

JAN 28 2009

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## A BILL FOR AN ACT

RELATING TO BUSINESS OR DEVELOPMENT-RELATED PERMITS, LICENSES,  
OR APPROVALS.

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

1           SECTION 1. Section 91-13.5, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "§91-13.5 Maximum time period for business or development-  
4 related permits, licenses, or approvals; ~~[automatic approval,~~  
5 ~~extensions.] enforcement; fees and costs; public notice. (a)~~

6 Unless otherwise provided by law, an agency shall adopt rules  
7 that specify a maximum time period to grant or deny a business  
8 or development-related permit, license, or approval; provided  
9 that the application is not subject to state administered permit  
10 programs delegated, authorized, or approved under federal law.

11           (b) All such issuing agencies shall clearly articulate  
12 informational requirements for applications and review  
13 applications for completeness in a timely manner.

14           (c) All such issuing agencies shall take action to grant  
15 or deny any application for a business or development-related  
16 permit, license, or approval within the established maximum  
17 period of time [~~, or the application shall be deemed approved,~~



1 ~~provided that a delay in granting or denying an application~~  
2 ~~caused by the lack of quorum at a regular meeting of the issuing~~  
3 ~~agency shall not result in approval under this subsection;~~  
4 ~~provided further that any subsequent lack of quorum at a regular~~  
5 ~~meeting of the issuing agency that delays the same matter shall~~  
6 ~~not give cause for further extension, unless an extension is~~  
7 ~~agreed to by all parties].~~

8 (d) Notwithstanding any other law to the contrary, any  
9 agency that reviews and comments upon an application for a  
10 business or development-related permit, license, or approval for  
11 a housing project developed under section 201H-38 shall respond  
12 within forty-five days of receipt of the application, or the  
13 application shall be deemed acceptable as submitted to the  
14 agency.

15 (e) The maximum period of time established pursuant to  
16 this section shall be extended in the event of a national  
17 disaster, state emergency, or union strike, which would prevent  
18 the applicant, the agency, or the department from fulfilling  
19 application or review requirements.

20 (f) This section shall not apply to:

21 (1) Any proceedings of the public utilities commission; or



1           (2) Any county or county agency that is exempted by county  
2           ordinance from this section.

3           (g) For purposes of this section, "application for a  
4 business or development-related permit, license, or approval"  
5 means any state or county application, petition, permit,  
6 license, certificate, or any other form of a request for  
7 approval required by law to be obtained prior to the formation,  
8 operation, or expansion of a commercial or industrial  
9 enterprise, or for any permit, license, certificate, or any form  
10 of approval required under sections 46-4, 46-4.2, 46-4.5, 46-5,  
11 and chapters 183C, 205, 205A, 340A, 340B, 340E, 340F, 342B,  
12 342C, 342D, 342E, 342F, 342G, 342H, 342I, 342J, 342L, and 342P.

13           (h) Any applicant for a business or development-related  
14 permit, license, or approval subject to this section may  
15 maintain an action, in the circuit court having jurisdiction  
16 where the alleged violation occurred, for mandatory injunctive  
17 relief against any agency or official of the State or its  
18 political subdivisions to enforce the provisions of this  
19 section.

20           (i) In any civil action to enforce the provisions of this  
21 section, the court may award reasonable attorneys' fees and  
22 costs to the prevailing party.



1       (j) In addition to any other notice that may be prescribed  
2 by law, the plaintiff in an action to enforce the provisions of  
3 this section shall file, not later than the date on which the  
4 complaint is filed in circuit court, a copy of the complaint  
5 with the office of environmental quality control."

6       SECTION 2. Section 343-3, Hawaii Revised Statutes, is  
7 amended to read as follows:

8       "**§343-3 Public records and notice.** (a) All statements,  
9 environmental assessments, and other documents prepared under  
10 this chapter shall be made available for inspection by the  
11 public during established office hours.

12       (b) The office shall inform the public of notices filed by  
13 agencies of the availability of environmental assessments for  
14 review and comments, of determinations that statements are  
15 required or not required, of the availability of statements for  
16 review and comments, and of the acceptance or nonacceptance of  
17 statements.

18       (c) The office shall inform the public of:

19       (1) A public comment process or public hearing if a  
20 federal agency provides for the public comment process  
21 or public hearing to process a habitat conservation  
22 plan, safe harbor agreement, or incidental take



1 license pursuant to the federal Endangered Species  
2 Act;

3 (2) A proposed habitat conservation plan or proposed safe  
4 harbor agreement, and availability for inspection of  
5 the proposed agreement, plan, and application to enter  
6 into a planning process for the preparation and  
7 implementation of the habitat conservation plan for  
8 public review and comment;

9 (3) A proposed incidental take license as part of a  
10 habitat conservation plan or safe harbor agreement;  
11 [and]

12 (4) An application for the registration of land by  
13 accretion pursuant to section 501-33 or 669-1(e) for  
14 any land accreted along the ocean[-]; and

15 (5) The filing of a civil action to enforce section 91-  
16 13.5.

17 (d) The office shall inform the public by the publication  
18 of a periodic bulletin to be available to persons requesting  
19 this information. The bulletin shall be available through the  
20 office and public libraries."

21 SECTION 3. Statutory material to be repealed is bracketed  
22 and stricken. New statutory material is underscored.



# S.B. NO. 1256

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

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INTRODUCED BY: *Cytm Hle*



**Report Title:**

Business or Development-Related Permits, Licenses, or Approvals

**Description:**

Repeals automatic approval provisions and provides for a substitution remedy of a private right of action to enforce the time limits under the automatic permit approval law.

