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## A BILL FOR AN ACT

RELATING TO AN ENVIRONMENTAL COURT.

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

1           SECTION 1. The legislature finds that environmental  
2 disputes are currently dealt with in a variety of courts. This  
3 organizational structure inadvertently promotes inconsistent  
4 application of the wide variety of environmental laws.

5           The legislature also finds that the continued maintenance  
6 and improvement of Hawaii's environment requires constant  
7 vigilance and continued stewardship to ensure the lasting beauty  
8 and uniqueness and the stability of its natural systems, all of  
9 which enhance the mental and physical well-being of Hawaii's  
10 people.

11           The purpose of this Act is to promote and protect Hawaii's  
12 natural environment through consistent and uniform application  
13 of our environmental laws by establishing environmental courts  
14 to hear cases and preside over administrative proceedings  
15 relating to environmental law.

16           SECTION 2. The Hawaii Revised Statutes is amended by  
17 adding a new chapter to be appropriately designated and to read  
18 as follows:



## 1 "CHAPTER

## 2 ENVIRONMENTAL COURTS

3 § -1 **Environmental court; establishment.** To the full  
4 extent permitted by the state constitution and except as  
5 otherwise provided by law, environmental courts shall be created  
6 as divisions of the circuit courts of the State and shall not be  
7 deemed to be other courts as that term is used in the state  
8 constitution. An environmental court shall be held at the  
9 courthouse in each circuit, or other duly designated place, by  
10 the judge or judges of the respective environmental courts. The  
11 chief justice of the supreme court shall designate an  
12 environmental judge or judges for each circuit, as may be  
13 necessary. In any circuit in which more than one judge is  
14 authorized to exercise jurisdiction as judge of the  
15 environmental court, the chief justice shall designate one of  
16 the judges as senior judge. The chief justice may temporarily  
17 assign an environmental court judge to preside in another  
18 circuit when the urgency of one or more cases requires the chief  
19 justice to do so.

20 § -2 **Jurisdiction.** (a) The environmental courts shall  
21 have jurisdiction over all actions and violations, and shall  
22 hear appeals of contested cases and any other administrative



1 proceedings authorized by chapter 91, arising under chapters 6D,  
2 6E, 6K, 149A, 150A, 174C, 179D, 181, 182, 183, 183C, 183D, 184,  
3 185, 187A, 188, 189, 190, 190D, 195, 195D, 197, 198, 198D, 200,  
4 205, 205A, 269, 339, 340B, 340E, 340F, 342B, 342C, 342D, 342E,  
5 342F, 342G, 342H, 342I, 342J, 342L, 342P, and 343.

6 (b) In any case in which it has jurisdiction, the  
7 environmental court shall exercise general equity powers as  
8 authorized by law. Nothing in this chapter shall be construed  
9 to limit the jurisdiction and authority of any circuit judge,  
10 designated as judge of the environmental court, to matters  
11 within the scope of this chapter.

12 § -3 **Rules.** The supreme court shall adopt rules  
13 regarding the administration, operation, and procedures of the  
14 environmental courts.

15 § -4 **Appointment and duties of employees.** For each  
16 environmental court, the judge, or the senior judge when there  
17 is more than one judge, shall appoint a chief administrative and  
18 executive officer who shall have the title of director of the  
19 environmental court. Under the general supervision of the  
20 senior judge or the judge, the director shall:

21 (1) Prepare an annual budget for the court;



- 1           (2) Formulate procedures governing the routine  
2           administration of court services;
- 3           (3) Make recommendations to the court for improvement in  
4           court services;
- 5           (4) Make recommendations to the senior judge or the judge  
6           for the appointment of administrative, supervisory,  
7           consultant, and necessary professional, clerical, and  
8           other personnel to perform the duties assigned to the  
9           court and the director;
- 10          (5) Provide supervision and consultation to the  
11          administrative and supervisory staff regarding the  
12          administration of court services, recruitment of  
13          personnel, in-service training, and fiscal and office  
14          management; and
- 15          (6) Perform other duties as the senior judge or the judge  
16          shall specify."

17           SECTION 3. Chapter 91, Hawaii Revised Statutes, is amended  
18 by adding a new section to be appropriately designated and to  
19 read as follows:

20           "§91-         Judicial review of environmental matters.  
21 Judicial review of administrative proceedings arising under  
22 chapters 6D, 6E, 6K, 149A, 150A, 174C, 179D, 181, 182, 183,



1 183C, 183D, 184, 185, 187A, 188, 189, 190, 190D, 195, 195D, 197,  
2 198, 198D, 200, 205, 205A, 269, 339, 340B, 340E, 340F, 342B,  
3 342C, 342D, 342E, 342F, 342G, 342H, 342I, 342J, 342L, 342P, and  
4 343 shall be heard by the environmental court."

5 SECTION 4. Section 91-7, Hawaii Revised Statutes, is  
6 amended by amending subsection (a) to read as follows:

7 "(a) Any interested person may obtain a judicial  
8 declaration as to the validity of an agency rule as provided in  
9 subsection (b) [~~herein~~] by bringing an action against the agency  
10 in the circuit court or, if applicable, the environmental court  
11 in accordance with 91- , of the county in which the  
12 petitioner resides or has its principal place of business. The  
13 action may be maintained regardless of whether [~~or not~~] the  
14 petitioner has first requested the agency to pass upon the  
15 validity of the rule in question."

16 SECTION 5. Section 91-14, Hawaii Revised Statutes, is  
17 amended by amending subsection (b) to read as follows:

18 "(b) Except as otherwise provided herein, proceedings for  
19 review shall be instituted in the circuit court or in the  
20 environmental court, as provided in section 91- , within  
21 thirty days after the preliminary ruling or within thirty days  
22 after service of the certified copy of the final decision and



1 order of the agency pursuant to rule of court, except where a  
 2 statute provides for a direct appeal to the intermediate  
 3 appellate court, subject to chapter 602. In such cases, the  
 4 appeal shall be treated in the same manner as an appeal from the  
 5 circuit court to the intermediate appellate court, including  
 6 payment of the fee prescribed by section 607-5 for filing the  
 7 notice of appeal (except in cases appealed under sections 11-51  
 8 and 40-91). The court in its discretion may permit other  
 9 interested persons to intervene."

10 SECTION 6. Act 94, Session Laws of Hawaii 2006, is amended  
 11 by amending section 1 to read as follows:

12 "SECTION 1. Section 85 of Act 202, Session Laws of Hawaii  
 13 2004, is amended to read as follows:

14 "SECTION 85. This Act shall take effect upon its approval;  
 15 provided that sections 1 through 82 shall take effect on July 1,  
 16 2006, and shall be repealed on June 30, 2010[-], provided that  
 17 section 91-14, Hawaii Revised Statutes, shall be reenacted in  
 18 the form in which it read as of July 9, 2004, as further amended  
 19 by section 5 of Act , Session Laws of Hawaii 2008."

20 SECTION 7. Chapters 6D, 6E, 6K, 149A, 150A, 174C, 179D,  
 21 181, 182, 183, 183C, 183D, 184, 185, 187A, 188, 189, 190, 190D,  
 22 195, 195D, 197, 198, 198D, 200, 205, 205A, 269, 339, 340B, 340E,



1 340F, 342B, 342C, 342D, 342E, 342F, 342G, 342H, 342I, 342J,  
 2 342L, 342P, and 343 of the Hawaii Revised Statutes are amended  
 3 by substituting the term "environmental court", or like terms,  
 4 wherever the term "court", "district court", or "circuit court",  
 5 or like term, appears, as the context requires.

6 SECTION 8. Matters pending in any state court as of the  
 7 effective date of this Act may be transferred to the  
 8 environmental court as the chief justice of the supreme court,  
 9 in the chief justice's sole discretion, directs.

10 SECTION 9. In printing this Act, the revisor of statutes  
 11 shall insert the appropriate number of this Act in section 6.

12 SECTION 10. Statutory material to be repealed is bracketed  
 13 and stricken. New statutory material is underscored.

14 SECTION 11. This Act shall take effect upon its approval.

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INTRODUCED BY: \_\_\_\_\_



JAN 09 2008



**Report Title:**

Environmental Court

**Description:**

Establishes environmental courts as divisions within the circuit court to handle complaints, administrative appeals, and certain other judicial proceedings of an environmental nature.

