

JAN 22 2010

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# A BILL FOR AN ACT

RELATING TO PERMIT, LICENSE, AND APPROVAL APPLICATION  
PROCESSING.

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

1           SECTION 1. The legislature finds that the process of  
2 reviewing permits, licenses, and approvals for workforce housing  
3 and other projects submitted to the State and each county is  
4 long and often results in significant delays prior to the start  
5 of each project. The legislature envisions that the enactment  
6 of certain statutory provisions will help to streamline and  
7 enhance the efficiency of the permit and license review and  
8 approval process. For example, statutory provisions that  
9 establish a maximum time period for agencies to grant or deny  
10 related permits, licenses, and approvals, will expedite the  
11 start of construction for workforce housing projects throughout  
12 the State and will result in the generation of construction and  
13 other related jobs that are badly needed in the economy.

14           Senate Concurrent Resolution No. 132, S.D. 1 (2009),  
15 established a task force to determine the economic contributions  
16 of the construction industry in Hawaii. As directed in the  
17 concurrent resolution, the task force has developed a series of  
18 proposals for state actions to preserve and create new jobs in



1 the local construction industry. The intent of this Act is to  
2 implement one of the task force's proposals.

3 Accordingly, the purpose of this Act is to streamline  
4 portions of the review process for permits, licenses, and  
5 approvals to minimize time delays and to expedite the start of  
6 construction for workforce housing and other projects that will  
7 result in the generation of construction and other related jobs.

8 SECTION 2. Chapter 46, Hawaii Revised Statutes, is amended  
9 by adding a new section to be appropriately designated and to  
10 read as follows:

11 "§46- Third-party permit, license, and approval  
12 processing review. (a) Each county shall be authorized to  
13 provide a third-party with permit, license, and approval  
14 processing review powers that are aimed at increasing the  
15 efficiency and timeliness of permit, license, or approval  
16 applications submitted to the State or respective county.

17 Specifically, each county shall be authorized to contract  
18 with licensed architects and engineers that are qualified by the  
19 respective county to certify compliance with various building,  
20 electrical, mechanical, plumbing, and structural codes, as well  
21 as land use ordinances, in reviewing an application for a  
22 permit, license, or approval.



1        (b) Third-party reviewers shall be retained by an owner of  
2 the property being reviewed and all fees and costs for third-  
3 party review services shall be the responsibility of the owner  
4 of the property being reviewed.

5        (c) Third-party reviewers shall conduct their review  
6 services for the purpose of certifying that the proposed plans  
7 and specifications are in compliance with any applicable  
8 federal, state, or county laws, rules, ordinances, and codes.  
9 Certifications by third-party reviewers shall be limited to only  
10 those areas approved by the State or respective county and those  
11 areas in which the third-party reviewer is licensed.

12        (d) Third-party reviewers shall not have the authority to  
13 grant any modifications, variances, waivers, exemptions, or  
14 other discretionary approvals.

15        (e) An individual or entity that provides third-party  
16 review services that are authorized and in accordance with this  
17 section shall be immune from liability, except for acts of the  
18 third-party reviewer that result from the reviewer's intentional  
19 misconduct, gross negligence, or malfeasance."

20        SECTION 3. Section 6E-42, Hawaii Revised Statutes, is  
21 amended by amending subsection (a) to read as follows:



1           "(a) Before any agency or officer of the State or its  
2 political subdivisions approves any project involving a permit,  
3 license, certificate, land use change, subdivision, or other  
4 entitlement for use, which may affect historic property,  
5 aviation artifacts, or a burial site, the agency or office shall  
6 advise the department and prior to any approval allow the  
7 department an opportunity for review and comment on the effect  
8 of the proposed project on historic properties, aviation  
9 artifacts, or burial sites, consistent with section 6E-43,  
10 including those listed in the Hawaii register of historic  
11 places. The department shall have a maximum of forty-five days  
12 to complete a review and comment on the effect of a proposed  
13 project on historic properties, aviation artifacts, or burial  
14 sites, consistent with section 6E-43, including those listed in  
15 the Hawaii register of historic places, beginning from the time  
16 the department is advised of the proposed project by an agency  
17 or officer of the State or its political subdivisions. If the  
18 department fails to complete a review and comment on the effect  
19 of a proposed project within forty-five days, then the proposed  
20 project shall be deemed to be approved. Projects previously  
21 reviewed by the department pursuant to this section and found to  
22 have no impact on historic properties, aviation artifacts, or



1 burial sites shall not be subject to subsequent department  
2 reviews."

3 SECTION 4. Section 91-13.5, Hawaii Revised Statutes, is  
4 amended by amending subsection (a) to read as follows:

5 "(a) Unless otherwise provided by law, an agency shall  
6 adopt rules that specify a maximum time period to grant or deny  
7 a business or development-related permit, license, or approval;  
8 provided that the application is not subject to state  
9 administered permit programs delegated, authorized, or approved  
10 under federal law. If an agency does not have a maximum time  
11 period to grant or deny a permit, license, or approval adopted  
12 by rule pursuant to this section, then the application for  
13 permit, license, or approval shall be deemed approved thirty  
14 calendar days after a completed application is submitted to the  
15 State or respective county agency; provided that the completed  
16 application is submitted to the State or respective county on or  
17 after January 1, 2011."

18 SECTION 5. Section 91-13.5, Hawaii Revised Statutes, is  
19 amended by amending subsections (f) and (g) to read as follows:

20 "(f) This section shall not apply to[+  
21 ~~(1)~~ Any] any proceedings of the public utilities  
22 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  
13 342P[-], and shall include any permit, license, certificate, or  
14 other form of approval for county land use, subdivision,  
15 grading, grubbing, building, or plan approval."

16       SECTION 6. Statutory material to be repealed is bracketed  
17 and stricken. New statutory material is underscored.

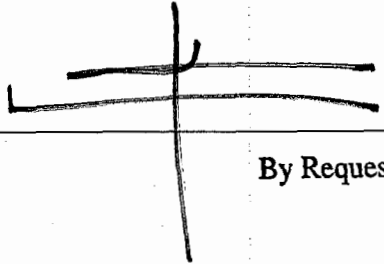
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1 SECTION 7. This Act shall take effect upon its approval.

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INTRODUCED BY:

  
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By Request



**Report Title:**

Construction Task Force; Permit Processing; Approvals; Maximum Time; Application

**Description:**

Establishes a maximum time period that an application for permit, license, or approval shall be deemed granted if not acted upon by the designated agency; authorizes each county to contract with a third-party reviewer to streamline the processing of applications; clarifies that previously approved projects that do not impact historic properties are not subject to subsequent reviews by the SHPD.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

