
A BILL FOR AN ACT

RELATING TO WORKERS' COMPENSATION.

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

1 SECTION 1. Chapter 386, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§386- Alternative dispute resolution. (a) In lieu of
5 a hearing before the director, within ten days after a claim for
6 compensation is made, either party may decide to have any
7 controversy arising under this chapter be decided by a referee
8 paid for by the parties, provided that written notice is
9 provided to the other party in a timely manner.

10 (b) Before a referee may conduct a hearing, the parties
11 shall submit the agreed upon referee's name to the director for
12 appointment to serve as a referee. The referee shall be a
13 neutral person. An individual who has a known, direct, and
14 material interest in the outcome of the controversy or a known,
15 existing, and substantial relationship with a party may not
16 serve as a referee, unless that interest is disclosed and any
17 conflict is waived by the parties.



1 (c) Unless the parties otherwise agree, the costs and fees
2 of the alternative resolution process shall be divided equally
3 between the parties.

4 (d) If the parties agree to have any controversy referred
5 to a referee, the director shall stay all actions or proceedings
6 until the referee issues a recommended decision.

7 (e) This chapter and its rules remain applicable to
8 proceedings before the referee, except that requests shall be
9 directed to and recommended decisions shall be made by the
10 referee instead of the director.

11 (f) The referee shall issue and submit a recommended
12 decision to the director no later than five days after the
13 hearing and shall deliver the recommended decision to all
14 parties personally or by registered or certified mail.

15 (g) The director shall review the referee's recommended
16 decision to determine whether the recommended decision is in
17 compliance with this chapter.

18 If the recommended decision is in compliance with this
19 chapter, the director shall approve the recommended decision
20 within ten days of receiving the recommendation. Upon the
21 director's approval, the recommended decision shall have the
22 same force and effect as a director's decision rendered under



1 this chapter, and it may be enforced as if it had been rendered
 2 in an action before the director. If the recommended decision
 3 does not comply with this chapter, the director may modify or
 4 vacate the recommended decision within ten days of receiving the
 5 recommendation. If the director vacates the recommended
 6 decision, the parties may resubmit the controversy to the
 7 referee.

8 (h) The parties may appeal the director's decision in
 9 accordance with section 386-87.

10 (i) This chapter and Hawaii administrative rules title 12,
 11 chapters 10, 14, and 15 shall govern the proceedings before the
 12 referee.



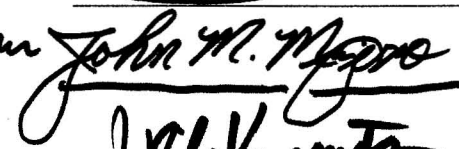

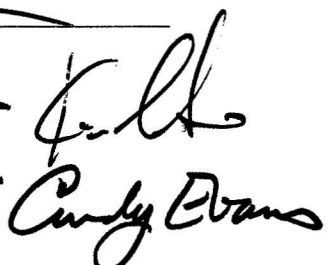
13 (j) Unless otherwise provided in the agreement to mediate,
 14 the costs and fees of mediation shall be divided equally between
 15 the parties."

16 SECTION 2. This Act shall not apply to any claim pending
 17 on its effective date.

18 SECTION 3. New statutory material is underscored.

19 SECTION 4. This Act shall take effect on July 1, 2008.

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Report Title:

Workers' Compensation; Alternative Dispute Resolution

Description:

Allows either party to a workers' compensation dispute to decide to refer their dispute to a referee, provided the decision is made within 10 days of the filing of the claim.

