
A BILL FOR AN ACT

RELATING TO TELECOMMUNICATIONS.

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

1 SECTION 1. The legislature finds that wireless
2 communications have become an integral part of the daily lives
3 of millions of Americans. They play an important role in
4 enabling community economic development opportunities, improving
5 communications among family and friends, and allowing rapid
6 responses to accidents and emergency situations. Wireless
7 customers demand and deserve adequate coverage and sufficient
8 capacity on wireless networks to keep pace with their needs.
9 Part of the challenge of providing improved services to the
10 public is ensuring an efficient application and approval process
11 for new wireless facilities.

12 The purpose of this Act is to ensure:

- 13 (1) The safe and efficient integration of facilities
14 necessary for the provision of advanced wireless
15 communications services; and
- 16 (2) The ready availability of reliable wireless service to
17 the public and government agencies and first-



1 responders, with the intention of furthering public
2 safety and general welfare.

3 SECTION 2. The Hawaii Revised Statutes is amended by
4 adding a new chapter to be appropriately designated and to read
5 as follows:

6 **"CHAPTER**

7 **§ -1 Definitions.** As used in this chapter, unless the
8 context clearly requires otherwise:

9 "Antenna" means communications equipment that transmits and
10 receives electromagnetic radio signals used in the provision of
11 all types of wireless communications services.

12 "Application" means a formal request submitted to the local
13 authority to construct or modify a wireless support structure or
14 a wireless facility.

15 "Authority" means any state or county planning commission
16 or any county council that has adopted planning and zoning
17 regulations for all or the majority of land uses within the
18 jurisdiction.

19 "Building permit" means an official administrative
20 authorization issued by the proper authority prior to beginning
21 construction of any new or existing support structure.



1 "Collocation" means the placement or installation of
2 wireless facilities on existing structures, including towers,
3 buildings, and water tanks, in a manner that negates the need to
4 construct a new free-standing support structure such as a tower.

5 "Distributed antenna system" means a group of antennas
6 separated in space to provide coverage over the same area as a
7 single antenna, but with reduced total power.

8 "Existing tower" means a free-standing support structure
9 constructed prior to the enactment of this Act that is used to
10 provide wireless services.

11 "Wireless facility" means the set of equipment and network
12 components, exclusive of the underlying support structure or
13 tower, including but not limited to antennas, transmitters,
14 receivers base stations, power supplies cabling, and associated
15 equipment necessary to provide wireless services to a discrete
16 geographic area.

17 "Wireless support structure" means a free-standing
18 structure, such as a monopole or tower designed to support
19 wireless facilities.

20 **§ -2 Construction of new wireless facilities and support**
21 **structures.** (a) An authority may plan for and regulate the
22 siting of wireless communications facilities in accordance with



1 state and county planning or zoning regulations and in
2 conformity with this chapter.

3 (b) Any entity that is engaged in the business of
4 providing wireless telecommunications services or the wireless
5 telecommunications infrastructure and that proposes to construct
6 a wireless telecommunications support structure shall:

- 7 (1) Submit the necessary copies and attachments of the
8 applicant's completed application to construct a
9 wireless telecommunications support structure; and
10 (2) Comply with any state and county laws, ordinances, and
11 rules concerning land use and the appropriate
12 permitting processes, subject to the limitations
13 imposed by this chapter.

14 (c) All application materials are subject to chapter 92F.

15 (d) After an applicant's submission of a completed
16 application to construct a wireless support structure, the
17 authority shall:

- 18 (1) Review the completed application;
19 (2) Make its final decision to approve or disapprove the
20 application; and
21 (3) Advise the applicant in writing of its final decision
22 within ninety days commencing from the date that the



1 application is deemed complete or by a date certain
2 specified in a written agreement with the applicant.

3 (e) A party aggrieved by the final decision denying an
4 application under the provisions of this chapter may bring an
5 action for review in any court of competent jurisdiction.

6 **§ -3 Collocation of antennas and equipment.** (a) In
7 deploying or expanding commercial and public safety wireless
8 networks, the collocation of new antennas and equipment on
9 existing support structures, including buildings, water towers,
10 or existing conforming or nonconforming communication towers, is
11 preferred to constructing new towers or support structures.

12 (b) An application for a collocation on an existing
13 structure may be subject to the issuance of a building permit
14 and any fee associated with such a permit.

15 (c) An application to construct a new wireless support
16 structure may be denied based upon the applicant's unwillingness
17 to evaluate the reasonable feasibility of collocating new
18 antennas and equipment on an existing structure or structures;
19 provided that an application may not be denied if evidence is
20 provided that collocation is technically infeasible or unduly
21 economically burdensome to the wireless service provider.

22 **§ -4 Limitations.** A permitting authority shall not:



- 1 (1) Impose environmental testing, sampling, or monitoring
- 2 requirements, or other compliance measures for radio
- 3 frequency emissions on wireless facilities that are
- 4 categorically excluded under the Federal
- 5 Communications Commission's rules for radio frequency
- 6 emissions pursuant to 47 CFR 1.1307(b)(1);
- 7 (2) Institute a moratorium on the construction of new
- 8 wireless support structures lasting over ninety days
- 9 or institute any moratorium within six months of the
- 10 conclusion of any previous moratorium on the
- 11 construction of wireless support structures;
- 12 (3) Charge an application fee, consulting fee, or other
- 13 fee associated with the submission, review,
- 14 processing, or approval of a permit that is not
- 15 required for other types of commercial development;
- 16 provided that any fees imposed for providing review or
- 17 technical consultation with regard to an application
- 18 shall not exceed what is usual and customary, and in
- 19 no case shall total charges and fees exceed \$ for
- 20 a collocation or \$ for the placement and
- 21 construction of a new wireless facility or support
- 22 structure;



- 1 (4) Permit third-party consultants to charge wireless
2 telecommunications service providers for any travel
3 expenses incurred in the consultant's review of
4 wireless telecommunications permits;
- 5 (5) Establish or enforce rules, or procedures for radio
6 frequency signal strength or the adequacy of service
7 quality in the consideration of any application for
8 the construction, modification, maintenance, or
9 operation of a wireless facility or support structure;
- 10 (6) Impose surety requirements, including bonds, escrow
11 deposits, or any other type of financial surety, to
12 ensure that abandoned or unused facilities can be
13 removed unless similar requirements are allowed for
14 permits for other types of commercial development or
15 land use. If surety requirements are imposed, they
16 shall be competitively neutral, nondiscriminatory,
17 reasonable in amount, and commensurate with the
18 historical record for similar requirements;
- 19 (7) Prohibit the placement of emergency power systems that
20 comply with federal and state environmental
21 requirements;



- 1 (8) Discriminate on the basis of the ownership of any
- 2 property, structure, or tower when adopting rules or
- 3 procedures for siting wireless facilities or for
- 4 evaluating applications for collocations or new
- 5 wireless facilities or support structures;
- 6 (9) Condition the approval of a new wireless support
- 7 structure or collocation on the agreement of the
- 8 structure owner to provide space on the structure for
- 9 governmental services at less than the market rate;
- 10 (10) Limit the duration of any permit for a wireless
- 11 facility or support structure when evaluating an
- 12 application for a wireless facility or collocation; or
- 13 (11) Require an applicant to construct a distributed
- 14 antenna system instead of constructing a new wireless
- 15 support structure or collocating on an existing
- 16 structure, such as an existing tower or building."

17 SECTION 3. If any provision of this Act or the application

18 thereof to any person or circumstance is held invalid, the

19 invalidity does not affect other provisions or applications of

20 the Act that can be given effect without the invalid provision

21 or application, and to this end the provisions of this Act are

22 severable.



1 SECTION 4. This Act shall take effect upon its approval.



Report Title:

Telecommunications; Wireless Communications Antenna Placement

Description:

Creates a streamlined application process for wireless telecommunications facilities and encourages the placement of antennas on existing structures. (HB116 HD1)

