitled to the payment of the bond, coupon, or both, as the case may be. Jurisdiction is hereby conferred upon the designated circuit court to hear and determine, without a jury, the suits and to determine whether any of the claimants is entitled to the payment, and, if so, which of the claimants is so entitled; provided that no such judicial determination

shall dispense with the condition prescribed by section 47-45 requiring a surety bond before the payment of the claims. The cost of the suit shall be borne by the claimants and the court may decree the payment of such costs by any of the unsuccessful claimants, or the apportionments thereof, as may be deemed just. The decision of the court may be appealed to the ~~supreme~~ intermediate appellate court ~~[in the same manner and subject to the same conditions and incidents as appeals in equity].~~, subject to chapter 602, in the manner provided for civil appeals from the circuit court.”

SECTION 7. Section 53-6, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) Hearings and trial upon any issue raised in any action, suit, or proceeding in any court involving the construction, interpretation, or validity of this chapter, or involving the legality or validity of any action taken or proposed to be taken under or pursuant to this chapter, whether by way of injunction, suit for declaratory judgment, submission on agreed statement of facts, or otherwise, shall be given precedence in ~~both~~ the ~~lower~~ trial courts and ~~the supreme court, and an interlocutory appeal to the supreme court~~, on appeal. An appeal to the intermediate appellate court, subject to chapter 602, shall lie from any decision of any [lower] trial court holding valid or invalid any provision of this chapter, or any contract made or proposed, or other action taken or proposed to be taken, under or pursuant to this chapter.”

SECTION 8. Section 91-14, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Except as otherwise provided herein, proceedings for review shall be instituted in the circuit court within thirty days after the preliminary ruling or within thirty days after service of the certified copy of the final decision and order of the agency pursuant to rule of court, except where a statute provides for a direct appeal to the ~~supreme court, which appeal shall be~~ intermediate appellate court, subject to chapter 602[-, and in]. In such cases, the appeal shall be treated in [like] the same manner as an appeal from the circuit court to the [supreme court,] intermediate appellate court, including payment of the fee prescribed by section 607-5 for filing the notice of appeal (except in cases appealed under sections 11-51 and 40-91). The court in its discretion may permit other interested persons to intervene.”

SECTION 9. Section 101-10, Hawaii Revised Statutes, is amended to read as follows:

“**§101-10 Circuit courts have jurisdiction.** The circuit courts shall try and determine all actions arising under this part, subject only to an appeal ~~[to the supreme court]~~ in accordance with law. The court ~~[may]~~, on its own motion or on motion of any party, may try and determine any issue in the case in advance of other issues.”

SECTION 10. Section 101-32, Hawaii Revised Statutes, is amended to read as follows:

“**§101-32 Possession pending appeal.** At any time after judgment has been rendered in the circuit court for or in favor of the plaintiff, or pending an appeal ~~[to the supreme court]~~ by either plaintiff or defendant, the plaintiff, if not already in possession of the land sought to be condemned under an order entered pursuant to sections 101-28 and 101-29, may be put into possession thereof upon the payment, to the clerk of the court, of the amount assessed as compensation or damages and

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such further sum as may be required by the court as a fund to pay any further compensation or damages that may be awarded, as well as all damages that may be sustained by the defendant if for any cause the property is not finally taken for public use. Upon such payment, the court shall make an order putting plaintiff into possession of the property sought to be condemned with the right to use the same during the pendency of and until the final conclusion of the litigation. If the plaintiff has appealed [~~to the supreme court~~], the amount shall be held by the clerk until the entry of final judgment, and the final judgment shall include, as part of the just compensation and damages awarded, interest at the rate provided in section 101-25 from the date of the order letting plaintiff into possession [~~as aforesaid~~]. If the defendant who is entitled to the amount of money assessed as compensation or damages and paid into court under this section has appealed [~~to the supreme court~~], the defendant shall have the right to demand and receive payment of the same at any time thereafter, upon filing a receipt therefor and an abandonment of all defenses to the action or proceeding, except as to the amount of compensation or damages that the defendant may be entitled to if a new trial shall be granted.”

SECTION 11. Section 101-34, Hawaii Revised Statutes, is amended to read as follows:

“**§101-34 Issue as to use may be set for immediate trial.** If the defendant, in the defendant’s answer[;] or in return to the order to show cause, issued under section 101-28, denies that the use for which the property sought to be condemned is a public use, or a superior public use within the meaning of section 101-7, the issue [~~may~~], upon the motion of any party, may be set for immediate trial, without a jury and without regard to position on the calendar. Notwithstanding any provision of section 641-1, an interlocutory appeal shall lie from the decision on the issue as of right, and the appeal shall be given precedence in the [~~supreme~~] intermediate appellate court. Failure of the defendant to raise the issue within ten days after service of an order granting immediate possession shall be deemed an admission that the use is a public use or a superior public use, as the case may be.”

SECTION 12. Section 101-52, Hawaii Revised Statutes, is amended to read as follows:

“**§101-52 Proceedings authorized.** Any officer authorized to bring eminent domain proceedings under part I, and any county when thereunto authorized in the manner provided by section 101-13, which is made applicable to this part, may file or cause to be filed a special proceeding for the acquisition by the State or county, as the case may be, of public property required for public uses which are under the officer’s or county’s jurisdiction and control. The circuit courts may try and determine the proceedings without a jury, subject only to an appeal [~~to the supreme court~~] in accordance with [~~law-~~] chapter 602, in the manner provided for civil appeals from the circuit courts. The circuit court [~~may~~], on its own motion or on motion of any party, may try and determine any issue in the case in advance of other issues. Compensation or damages shall be paid by the condemning authority for the condemnation of any public property taken under this chapter.”

SECTION 13. Section 124A-105, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§124A-105]]~~ **Judicial review [~~by state supreme court~~].** (a) An accused, who was tried by a special or general court-martial and who still deems the accused’s self aggrieved after the accused has exhausted all of the accused’s rights

of review under this part, shall be entitled to appeal the judgment or sentence of the special or general court-martial, as may have been modified on review under this part prior to judicial review under this section ~~[, to the state supreme court]~~, subject to chapter 602, in the manner provided for civil appeals from the circuit courts, and within the time provided by the ~~[Hawaii Rules of Penal Procedure. All appeals, whether heard by the intermediate appellate court or the supreme court, shall be filed with the clerk of the supreme court and shall be subject to one filing fee.]~~ rules of court.

(b) The filing of an appeal pursuant to subsection (a) shall not of itself stay the execution of the judgment or sentence appealed from, but the ~~[supreme court or the intermediate]~~ appellate court may stay the same upon motion upon such conditions as it may deem proper, notwithstanding any conflicting or contrary provision in this chapter relating to the effective date or execution of sentences or any other contrary provision of law.

(c) In reviewing the judgment or sentence of a special or general court-martial, as may have been modified on review prior to judicial review, the ~~[supreme court or the intermediate]~~ appellate court ~~[, as the case may be,]~~ may take any of the actions, and exercise any of the powers specified in section 641-16 as the court may deem appropriate in reviewing a judgment or sentence of a military court-martial, and the court shall follow as appropriate or applicable the standards and requirements in section 641-16.

(d) Upon the request of the accused, the state judge advocate shall appoint a lawyer, who is a member of the bar of the highest court of the State and who has been certified under section 124A-45, to represent the accused in the accused's appeal of the court-martial judgment or sentence ~~[to the supreme court]~~. If the accused wishes to be represented by civilian counsel, rather than by appointed military counsel, the accused may do so at the accused's own expense."

SECTION 14. Section 128-24, Hawaii Revised Statutes, is amended to read as follows:

**"§128-24 Determination of damages.** The governor shall appoint a board of three disinterested appraisers with whom may be filed any claim for damages arising out of any failure to return private property, the temporary use of which was requisitioned, or which was leased, or any claim for damages arising out of the condition in which the private property is returned~~[,];~~; provided that no such claim shall be filed for deterioration of property resulting from ordinary wear and tear, not for any deterioration or damage except such as is shown to have resulted from the taking or use of the property. The claim shall be filed within thirty days after the return of the property or after the governor proclaims that all private property has been returned to the owners, whichever is earlier. The decision of the appraisers shall be final and binding upon both the governor and the claimant, provided that either party may file a petition in the circuit court within sixty days after the rendering of a decision of the board, praying for the decision of the court upon the claim. The petition, if filed by the government, shall be entitled in the name of the State, by the attorney general, and shall be heard and decided by the circuit court without the intervention of a jury. If filed by any other party, the petition shall be filed, heard, and decided in the manner provided for suits against the State. ~~[A further]~~ Appellate review [by the supreme court] may be had [as provided by law in such cases-], subject to chapter 602, in the manner provided for civil appeals from the circuit courts. The court may order the joinder of other parties~~[,];~~ or may allow other parties to intervene. Any award which has become final shall be paid out of any funds available under this chapter, and if not sufficient, out of the general revenues of the State not otherwise appropriated."

SECTION 15. Section 196D-5, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) Where the contested case provisions under chapter 91 apply to any one or more of the permits to be issued by the agency for the purposes of the project, the agency ~~[may]~~, if there is a contested case involving any of the permits, may be required to conduct only one contested case hearing on the permit or permits within its jurisdiction. Any appeal from a decision made by the agency pursuant to a public hearing or hearings required in connection with a permit shall be made directly on the record to the ~~[supreme]~~ intermediate appellate court ~~[for final decision]~~, subject to chapter 602.”

SECTION 16. Section 201G-57, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Except as otherwise provided herein, proceedings for review shall be instituted in the circuit court within thirty days after the preliminary ruling or within thirty days after service of the certified copy of the final decision and order of the corporation pursuant to the provisions of the ~~[Hawaii rules of civil procedure,]~~ rules of court, except where a statute provides for a direct appeal to the ~~[supreme]~~ intermediate appellate court ~~[and in]~~. In such cases, the appeal shall be treated in ~~[like]~~ the same manner as an appeal from the circuit court ~~[to the supreme court]~~, including payment of the fee prescribed by section 607-5 for filing the notice of appeal. The court in its discretion may permit other interested persons to intervene.”

SECTION 17. Section 201G-58, Hawaii Revised Statutes, is amended to read as follows:

“~~[H]~~§201G-58 **Appeals.** An aggrieved party may secure a review of any final judgment of the circuit court under this subpart by appeal to the ~~[supreme]~~ intermediate appellate court ~~[-]~~, subject to chapter 602. The appeal shall be taken in the manner provided in the rules of court.”

SECTION 18. Section 232-1, Hawaii Revised Statutes, is amended to read as follows:

“**§232-1 Appeals by persons under contractual obligations.** Whenever any person is under a contractual obligation to pay a tax assessed against another, the person shall have the same rights of appeal to the board of review ~~[and]~~, the tax appeal court, and the ~~[supreme]~~ intermediate appellate court, subject to chapter 602, in the person’s own name, as if the tax were assessed against the person. The person against whom the tax is assessed shall also have a right to appear and be heard on any such application or appeal.”

SECTION 19. Section 232-5, Hawaii Revised Statutes, is amended to read as follows:

“**§232-5 Small claims.** The tax appeal court shall establish by rule a small claims procedure that, to the greatest extent practicable, shall be informal. Any protesting taxpayer who would incur a total tax liability, not including penalties and interest, of less than \$1,000, by reason of the protested assessment or payment in question, may elect to employ the procedure upon:

- (1) Payment per taxpayer of a non-refundable filing fee set pursuant to rules adopted by the supreme court, which shall not exceed \$25; and

- (2) Filing with the tax appeal court a written statement of the facts in the case, together with a waiver of the right to further appeal [~~to the supreme court~~].

The tax appeal court shall cause a notice of the appeal and a copy of the statement to be served on the director of taxation.”

SECTION 20. Section 232-19, Hawaii Revised Statutes, is amended to read as follows:

“**§232-19 Appeals [~~to supreme court~~]; procedure.** Any taxpayer or county aggrieved or the assessor may appeal to the [~~supreme~~] intermediate appellate court, subject to chapter 602, from the decision of the tax appeal court by filing a written notice of appeal with the tax appeal court and depositing therewith the costs of appeal within thirty days after the filing of the decision. The appeal shall be considered and treated for all purposes as a general appeal and shall bring up for determination all questions of fact and all questions of law, including constitutional questions, involved in the appeal. A notice of appeal may be amended at any time up to the final determination of the tax liability by the last court from which an appeal may be taken. The [~~supreme~~] appellate court shall enter a judgment in conformity with its opinion or decision.

All such appeals shall be speedily disposed of and, in the hearing and disposition thereof [~~the same~~], shall be given preference over other litigation in the discretion of the court.”

SECTION 21. Section 232-20, Hawaii Revised Statutes, is amended to read as follows:

“**§232-20 Certificate of appeal.** Upon the perfection of an appeal [~~to the supreme court~~], the judge of the tax appeal court shall send [~~up~~] to the [~~supreme~~] appellate court a certificate in which there shall be set forth, among other things:

- (1) A brief description of the assessment and the property involved in the appeal, if any, in sufficient detail to identify the same together with the valuation placed on the property by the assessor[-];
- (2) The valuation claimed by the taxpayer or county[-];
- (3) The taxpayer’s or county’s grounds of objection to the assessment[-];
- (4) The valuation, if any, placed thereon by an administrative body established by county ordinance equivalent to a state board of review[-]; and
- (5) The valuation placed thereon by the tax appeal court.

The certificate shall be accompanied by the taxpayer’s return, if any, a copy of the notice of appeal from the assessment and any amendments thereof, the decision, if any, of the state board of review or equivalent county administrative body, a copy of the notice of appeal from the decision of the state board of review or equivalent county administrative body, if any, and any amendments thereof, and a transcript or statement of the evidence before and the decision of the tax appeal court, and all exhibits, motions, orders, or other documents specified by either the taxpayer, the county, or the assessor. [~~Failure~~] No failure of the judge of the tax appeal court to send [~~up~~] or properly prepare the certificate or the accompanying documents shall [~~not~~] prejudice, limit, or in any manner affect the taxpayer’s, county’s, or assessor’s appeal, and the certificate of appeal may be amended at any time up to the final determination of the appeal.”

SECTION 22. Section 232-21, Hawaii Revised Statutes, is amended to read as follows:

**“§232-21 [Supreme] Appellate court may admit additional evidence.** Upon appeal [~~to the supreme court~~], the appellate court may permit any party to introduce, or [~~may~~], of its own motion, may require the taking of, additional evidence material to the matter in dispute.”

SECTION 23. Section 232-22, Hawaii Revised Statutes, is amended to read as follows:

**“§232-22 Costs; deposit for on appeal.** No costs shall be charged on appeal to the state board of review.

The non-refundable costs to be deposited in any one case per taxpayer on any appeal to the tax appeal court shall be an amount set pursuant to rules adopted by the supreme court, which shall not exceed \$100.

On appeal to the [~~supreme~~] intermediate appellate court, the deposit for costs, and costs chargeable, shall be the same as in appeals [~~to the supreme court~~] from decisions of circuit courts, as provided by sections 607-5 and 607-6. If the decision of the [~~supreme~~] intermediate appellate court or the supreme court on transfer from or review of the intermediate appellate court is in favor of the taxpayer, the taxpayer shall pay no costs for the appeal, and any payment or deposit therefor shall be returned to the taxpayer. If the decision is only partly in favor of the taxpayer, the costs shall be prorated in the manner provided by section 232-23. No costs shall be payable by, and no deposit shall be required from, the assessor or the county in any case.”

SECTION 24. Section 232-23, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) In the event of an appeal by a taxpayer to the tax appeal court, if the appeal or objection is sustained in whole, the costs deposited shall be returned to the appellant. If the appeal or objection is sustained in part only, or if an agreement or compromise is made between the appellant and the tax assessor or other proper officer, whereby a reduction is made in the total amount of the valuation assessed (in cases of real property tax appeals) or the tax assessed (in other cases), then a part of the costs proportionate to the amount for which the appellant obtains a judgment or proportionate to the amount of the reduction, as the case may be, shall be returned to the appellant. In the event of dismissal of the appeal without hearing upon the merits, the costs deposited in the amount set pursuant to rules adopted by the supreme court shall be returned to the appellant.

In the event of a final determination of an appeal by a county to the tax appeal court [~~or~~], the [~~supreme~~] intermediate appellate court, or the supreme court on review, that a higher assessment should be made of the property involved, the additional tax due shall be collected in the same manner as the tax based upon the original assessment.”

SECTION 25. Section 235-114, Hawaii Revised Statutes, is amended to read as follows:

**“§235-114 Appeals.** Any person aggrieved by any assessment of the tax or liability imposed by this chapter may appeal from the assessment in the manner and within the time hereinafter set forth. Appeal may be made either to the district board of review or to the tax appeal court; provided that, for appeals other than to the board, the tax so assessed shall have been paid. Either the taxpayer or the assessor may appeal to the tax court from a decision by the board upon which the tax so assessed shall have been paid. If the taxpayer chose not to pay the tax when appealing to the board, and the decision by the board is appealed by the taxpayer or



the decision by the board in favor of the department is not appealed, the taxpayer ~~[must]~~ shall pay the tax so assessed plus interest as provided in section 231-39(b)(4).

If the appeal is first made to the board, the appeal shall either be heard by the board or be transferred to the tax appeal court for hearing at the election of the taxpayer or employer. If heard by the board, an appeal shall lie from the decision thereof to the tax appeal court and to the ~~[supreme]~~ intermediate appellate court, subject to chapter 602, in the manner and with the costs provided by chapter 232. The supreme court shall prescribe forms to be used in the appeals. The forms shall show [the]:

- (1) The amount of taxes or liability upon the basis of the taxpayer's computation of the taxpayer's taxable income or the employer's computation of the employer's liability[-the];
- (2) The amount upon the basis of the assessor's computation[-the];
- (3) The amount upon the basis of the decisions of the board of review and tax appeal court, if any[-and the]; and
- (4) The amount in dispute.

If or when the appeal is filed with or transferred to the tax appeal court, the court shall proceed to hear and determine the appeal, subject to appeal to the ~~[supreme]~~ intermediate appellate court as is provided in chapter 232.

Any taxpayer or employer appealing from any assessment of income taxes or liability shall lodge with the assessor or assistant assessor a notice of the appeal in writing, stating the ground of the taxpayer's or employer's objection to the additional assessment or any part thereof. The taxpayer or employer ~~[shall]~~ shall also shall file the notice of appeal with the board or the tax appeal court at any time within thirty days subsequent to the date when the notice of assessment was mailed, properly addressed to the taxpayer or employer at the taxpayer's or employer's last known residence or place of business. Except as otherwise provided, the manner of taking the appeal, the costs applicable thereto, and the hearing and disposition thereof, including the distribution of costs and of taxes paid by the taxpayer pending the appeal, shall be as provided in chapter 232.

The tax appeal court may allow an individual taxpayer to file an appeal without payment of the net income tax in cases where the total tax liability does not exceed \$50,000 in the aggregate for all tax years, upon proof that the taxpayer would be irreparably injured by payment of the tax."

SECTION 26. Section 261-13, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) Any person aggrieved by an order of the director or by the grant, denial, or revocation of any approval, license, or certificate, or refusal of a renewal thereof, may obtain a review thereof by the circuit court of the circuit in which that person resides or does business in the manner provided in chapter 91 for review of orders in contested cases. Upon application of either party, the court may assign the appeal for hearing at the earliest possible date.

~~[Proceedings for review by the supreme court]~~ Appeals may be taken and had in the manner provided for a review of a civil judgment of a circuit court.

Upon the final termination of any judicial review, the director shall enter an order or take other action in accordance with the mandate of the court."

SECTION 27. Section 269-15, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) In addition to any other remedy available, the commission or its enforcement officer may issue citations to any person acting in the capacity of or engaging in the business of a public utility within the State, without having a certificate of public convenience and necessity or other authority previously ob-

tained under and in compliance with this chapter or the rules [promulgated] adopted thereunder.

- (1) The citation may contain an order of abatement and an assessment of civil penalties as provided in section 269-28(c). All penalties collected under this subsection shall be deposited in the treasury of the State. Service of a citation issued under this subsection shall be made by personal service whenever possible, or by certified mail, restricted delivery, sent to the last known business or residence address of the person cited.
- (2) Any person served with a citation under this subsection may submit a written request to the commission for a hearing, within twenty days from the receipt of the citation, with respect to the violations alleged, the scope of the order of abatement and the amount of civil penalties assessed. If the person cited under this subsection timely notifies the commission of the request for a hearing, the commission shall afford an opportunity for a hearing under chapter 91. The hearing shall be conducted by the commission or the commission may designate a hearings officer to hold the hearing.
- (3) If the person cited under this subsection does not submit a written request to the commission for a hearing within twenty days from the receipt of the citation, the citation shall be deemed a final order of the commission. The commission may apply to the appropriate court for a judgment to enforce the provisions of any final order, issued by the commission or designated hearings officer pursuant to this subsection, including the provisions for abatement and civil penalties imposed. In any proceeding to enforce the provisions of the final order of the commission or designated hearings officer, the commission need only show that the notice was given, a hearing was held or the time granted for requesting the hearing has run without such a request, and a certified copy of the final order of the commission or designated hearings officer.
- (4) If any party is aggrieved by the decision of the commission or the designated hearings officer, the party may appeal to the [supreme] intermediate appellate court, subject to chapter 602, in the manner provided for civil appeals from the circuit court; provided that the operation of an abatement order [will] shall not be stayed on appeal unless specifically ordered by a court of competent jurisdiction after applying the stay criteria enumerated in section 91-14(c). The sanctions and disposition authorized under this subsection shall be separate and in addition to all other remedies either civil or criminal provided in any other applicable statutory provision. The commission may adopt rules under chapter 91 as may be necessary to fully effectuate this subsection.”

SECTION 28. Section 269-15.5, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§269-15.5]] Appeals. An appeal from an order of the public utilities commission under this chapter shall lie [to the supreme court], subject to chapter 602, in the manner [and within the time provided by chapter 602 and the rules of court.]~~ provided for civil appeals from the circuit courts. Only a person aggrieved in a contested case proceeding provided for in this chapter may appeal from the order, if the order is final, or if preliminary, is of the nature defined by section 91-14(a). The commission may elect to be a party to all matters from which an order of the

commission is appealed, and the commission may file appropriate responsive briefs or pleadings in the appeal; ~~[except]~~ provided that where there was no adverse party in the case below, or in cases where there is no adverse party to the appeal, the commission shall be a party to all matters in which an order of the commission is appealed and shall file the appropriate responsive briefs or pleadings in defending all such orders. The appearance of the commission as a party in appellate proceedings in no way limits the participation of persons otherwise qualified to be parties on appeal. The appeal shall not of itself stay the operation of the order appealed from, but the ~~[supreme]~~ appellate court may stay the order after a hearing upon a motion therefor and may impose conditions it deems proper, including but not limited to requiring a bond, requiring that accounts be kept, or requiring that other measures be taken as ordered to secure restitution of the excess charges, if any, made during the pendency of the appeal, in case the order appealed from is sustained, reversed, or modified in whole or in part.”

SECTION 29. Section 269-54, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) The consumer advocate may file with the commission and serve on any public utility a request in writing to furnish any information reasonably relevant to any matter or proceeding before the commission or reasonably required by the consumer advocate to perform the duties hereunder. Any such request shall set forth with reasonable specificity the purpose for which the information is requested and shall designate with reasonable specificity the information desired. The public utility shall comply with such request within the time limit set forth by the consumer advocate unless within ten days following service it requests a hearing on the matter before the public utilities commission and states its reasons therefor. If a hearing is requested, the public utilities commission shall proceed to hold the hearing and make its determination on the request within thirty days after the same is filed. The consumer advocate or the public utility may appeal ~~[to the supreme court]~~ the decision of the commission on any such request~~[-]~~, subject to chapter 602, in the manner provided for civil appeals from the circuit courts. Subject to the foregoing, such requests may ask the public utility to:

- (1) ~~[furnish]~~ Furnish any information with which the consumer advocate may require concerning the condition, operations, practices, or services of the public utility;
- (2) ~~[produce]~~ Produce and permit the consumer advocate or the consumer advocate’s representative to inspect and copy any designated documents (including writings, drawings, graphs, charts, photographs, recordings, and other data compilations from which information can be obtained), or to inspect and copy, test, or sample any designated tangible thing which is in the possession, custody, or control of the public utility; or
- (3) ~~[permit]~~ Permit entry upon land or other property in the possession or control of the utility for the purpose of inspection and measuring, surveying, photographing, testing, or sampling the property or any designated object thereon.”

SECTION 30. Section 271-27, Hawaii Revised Statutes, is amended by amending subsection (j) to read as follows:

“(j) In addition to any other remedy available, the commission or its enforcement officer, including a motor vehicle safety officer employed and assigned by the department of transportation pursuant to section 271-38, may issue citations to persons acting in the capacity of or engaging in the business of a motor carrier within this State, without having a certificate of public convenience and necessity or

other authority previously obtained under and in compliance with this chapter and rules adopted, or to any shipper or consignee located in this State, or any officer, employee, agent, or representative thereof who engages the services of those persons.

- (1) The citation may contain an order of abatement and an assessment of civil penalties as provided in subsection (h). All penalties collected under this subsection shall be deposited in the treasury of the State. Service of a citation issued under this subsection shall be made by personal service whenever possible or by certified mail, restricted delivery, sent to the last known business or residence address of the person cited.
- (2) Any person served with a citation under this subsection may submit a written request to the commission for a hearing within twenty days from the receipt of the citation, with respect to the violations alleged, the scope of the order of abatement, and the amount of civil penalties assessed. If the person cited under this subsection notifies the commission of the request for a hearing in time, the commission shall afford the person an opportunity for a hearing under chapter 91. The hearing shall be conducted by the commission, or the commission may designate a hearings officer to hold the hearing.
- (3) If the person cited under this subsection does not submit a written request to the commission for a hearing in time, the citation shall be deemed a final order of the commission. The commission may apply to the appropriate court for a judgment to enforce the provisions of any final order issued by the commission or designated hearings officer pursuant to this subsection, including the provisions for abatement and civil penalties imposed. In any proceeding to enforce the final order, the commission need only produce a certified copy of the final order and show that the notice was given and that a hearing was held or the time granted for requesting the hearing has run without a request.
- (4) If any party is aggrieved by the decision of the commission or the designated hearings officer, the party may appeal [to the supreme court;], subject to chapter 602, in the manner provided for civil appeals from the circuit courts; provided that the operation of an abatement order shall not be stayed on appeal unless specifically ordered by a court of competent jurisdiction after applying the stay criteria enumerated in section 91-14(c). The sanctions and disposition authorized under this subsection shall be separate and in addition to all other remedies either civil or criminal provided by law. The commission may adopt any rules under chapter 91 that may be necessary to fully effectuate this subsection.”

SECTION 31. Section 271-32, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) An appeal shall lie ~~[to the supreme court]~~, subject to chapter 602, from every order made by the commission ~~[which] that~~ is final, or if preliminary, is of the nature defined by section 91-14(a)[;], in the manner provided for civil appeals from the circuit court; provided the order is made after reconsideration or rehearing or is the subject of a motion for reconsideration or rehearing, which the commission has denied. An appeal shall lie ~~[to the supreme court]~~, subject to chapter 602, in the manner provided for civil appeals from the circuit courts, only by a person aggrieved in the contested case hearing provided for in this section ~~[in the manner and within the time provided by chapter 602 and by the rules of court].”~~

SECTION 32. Section 271-33, Hawaii Revised Statutes, is amended to read as follows:

“**§271-33 Appeals.** From the order made on an application for reconsideration or rehearing by the public utilities commission under this chapter, an appeal shall lie ~~[to the supreme court]~~, subject to chapter 602, in the manner and within the time provided ~~[by chapter 602,]~~ for civil appeals from the circuit courts and by the rules of court~~;~~; provided that the order is final, or if preliminary, is of the nature defined by section 91-14(a). The appeal ~~[shall not]~~, of itself, shall not stay the operation of the order appealed from, but the court may stay the same after a hearing upon a motion therefor~~;~~ and may impose such conditions as it may deem proper as to giving a bond and keeping the necessary accounts or otherwise to secure a restitution of the excess charges, if any, made during the pendency of the appeal, in case the order appealed from ~~[should be]~~ is sustained, reversed, or modified in whole or in part.”

SECTION 33. Section 271G-19, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) In addition to any other remedy available, the commission or its enforcement officer may issue citations to persons acting in the capacity of or engaging in the business of a water carrier within the State, without having a certificate of public convenience and necessity or other authority previously obtained under and in compliance with this chapter and the rules ~~[promulgated]~~ adopted thereunder.

- (1) The citation may contain an order of abatement~~;~~ and an assessment of civil penalties of not less than \$100, nor more than \$500 for each such offense, and, in the case of a continuing violation, not less than \$200 nor more than \$500 for each day that uncertified activity continues. All penalties collected under this subsection shall be deposited in the treasury of the State. Service of a citation issued under this subsection shall be made by personal service whenever possible, or by certified mail, restricted delivery, sent to the last known business or residence address of the person cited.
- (2) Any person served with a citation under this subsection may submit a written request to the commission for a hearing, within twenty days from the receipt of the citation, with respect to the violations alleged, the scope of the order of abatement and the amount of civil penalties assessed. If the person cited under this subsection timely notifies the commission of the request for a hearing, the commission shall afford an opportunity for a hearing under chapter 91. The hearing shall be conducted by the commission or the commission may designate a hearings officer to hold the hearing.
- (3) If the person cited under this subsection does not submit a written request to the commission for a hearing within twenty days from the receipt of the citation, the citation shall be deemed a final order of the commission. The commission may apply to the appropriate court for a judgment to enforce the provisions of any final order, issued by the commission or designated hearings officer pursuant to this subsection, including the provisions for abatement and civil penalties imposed. In any proceeding to enforce the provisions of the final order of the commission or designated hearings officer, the commission need only show that the notice was given, a hearing was held or the time granted for requesting the hearing has run without such a request, and a certified copy of the final order of the commission or designated hearings officer.

- (4) If any party is aggrieved by the decision of the commission or the designated hearings officer, the party may appeal ~~[to the supreme court]~~, subject to chapter 602, in the manner provided for civil appeals from the circuit courts; provided that the operation of an abatement order ~~[will]~~ shall not be stayed on appeal unless specifically ordered by a court of competent jurisdiction after applying the stay criteria enumerated in section 91-14(c). The sanctions and disposition authorized under this subsection shall be separate and in addition to all other remedies, either civil or criminal, provided in any other applicable statutory provision. The commission may adopt rules under chapter 91 as may be necessary to fully effectuate this subsection.”

SECTION 34. Section 271G-24, Hawaii Revised Statutes, is amended to read as follows:

“**§271G-24 Appeals.** From an order of the public utilities commission under this chapter, an appeal shall lie ~~[to the supreme court]~~, subject to chapter 602, in the manner ~~[and within the time provided by chapter 602,]~~ provided for civil appeals from the circuit courts and by the rules of court~~[-]~~; provided that the order is final, or if preliminary, is of the nature defined by section 91-14(a). The appeal ~~[shall not]~~, of itself, shall not stay the operation of the order appealed from, but the court may stay the same after a hearing upon a motion therefor~~[-]~~ and may impose such conditions as it may deem proper as to giving a bond and keeping the necessary accounts or otherwise to secure a restitution of the excess charges, if any, made during the pendency of the appeal, in case the order appealed from ~~[should be]~~ is sustained, revised, or modified in whole or in part.”

SECTION 35. Section 281-92, Hawaii Revised Statutes, is amended to read as follows:

“**§281-92 Appeals.** Any licensee aggrieved by any order assessing~~[-]~~ or providing for the collection of~~[-]~~ a penalty, or by any order suspending or revoking any license, may appeal therefrom in the manner provided in chapter 91 to the circuit court of the circuit in which the liquor commission or liquor control adjudication board making the order has jurisdiction and the judgment of the court shall be subject to review ~~[by the supreme court]~~, subject to chapter 602~~[-]~~, in the manner provided for civil appeals from the circuit courts.”

SECTION 36. Section 286-60, Hawaii Revised Statutes, is amended to read as follows:

“**§286-60 Rules of procedure; costs; appeal ~~[to supreme court]~~.** The supreme court may prescribe rules of procedure relating to the appeals and hearings before the district courts. An appeal shall lie from the judgment or order of the district court to the ~~[supreme court]~~ intermediate appellate court, subject to chapter 602. The rules shall provide for informal procedure and for minimizing expense and delay to litigants therein. The costs upon such appeal to the district court shall be \$1, which may be waived by the court for good cause shown. No costs shall be chargeable against the county director of finance.”

SECTION 37. Section 377-9, Hawaii Revised Statutes, is amended by amending subsection (j) to read as follows:

“(j) Any party may appeal from the judgment of a circuit court entered under this chapter [~~to the supreme court~~], subject to chapter 602[~~7~~], in the manner provided for civil appeals from the circuit courts.”

SECTION 38. Section 380-10, Hawaii Revised Statutes, is amended to read as follows:

“**§380-10 Appeal.** Whenever any court of the State issues or denies any temporary injunction in a case involving or growing out of a labor dispute, an appeal shall lie as of right [~~to the supreme court~~], subject to chapter 602, in the manner provided for civil appeals from the circuit courts, notwithstanding any provision of section 641-1. The appeal shall be heard and the temporary injunctive order affirmed, modified, or set aside with the greatest possible expedition, giving the proceedings precedence over all other matters of the same character.”

SECTION 39. Section 383-41, Hawaii Revised Statutes, is amended to read as follows:

“**§383-41 Judicial review.** The director of labor and industrial relations or any party to the proceedings before the referee may obtain judicial review of the decision of the referee in the manner provided in chapter 91, by instituting proceedings in the circuit court of the circuit in which the claimant resides or in which the claimant was last employed. In any such court proceedings, every other party to the proceeding before the referee shall be made a party respondent. The director shall be deemed to be a party to any such proceeding. The proceedings shall be heard in a summary manner and shall be given precedence over all other civil cases except proceedings arising under the workers’ compensation law of the State. Proceedings for review by the [~~supreme~~] intermediate appellate court may be taken and had in the same manner as is provided for a review of a judgment of a circuit court. No bond shall be required as a condition of initiating a proceeding for judicial review or initiating proceedings for review by the [~~supreme~~] intermediate appellate court. Upon the final termination of any judicial proceeding, the referee shall enter an order in accordance with the mandate of the court.”

SECTION 40. Section 383-69, Hawaii Revised Statutes, is amended to read as follows:

“**§383-69 Procedure for rate determination.** The department of labor and industrial relations [~~shall~~], as soon as is reasonably possible in each period, shall make its classification of employers for such period and notify each employer of the employer’s rate of contributions for such period as determined pursuant to sections 383-63 to 383-69. The determination shall become conclusive and binding upon the employer unless, within fifteen days after the mailing of notice thereof to the employer’s last known address, or in the absence of mailing within fifteen days after the delivery of the notice to the employer, the employer files an application for review and redetermination, setting forth the employer’s reasons therefor. If the department grants the review, the employer shall be promptly notified thereof and shall be granted an opportunity for a fair hearing, but no employer shall have standing, in any proceeding involving the employer’s rate of contributions or contribution liability, to contest the chargeability to the employer’s account of any benefits paid in accordance with a determination, redetermination, or decision pursuant to sections 383-31 to 383-43 [~~except upon the grounds~~]; provided that the services on the basis of which the benefits were found to be chargeable did not constitute services performed in employment for the employer and only in the event

that the employer was not a party to the determination, redetermination, or decision, or to any other proceedings under this chapter in which the character of the services was determined. The employer shall be promptly notified of the department's denial of the employer's application, or of the department's redetermination, both of which shall become final unless a proceeding for judicial review in the manner provided in chapter 91 is commenced in the circuit court of the judicial circuit in which the employer resides or has the employer's principal place of business or in the circuit court of the first judicial circuit. The proceedings shall be heard in a summary manner and shall be given precedence over all other civil actions, except for proceedings arising under section 383-41 and the workers' compensation law of the State. An appeal may be taken from the decision of the circuit court to the [supreme] intermediate appellate court[-], subject to chapter 602."

SECTION 41. Section 383-76, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The applicant shall be promptly notified of the action of the department upon any application for adjustment or refund pursuant to subsection (a) of this section. In case any such application is denied in whole or in part, the applicant [may], within thirty days after the date of mailing of notice of the action to the applicant's last known address, or in the absence of such mailing within thirty days after the delivery of the notice to the applicant, may appeal from such denial to the circuit court of the judicial circuit wherein is the principal place of business of the applicant or the circuit court of the first judicial circuit. The department shall be the party respondent to any such judicial proceedings. The procedure in the trial before the circuit court shall be in accordance with the procedure applicable to actions under section 40-35. Proceedings for review by the [supreme] intermediate appellate court may be taken and had, subject to chapter 602, in the same manner, but not inconsistent with this chapter, as is provided in civil actions. In case the final determination in any such judicial proceedings shall be in favor of the employing unit, in whole or in part, any amount determined by such final judgment to have been erroneously paid shall be adjusted or refunded, without interest and without the addition of any other charges, in the same manner as other adjustments or refunds under this chapter."

SECTION 42. Section 386-73, Hawaii Revised Statutes, is amended to read as follows:

**"§386-73 Original jurisdiction over controversies.** Unless otherwise provided, the director of labor and industrial relations shall have original jurisdiction over all controversies and disputes arising under this chapter. The decisions of the director shall be enforceable by the circuit court as provided in section 386-91. There shall be a right of appeal from the decisions of the director to the appellate board and thence to the [supreme] intermediate appellate court, subject to chapter 602, as provided in sections 386-87 and 386-88, but in no case shall an appeal operate as a supersedeas or stay unless the appellate board or the [supreme] appellate court so orders."

SECTION 43. Section 386-73.5, Hawaii Revised Statutes, is amended to read as follows:

**"[§386-73.5] Proceedings to determine employment and coverage.** The director of labor and industrial relations shall have original jurisdiction over all controversies and disputes over employment and coverage under this chapter. Except in cases where services are specifically and expressly excluded from "em-



ployment” under section 386-1, it shall be presumed that coverage applies unless the party seeking exclusion is able to establish under both the control test and the relative nature of the work test that coverage is not appropriate under this chapter. There shall be a right of appeal from decisions of the director to the appellate board and thence to the ~~[supreme]~~ intermediate appellate court~~[-]~~, subject to chapter 602.”

SECTION 44. Section 386-88, Hawaii Revised Statutes, is amended to read as follows:

“**§386-88 Judicial review.** The decision or order of the appellate board shall be final and conclusive, except as provided in section 386-89, unless within thirty days after mailing of a certified copy of the decision or order, the director or any other party appeals to the ~~[supreme]~~ intermediate appellate court, subject to chapter 602, by filing a written notice of appeal with the appellate board. A fee in the amount prescribed by section 607-5 for filing a notice of appeal from a circuit court shall be paid to the appellate board for filing the notice of appeal from the board, which together with the appellate court costs shall be deemed costs of the appellate court proceeding. The appeal shall be on the record, and the court shall review the appellate board’s decision on matters of law only. No new evidence shall be introduced in the appellate court, except that ~~[the court may,]~~ if evidence is offered ~~[which]~~ that is clearly newly discovered evidence and material to the just decision of the appeal, the court may admit the ~~[same-]~~ evidence.”

SECTION 45. Section 386-93, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) If an employer appeals a decision of the director or appellate board, the costs of the proceedings of the appellate board or the ~~[supreme]~~ appellate court ~~[of the State]~~, together with reasonable attorney’s fees, shall be assessed against the employer~~[-]~~ if the employer loses; provided that if an employer or an insurance carrier, other than the employer who appealed, is held liable for compensation, the costs of the proceedings of the appellate board or the ~~[supreme]~~ appellate court ~~[of the State]~~, together with reasonable attorney’s fees, shall be assessed against the party held liable for the compensation.”

SECTION 46. Section 392-21.5, Hawaii Revised Statutes, is amended to read as follows:

“**[H]§392-21.5[H] Proceedings to determine employment and coverage.** The director of labor and industrial relations shall have original jurisdiction over all controversies and disputes over employment and coverage under this chapter. Except in cases where services are specifically and expressly excluded from “employment” under section 392-5, it shall be presumed that coverage applies unless the party seeking exclusion is able to establish under both the control test and the relative nature of the work test that coverage is not appropriate under this chapter. There shall be a right of appeal from decisions of the director to the circuit court and thence to the ~~[supreme]~~ intermediate appellate court~~[-]~~, subject to chapter 602.”

SECTION 47. Section 392-75, Hawaii Revised Statutes, is amended to read as follows:

“**[H]§392-75[H] Judicial review.** Any party or the director may obtain judicial review of the decision of the referee in the manner provided in chapter 91, by instituting proceedings in the circuit court of the circuit in which the claimant resides or in which the claimant was last employed. The proceedings shall be heard

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in a summary manner and shall be given precedence over all other civil cases except proceedings arising under the Employment Security Law and the Workers' Compensation Law of the State. Proceedings for review by the [supreme] intermediate appellate court, subject to chapter 602, may be taken and had in the same manner as is provided for a review of a judgment of a circuit court. No bond shall be required as a condition of initiating a proceeding for judicial review or initiating proceedings for review by the [supreme] intermediate appellate court. Upon the final termination of any judicial proceeding, the referee shall enter an order in accordance with the mandate of the court."

SECTION 48. Section 412:2-501, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) An order by the circuit court made pursuant to this section may be appealed to the [supreme] intermediate appellate court, subject to chapter 602, but no stay of the order shall be granted pending such appeal."

SECTION 49. Section 431:14-118, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Any final order or decision of the commissioner may be reviewed in the circuit court of the first circuit, and an appeal from the decision of the court shall lie to the [supreme] intermediate appellate court[-], subject to chapter 602. The review shall be taken and had in the manner provided in chapter 91."

SECTION 50. Section 431:14F-113, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Any final order or decision of the commissioner may be reviewed in the circuit court of the first circuit, and an appeal from the decision of the court shall lie to the [supreme] intermediate appellate court[-], subject to chapter 602. The review shall be taken and had in the manner provided in chapter 91."

SECTION 51. Section 482-9, Hawaii Revised Statutes, is amended to read as follows:

"**§482-9 Appeal.** Any person aggrieved by any action of the director under this chapter in issuing or revoking a certificate of registration of a trade name or in denying an application, within thirty days after the action by the director, or if no order has been entered either granting or denying the application within four months after the filing of the application, may commence proceedings to obtain judicial review thereof by the circuit court of the first circuit by filing in the court a notice of appeal. Proceedings for review by the [supreme] intermediate appellate court, subject to chapter 602, may be had and taken in the same manner as is provided for a review of a judgment of a circuit court."

SECTION 52. Section 485-23, Hawaii Revised Statutes, is amended to read as follows:

"**§485-23 Appeals to circuit court, first circuit; time; bonds; costs; decree; further appeal.** An appeal may be taken by any aggrieved person from any final order of the commissioner of securities to the circuit court of the first circuit in the manner provided in chapter 91. The appellant shall execute a bond in the penal sum of \$1,000 to the State, with sufficient surety, to be approved by the commissioner or the court, conditioned upon the faithful prosecution of the appeal to final judgment, and the payment of all such costs as shall be adjudged against the appellant. The appeal shall be conducted without a jury and confined to the record,

and it may be given precedence by the court over other matters pending in the court. If the order of the commissioner is reversed the court [~~shall~~], by its mandate, shall specifically direct the commissioner as to the commissioner's further action in the matter, including the making and entering of any order or orders in connection therewith, and the conditions, limitations, or restrictions to be therein contained; provided that the commissioner shall not thereby be barred from thereafter revoking or altering the order for any proper cause which may thereafter accrue or be discovered. If the order is affirmed, the appellant [~~shall not be barred~~], after thirty days, shall not be barred from filing a new application; provided that the application is not otherwise barred or limited. The appeal shall not [~~in anywise~~] suspend the operation of the order appealed from during the pendency of the appeal unless upon proper order of the commissioner or the court. An appeal may be taken from the decree of the circuit court to the [~~supreme~~] intermediate appellate court[-], subject to chapter 602."

SECTION 53. Section 501-63, Hawaii Revised Statutes, is amended to read as follows:

**“§501-63 Appeal [~~to supreme court~~].** Pursuant to section 641-1(a) and the [~~Hawaii~~] rules of [~~civil procedure,~~] court, in all cases an appeal to the [~~supreme~~] intermediate appellate court shall lie, subject to chapter 602, from the final decree of the land court on behalf of any party aggrieved by the decree. The aggrieved party shall file a notice of appeal and pay the fees for appeal as prescribed by section 501-218, together with the deposit of costs on appeal pursuant to section 607-7, to the registrar of the land court; provided that the registrar of the land court shall thereafter pay the costs on appeal so deposited to the clerk of the supreme court.”

SECTION 54. Section 571-54, Hawaii Revised Statutes, is amended to read as follows:

**“§571-54 Appeal.** An interested party, aggrieved by any order or decree of the court, may appeal to the [~~supreme~~] intermediate appellate court for review of questions of law and fact upon the same terms and conditions as in other cases in the circuit court, and review shall be governed by chapter 602, except as hereinafter provided. Where the decree or order affects the custody of a child or minor, the appeal shall be heard at the earliest practicable time. In cases under section 571-11, the record on appeal shall be given a fictitious title, to safeguard against publication of the names of the children or minors involved.

The stay of enforcement of an order or decree, or the pendency of an appeal, shall not suspend the order or decree of the court regarding a child or minor, or discharge the child or minor from the custody of the court or of the person, institution, or agency to whose care the child or minor has been committed, unless otherwise ordered by the family court[;] or by the [~~supreme or intermediate~~] appellate court after an appeal is taken. Pending final disposition of the case, the family court[;] or the [~~supreme or the intermediate~~] appellate court, after the appeal is taken, may make such order for temporary custody as is appropriate in the circumstances. If the [~~supreme or the intermediate~~] appellate court does not dismiss the proceedings and discharge the child or minor, it shall affirm or modify the order of the family court and remand the child or minor to the jurisdiction of the court for disposition not inconsistent with the [~~supreme or the intermediate~~] appellate court's finding on the appeal.

An order or decree entered in a proceeding based upon section 571-11(1), (2), (6), or (9) shall be subject to appeal [~~to the supreme court~~] only as follows:

Within twenty days from the date of the entry of any such order or decree, any party directly affected thereby may file a motion for a reconsideration of the facts involved. The motion and any supporting affidavit shall set forth the grounds on which a reconsideration is requested and shall be sworn to by the movant or the movant's representative. The judge shall hold a hearing on the motion, affording to all parties concerned the full right of representation by counsel and presentation of relevant evidence. The findings of the judge upon the hearing of the motion and the judge's determination and disposition of the case thereafter, and any decision, judgment, order, or decree affecting the child and entered as a result of the hearing on the motion, shall be set forth in writing and signed by the judge. Any party [~~deeming oneself~~] aggrieved by any such findings, judgment, order, or decree shall have the right to appeal therefrom to the [~~supreme~~] intermediate appellate court, upon the same terms and conditions as in other cases in the circuit court, and review shall be governed by chapter 602; provided that no such motion for reconsideration shall operate as a stay of any such findings, judgment, order, or decree unless the judge of the family court so orders; provided further that no informality or technical irregularity in the proceedings prior to the hearing on the motion for reconsideration shall constitute grounds for the reversal of any such findings, judgment, order, or decree by the appellate court."

SECTION 55. Section 602-5, Hawaii Revised Statutes, is amended to read as follows:

**"§602-5 Jurisdiction and powers[.]; filing.** (a) The supreme court shall have jurisdiction and powers as follows:

- (1) To hear and determine all questions of law, or of mixed law and fact, which are properly brought before it [~~on any appeal allowed by law from any other court or agency;~~] by application for a writ of certiorari to the intermediate appellate court or by transfer as provided in this chapter;
- (2) To answer, in its discretion, any question of law reserved by a circuit court, the land court, or the tax appeal court, or any question or proposition of law certified to it by a federal district or appellate court if the supreme court shall so provide by rule;
- ~~(3) To entertain, in its discretion, any case submitted without suit when there is a question in difference which might be the subject of a civil action or proceeding in the supreme court, circuit court, or tax appeal court, and the parties agree upon a case containing the facts upon which the controversy depends;~~
- (4) ~~(3)~~ To exercise original jurisdiction in all questions arising under writs directed to courts of inferior jurisdiction and returnable before the supreme court, or if the supreme court consents to receive the case arising under writs of mandamus directed to public officers to compel them to fulfill the duties of their offices; and such other original jurisdiction as may be expressly conferred by law;
- ~~(5)~~ (4) To issue writs of habeas corpus, or orders to show cause as provided by chapter 660, returnable before the supreme court or a circuit court, and any justice may issue writs of habeas corpus or such orders to show cause, returnable as above stated;
- ~~(6)~~ (5) To make or issue any order or writ necessary or appropriate in aid of its [~~appellate or original~~] jurisdiction, and in such case, any justice may issue a writ or an order to show cause returnable before the supreme court; and

(7) (6) To make and award such judgments, decrees, orders and mandates, issue such executions and other processes, and do such other acts and take such other steps as may be necessary to carry into full effect the powers which are or shall be given to it by law or for the promotion of justice in matters pending before it.

(8) (b) All cases addressed to the jurisdiction of the supreme court or of the intermediate appellate court shall be filed with the clerk of the supreme court as [shall be] provided by [rule] the rules of court. The [chief justice or the chief justice's designee from any of the associate justices or the intermediate appellate judges, shall receive each case and shall assign the case either to the intermediate appellate court or to the supreme court within twenty days of the filing deadline for the last document permissible to be filed in the case pursuant to court rule.] clerk shall maintain the record of each case whether addressed to the jurisdiction of the supreme court or the jurisdiction of the intermediate appellate court.

(9) ~~The supreme court may order the immediate reassignment of a case to itself after its assignment to the intermediate appellate court whenever the supreme court in its discretion deems that the case concerns an issue of imperative or of fundamental public importance.]~~

SECTION 56. Section 602-10, Hawaii Revised Statutes, is amended to read as follows:

**“§602-10 Full court; oral argument; substitute justices.** Parties to a proceeding before the supreme court shall be entitled to [bring an appeal before] consideration by a full court. Oral argument shall be before a full court; provided that in an appropriate case, the court in its discretion may dispense with oral argument. In case of a vacancy, or if a justice of the supreme court is disqualified from sitting in any case pending before the supreme court, [or] is unable to attend, [or] is absent, [or] is recused, or has been excused, the vacancy or the place of such justice may be temporarily filled by a circuit judge designated by the chief justice or by the appointment of a justice who has retired from the supreme court. Such retired justice chosen to serve as substitute justice shall not be actively engaged in the practice of law. A retired justice, when sitting as substitute justice, shall be compensated at a rate of pay of associate justices of the supreme court. When necessary, the court may consist of five circuit judges<sub>1</sub> so designated, or five retired justices so appointed<sub>1</sub>, or any combination of circuit judges and retired justices. After oral argument of a case, if a vacancy arises or if for any other reason a justice is unable to continue on the case, the case may be decided or disposed of upon the concurrence of any three members of the court without filling the vacancy or the place of such justice.”

SECTION 57. Section 602-57, Hawaii Revised Statutes, is amended to read as follows:

**“[E]§602-57[H] Jurisdiction.** [The] Notwithstanding any other law to the contrary, the intermediate appellate court shall have [e]oneurrent] jurisdiction [with the supreme court on all matters set out in section 602-5(1) through (7), subject to assignment of cases set out in section 602-5(8)-], subject to transfer as provided in section 602-58 or review on application for a writ of certiorari as provided in section 602-59:

- (1) To hear and determine appeals from the district, family, and circuit courts and from any agency when appeals are allowed by law; and
- (2) To entertain, in its discretion, any case submitted without suit when there is a question of law that could be the subject of a civil action or

proceeding in the circuit court, or tax appeal court, and the parties agree upon the facts upon which the controversy depends.”

SECTION 58. Section 602-58, Hawaii Revised Statutes, is amended to read as follows:

“[§602-58] ~~Motion~~ Application for [certificates of reassignment] transfer to the supreme court. (a) The intermediate appellate court may entertain [a motion] an application at any time before its issuance of a decision~~;~~ requesting [reassignment of the case] transfer of an appeal to the supreme court.

(b) The moving party shall state the grounds of ~~[such motion]~~ the application, indicating how the case on appeal involves a question of such imperative or fundamental public importance as to warrant a direct appeal to the supreme court.

(c) The issuance of a certificate for ~~[reassignment]~~ transfer to the supreme court shall be discretionary upon the intermediate appellate court, and acceptance or rejection of such certification shall be discretionary upon the supreme court. Neither the failure to issue such certification by the intermediate appellate court ~~[or]~~ nor the rejection of such certification by the supreme court shall be subject to ~~[appeal]~~ further review and shall reinstate the appeal to the intermediate appellate court.”

SECTION 59. Section 602-59, Hawaii Revised Statutes, is amended to read as follows:

“§602-59 [Appeals from] Review of decision of the intermediate appellate court, certiorari. (a) After issuance of ~~[a decision by]~~ the intermediate appellate ~~[court]~~ court’s judgment, a party may ~~[appeal such]~~ seek review of the intermediate appellate court’s decision and judgment only by application to the supreme court for a writ of certiorari, the acceptance or rejection of which shall be discretionary upon the supreme court.

(b) The application for writ of certiorari shall tersely state its grounds ~~[which must include (1) grave errors of law or of fact, or (2) obvious inconsistencies in the decision of the intermediate appellate court with that of the supreme court, federal decisions, or its own decision, and the magnitude of such errors or inconsistencies dictating the need for further appeal].~~

(c) An application for writ of certiorari may be filed with the supreme court no later than thirty days after the filing of the decision of the intermediate appellate court~~;~~ the. Opposition to an application for a writ of certiorari may be filed no later than fifteen days after the application is filed. The supreme court shall determine to accept the application within ~~[ten]~~ thirty days ~~[of its filing]~~ after an objection is or could have been filed. The failure of the supreme court to accept within ~~[ten]~~ thirty days shall constitute a rejection of the application.

(d) Upon the acceptance of the application, the clerk ~~[of the intermediate appellate court]~~ shall forward the complete file of the case to the ~~[clerk of the]~~ supreme court. Supplemental briefs shall be accepted from the parties only upon the request of the supreme court.”

SECTION 60. Section 606-12, Hawaii Revised Statutes, is amended to read as follows:

“§606-12 Duties of official court reporters. The duties of each official court reporter shall be to attend sessions of the court and take verbatim notes of all oral proceedings before the court, including the testimony of witnesses, objections of counsel, offers of proof, arguments of counsel, rulings of the court, charge to the jury, verdict of the jury, and any other matter which the court may require the official

court reporter to report. The official court reporter may be called upon at any time during a hearing, by any party to the same, or by the court, to read aloud any portion of the official court reporter's notes [theretofore] taken by the official court reporter. The official court reporter may be referred to at any time by the clerk of the court for the exact language of any orders from the bench. In any hearing of probate of will or administration matter, the judge [may], in the judge's discretion, may order the official court reporter to supply and file, without charge and within a reasonable time, a certified statement of such testimony as relates to the names, ages, and genealogies of heirs. Other appropriate duties for the official court reporters to perform may be prescribed by rule of court.

Each official court reporter shall file the official court reporter's notes [~~in a suitable filing case provided for that purpose,~~ with the clerk of the court and~~;~~] when requested by any party to a cause and so directed by the court~~;~~ or by the court of its own motion, [~~shall,~~] within a reasonable time thereafter as the court may designate, shall furnish a certified transcript of the official court reporter's notes, or any portion thereof, taken in the cause, upon the payment of the fee fixed in section 606-13. The official court reporter may furnish a transcript of any of the official court reporter's notes, where the same is not intended for the purposes of appeal [~~to the supreme court~~], upon the request of any party, without the order of the judge therefore first obtained.

In an ex parte or uncontested case, if there is no official court reporter in attendance, the court may direct the clerk to take notes of the oral evidence adduced, or the judge may personally take notes or may cause the oral evidence to be preserved on tape or by another mechanical device.''

SECTION 61. Section 607-4, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

- “(b) The fees referred to in subsection (a) are:
- (1) Except for petitions for temporary restraining order under section 604-10.5, the fee for which shall be the same as that provided in section 607-5(b)(19), for the institution of each action or proceeding, to include all charges except as provided by paragraphs (2) to (6) ..... \$100
  - (2) Intervention; answer containing one or more cross-claims or counterclaims; third-party complaint, for each such matter ..... \$10
  - (3) Demand for jury trial ..... Fee prescribed by section 607-5
  - (4) Filing of notice of appeal [~~to the supreme court~~], to be paid in addition to the deposit of appellate court costs ..... \$100
  - (5) Making of a copy; comparing of copy with original .... Fees prescribed by section 92-21
  - (6) Posting notice; service fees; garnishee fees; mileage charges; or other services actually performed ..... Amounts necessary to cover actual costs or disbursements
  - (7) Administrative costs associated with the processing of traffic citations that involve stopping (when prohibited), standing, or parking .... \$5 for each violation in addition to any fine imposed by the court, and whether or not such fine is suspended
  - (8) Administrative costs associated with the processing of traffic citations which do not involve stopping, standing, or parking ..... \$20 for each violation in addition to any fine imposed by the court, and whether or not such fine is suspended

- (9) Administrative costs associated with the processing of traffic citations issued for violations of a statute or ordinance relating to vehicles or their drivers, or owners, except those as provided by paragraphs (7) and (8) ..... \$15 for each violation in addition to any fine imposed by the court, and whether or not such fine is suspended
- (10) Administrative costs associated with the processing of all civil filings except those brought by the State or any of the various counties and political subdivisions of the State, those commenced by a petition for temporary restraining order under section 604-10.5, and those commenced and conducted in the small claims division of the district court ..... \$20.”

SECTION 62. Section 607-5, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) **PART II**

The fees prescribed by this part apply without exception.

Jury trial:

- (21) Demand for jury trial, including without limitation probate cases, appeals to the circuit court, and cases transferred to the circuit court from the district court, this fee to be paid to the court in which the demand is filed by the party first making the demand ..... \$200
- (22) Remand to district court in cases transferred to circuit court from district court on demand for jury trial, where jury trial is waived and a remand of such cases to district court is allowed ..... \$50

Miscellaneous:

- (23) Filing of notice of appeal [~~to supreme court~~], to be paid in addition to the deposit of [~~supreme court~~] appeal costs ..... \$100
- (24) Search of records by the clerk ..... \$2
- (25) Making of copy; comparing of copy with original; certification or authentication of notaries ..... Fees prescribed by section 92-21
- (26) Certification under seal of copy of pleading or other paper subsequent to the initial filing of the pleading or paper, except record on appeal ..... \$1
- (27) Exemplification, instead of item (26) ..... \$2
- (28) Filing of copy of notice of completion of contract, with affidavit of publication ..... \$3
- (29) Filing of initial paper under section 507-43 by person asserting mechanic’s or materialman’s lien (this fee to be additional to the fee prescribed by part I for bringing an action under section 507-47) ..... \$15
- (30) Filing of any other paper not in a pending proceeding ..... \$3
- (31) Printing, publishing, or posting notice; service fees; garnishee fees; mileage charges; or other services actually performed ..... Amounts necessary to cover actual costs or disbursements
- (32) For administrative costs associated with the processing of all civil filings except those brought by the State or any of the various counties or political subdivisions of the State ..... \$50.”

SECTION 63. Section 607-5.5, Hawaii Revised Statutes, is amended to read as follows:



“~~[[§607-5.5]]~~ **Intermediate appellate court costs.** Upon the institution of any proceeding in the courts of appeal, there shall be paid to the clerk of the supreme court by the person instituting the proceeding, as costs of court, such sum as is specified in section 607-6[;]; provided that the filing fee for any proceeding to be heard by the courts of appeal shall be payable only once upon the initial filing of the proceeding[-], and no additional filing fee or cost deposit shall be required for filing applications for transfer or writs of certiorari.”

SECTION 64. Section 607-6, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) All proceedings in the courts of appeal shall be filed in the office of the clerk of the supreme court. Upon the filing of any appeal[;] or the institution of any original suit, action, or other proceeding in the supreme court[;] or the intermediate appellate court, there shall be paid to the clerk of the supreme court by the person filing such appeal, or instituting the suit, action, or other proceeding, as costs of court, the sum of \$100. For purposes of this section, applications for transfer and applications for writs of certiorari to the intermediate appellate court shall not be deemed other proceedings.”

SECTION 65. Section 607-7, Hawaii Revised Statutes, is amended to read as follows:

“**§607-7 Deposit and payment of costs on appeal.** All costs required to be paid upon the filing of any appeal shall be deposited with the clerk of the court from which the appeal is taken, which deposit shall be transmitted to the clerk of the supreme court together with the record of the appeal; provided that the filing fee for an appeal [~~whether to be heard by the supreme court, intermediate appellate court, or both,~~] shall be payable only once upon the initial filing of the appeal. The deposit shall be made at the time of filing the notice of appeal.

Where the appeal is from a governmental official or body other than a court, the required payment of costs for filing the appeal shall be made to the clerk of the court to which the appeal is taken except as otherwise provided[; ~~provided that the filing fee for an appeal, to be heard by the supreme court, the intermediate appellate court, or both, shall be transmitted to the clerk of the supreme court, and further provided that the filing fee shall be payable only once upon the initial filing of the appeal.~~].”

SECTION 66. Section 641-1, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Appeals shall be allowed in civil matters from all final judgments, orders, or decrees of circuit and district courts and the land court[; ~~to the supreme court or~~] to the intermediate appellate court, [~~except as otherwise provided by law and~~] subject to [~~the authority of the intermediate appellate court to certify re-assignment of a matter directly to the supreme court and subject to the authority of the supreme court to reassign a matter to itself from the intermediate appellate court.~~] chapter 602.”

SECTION 67. Section 641-2, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§641-2]]~~ **Review on and disposition of appeal.** In case of appeal [~~to the supreme court~~] from a judgment, order, or decree of a circuit or district court[;] or the land court, in a civil matter, the [supreme] appellate court shall have power to review, reverse, affirm, amend, or modify such judgment, order, or decree, in whole

or in part, [and] as to any or all of the parties. It may enter an amended or modified judgment, order, or decree, or may remand the case to the trial court for the entry of the same or for other or further proceedings, as in its opinion the facts and law warrant. Any judgment, order, or decree entered by the [supreme] appellate court may be enforced by it or remitted for enforcement by the trial court.

Every appeal shall be taken on the record, and no new evidence shall be introduced in the supreme court. The [supreme] appellate court may correct any error appearing on the record, but need not consider a point [which] that was not presented in the trial court in an appropriate manner. No judgment, order, or decree shall be reversed, amended, or modified for any error or defect, unless the court is of the opinion that it has injuriously affected the substantial rights of the appellant.”

SECTION 68. Section 641-11, Hawaii Revised Statutes, is amended to read as follows:

“**§641-11 From circuit courts.** Any party [~~deeming oneself~~] aggrieved by the judgment of a circuit court in a criminal matter[;] may appeal to the [supreme] intermediate appellate court, subject to chapter 602, in the manner and within the time provided by the [~~Hawaii Rules of Appellate Procedure.~~] rules of court. The sentence of the court in a criminal case shall be the judgment. All appeals[~~, whether heard by the intermediate appellate court or the supreme court.~~] shall be filed with the clerk of the supreme court and shall be subject to one filing fee.”

SECTION 69. Section 641-12, Hawaii Revised Statutes, is amended to read as follows:

“**§641-12 From district courts.** Appeals upon the record shall be allowed from all final decisions and final judgments of district courts in all criminal matters. Such appeals may be made to the [supreme] intermediate appellate court, subject to chapter 602, whenever the party appealing shall file notice of the party’s appeal within thirty days, or such other time as may be provided by the rules of the court.

Within a reasonable time after an appeal has been perfected from a decision of a district court to the appellate court in a criminal matter, it shall be incumbent upon the district court to make a return thereof, together with all papers and exhibits filed in such case.

It shall be the duty of the [respective] clerk of the supreme [~~or the intermediate appellate~~] court [~~whichever has heard the appeal,~~] to transmit within a reasonable time, to the district court from whose decision the appeal was made, a statement showing the disposition of the case.

[~~All appeals, whether heard by the intermediate appellate court or the supreme court, shall be filed with the clerk of the supreme court and shall be subject to one filing fee.~~]”

SECTION 70. Section 641-13, Hawaii Revised Statutes, is amended to read as follows:

“**§641-13 By State in criminal cases.** An appeal may be taken by and on behalf of the State from the district or circuit courts to the [supreme] intermediate appellate court, subject to chapter 602, in all criminal cases, in the following instances:

- (1) From an order or judgment quashing, setting aside, or sustaining a motion to dismiss, any indictment or complaint or any count thereof;
- (2) From an order or judgment, sustaining a special plea in bar, or dismissing the case where the defendant has not been put in jeopardy;

- (3) From an order granting a new trial;
- (4) From an order arresting judgment;
- (5) From a ruling on a question of law adverse to the State where the defendant was convicted and appeals from the judgment;
- (6) From the sentence, on the ground that it is illegal;
- (7) From a pretrial order granting a motion for the suppression of evidence, including a confession or admission, or the return of property, in which case the ~~[intermediate]~~ appellate court ~~[or the supreme court, as the case may be,]~~ shall give priority to such an appeal and the order shall be stayed pending the outcome of the appeal;
- (8) From an order denying a request by the State for protective order for nondisclosure of witness for their personal safety under Rule 16(e)(4) of the Hawaii Rules of Penal Procedure, in which case the ~~[intermediate]~~ appellate court ~~[or the supreme court, as the case may be,]~~ shall give priority to such appeal and the order shall be stayed pending outcome of such appeal; ~~or~~
- (9) From a judgment of acquittal following a jury verdict of guilty.”

SECTION 71. Section 641-17, Hawaii Revised Statutes, is amended to read as follows:

**“§641-17 Interlocutory appeals from circuit courts, criminal matters.**

Upon application made within the time provided by the rules of ~~[the supreme]~~ court, an appeal in a criminal matter may be allowed to a defendant from the circuit court to the ~~[supreme]~~ intermediate appellate court, subject to chapter 602, from a decision denying a motion to dismiss or from other interlocutory orders, decisions, or judgments, whenever the judge in the judge’s discretion may think the same advisable for a more speedy termination of the case. The refusal of the judge to allow an interlocutory appeal to the appellate court shall not be reviewable by any other court.”

SECTION 72. Section 660-28, Hawaii Revised Statutes, is amended to read as follows:

**“§660-28 Bail, etc., before judgment.** Except as otherwise provided:

- (1) Until judgment is given, the court may remand the party or accept bail for the party’s appearance from day to day~~[;]~~ or may place the party under special care and custody, as circumstances may require~~[-];~~ and
- (2) After judgment is given, an order made by the court under paragraph (1) shall be continued in effect during a stay of enforcement of judgment, unless the trial court, the intermediate appellate court, or the supreme court after taking of the appeal, ~~[shall terminate]~~ terminates the order or ~~[make]~~ makes other provision in the circumstances.”

SECTION 73. Section 664-5, Hawaii Revised Statutes, is amended to read as follows:

**“§664-5 No patent on award until boundaries settled.** The department of land and natural resources is forbidden to issue any patent in confirmation of an award by name, made by the commissioners to quiet land titles, without the boundaries being defined in such patent, according to the decision of a commissioner of boundaries, or the intermediate appellate court, or the supreme court~~[-]~~ on appeal.”

**ACT 202**

SECTION 74. Section 664-8, Hawaii Revised Statutes, is amended to read as follows:

“**§664-8 Appeal.** Any party [~~deeming oneself~~] aggrieved by the decision of the commissioner of boundaries may appeal therefrom to the [supreme] intermediate appellate court, subject to chapter 602, within thirty days from the rendition of the decision, and within the period shall pay all costs accrued and shall pay or deposit costs for appeal as provided in sections 607-5, 607-6, and 607-7; provided that any land owner absent from the State and not represented by an authorized agent within the State[;] shall have the right of appeal for one year from the rendition of the decision.”

SECTION 75. Section 664-9, Hawaii Revised Statutes, is amended to read as follows:

“**§664-9 Record on; new evidence.** Whenever any person appeals, the commissioner of boundaries shall transmit to the clerk of the supreme court a copy of the record and of the commissioner’s decision, together with any exhibits filed and the bond for costs as in other cases. The intermediate appellate court or the supreme court may permit the introduction of new evidence [~~which~~] that could not with due diligence have been obtained before, and [~~its~~] the court’s decision shall be final and binding.”

SECTION 76. Section 664-25, Hawaii Revised Statutes, is amended to read as follows:

“**§664-25 Appeal.** Any party aggrieved by the decree of the court may appeal therefrom to the [supreme] intermediate appellate court, subject to chapter 602, in the manner and within the time provided [~~by chapter 602 and by the rules of court.~~] for civil appeals from the circuit courts.”

SECTION 77. Section 664-36, Hawaii Revised Statutes, is amended to read as follows:

“**§664-36 Appeal.** Any party aggrieved by the judgment of the court may appeal therefrom to the [supreme] intermediate appellate court, subject to chapter 602, in the manner and within the time provided [~~by the rules of court.~~] for civil appeals from the circuit courts.”

SECTION 78. Section 802-5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The court shall determine the amount of reasonable compensation to appointed counsel, based on the rate of \$40 an hour for out-of-court services[;] and \$60 an hour for in-court services and with a maximum fee in accordance with the following schedule:

- |   |         |
|---|---------|
| (1) Any felony case   | \$3,000 |
| (2) Misdemeanor case - jury trial   | 1,500   |
| (3) Misdemeanor case - jury waived  | 750     |
| (4) Appeals to the <del>[supreme court or]</del> intermediate appellate court                         | 2,500   |
| (5) Petty misdemeanor case  | 450     |
| (6) Any other type of administrative or judicial proceeding including cases arising under chapter 571 | 1,500   |

Payment in excess of any maximum provided for under paragraphs (1) to (6) may be made whenever the court in which the representation was rendered certifies that the amount of the excess payment is necessary to provide fair compensation and the payment is approved by the administrative judge of such court.’’

SECTION 79. Section 805-8, Hawaii Revised Statutes, is amended to read as follows:

“**§805-8 Notice to county attorney or prosecuting attorney.** In all criminal cases had before a district judge where there has been a commitment as provided in section 805-7, an appeal from the judgment, or a demand for a jury trial, the judge [shall], forthwith, [without delay,] shall send to the county attorney or to the prosecuting attorney, as the case may be, notice of the fact, stating briefly in the notice the nature of the case and action taken thereon, giving the name of the defendant and the date the records were sent to the circuit court or the clerk of the supreme court.’’

SECTION 80. Section 602-6, Hawaii Revised Statutes, is repealed.

SECTION 81. Section 661-9, Hawaii Revised Statutes, is repealed.

SECTION 82. Appeals pending in the supreme court as of the effective date of this Act may be transferred to the intermediate appellate court or retained at the supreme court as the chief justice, in the chief justice’s sole discretion, directs.

SECTION 83. There is established within the judiciary, for administrative purposes, an appellate review task force to review proposed changes to the appellate system of the courts and make recommendations for implementation of proposed changes to the legislature.

(b)<sup>1</sup> The appellate review task force shall be composed of members appointed by the chief justice of the Hawaii supreme court, and shall include but not be limited to representatives knowledgeable about the appellate process from the following agencies or groups:

- (1) The judiciary’s appellate rules committee;
  - (2) The department of the attorney general;
  - (3) The office of the public defender;
  - (4) The department of the prosecuting attorney of the city and county of Honolulu;
  - (5) One or more representatives from the prosecuting attorney’s offices of the counties of Hawaii, Maui, and Kauai;
  - (6) The Hawaii State Bar Association; and
  - (7) One or more representatives from administrative agencies or boards whose decisions are subject to review in the court system.
- (c) The appellate review task force shall review the following matters:
- (1) Whether an en banc review process should be established at the intermediate court of appeals level;
  - (2) Whether certain classes of appeals should be appealed directly to the supreme court;
  - (3) Whether certain questions of law should be entitled to appeal to the supreme court as a matter of right;
  - (3)<sup>2</sup> Whether the proposed three-tiered system has been implemented in states of comparable size and what are the experiences of those states with such a system;
  - (4) What effect the changes in this Act will have on staffing at each of the affected court levels and the offices of the clerks;

- (5) Whether the number of judges currently sitting on the intermediate court of appeals is sufficient;
- (6) Whether the current system of appellate review of administrative decisions for each agency or board should be changed;
- (7) Whether there should be a provision for selection of intermediate court of appeals panels;
- (8) Whether the changes proposed in this Act will affect rates of appeal, timeliness of decision-making, and caseload management; and
- (9) Any other matters as may be assigned by the legislature or chief justice.

The appellate review task force is further directed to make recommendations relating to the implementation of the proposed court system, amendments to the proposed court system, enabling legislation, rules of procedure, and any matter as directed by the chief justice. The appellate review task force shall submit a report of its findings and recommendations to the legislature not less than twenty days before the convening of the regular session of 2006.

The judicial council shall supervise the appellate review task force, with staffing assistance from the judiciary as assigned by the chief justice or administrative director.

The legislative reference bureau shall provide technical assistance to the appellate review task force with legislative drafting and shall assist in drafting any legislation proposed by the appellate review task force.

The appellate review task force shall cease to exist on June 30, 2006.

SECTION 84. Statutory material to be repealed is bracketed and stricken.<sup>3</sup>  
New statutory material is underscored.

SECTION 85. This Act shall take effect upon its approval; provided that sections 1 through 82 shall take effect on July 1, 2006.

(Approved July 10, 2004.)

**Notes**

1. No subsection (a).
2. So in original.
3. Edited pursuant to HRS §23G-16.5.