
A BILL FOR AN ACT

RELATING TO THE ENVIRONMENT.

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

1 SECTION 1. Chapter 341, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§341- Hearings. (a) If a dispute involving matters
5 addressed in chapter 342B, 342D, 342F, 342G, 342H, 342I, 342J,
6 342L, 342N, 342P, or 343 arises between parties, in addition to
7 any other legal remedies that may be available, a party may file
8 a request for a hearing with the office of administrative
9 hearings of the department of commerce and consumer affairs.

10 (b) The office of administrative hearings shall accept no
11 more than requests for hearing per fiscal year under
12 this section.

13 (c) The party requesting the hearing shall pay a filing
14 fee of \$ to the department of commerce and consumer
15 affairs, and the failure to do so shall result in the request
16 for hearing being rejected for filing. All other parties shall
17 file a response, accompanied by a filing fee of \$, to



1 the department of commerce and consumer affairs, within twenty
2 days of being served with the request for hearing.

3 (d) The hearings officer appointed by the director of
4 commerce and consumer affairs pursuant to section 26-9(f) shall
5 have jurisdiction to review any request for hearing filed under
6 subsection (a). The hearings officer shall have the power to
7 issue subpoenas, administer oaths, hear testimony, find facts,
8 make conclusions of law, and issue written decisions that shall
9 be final and conclusive, unless a party adversely affected by
10 the decision files an appeal in the circuit court under section
11 91-14.

12 (e) Rules of practice and procedure of the department of
13 commerce and consumer affairs shall govern all proceedings
14 brought under this section. The burden of proof, including the
15 burden of producing the evidence and the burden of persuasion,
16 shall be upon the party initiating the proceeding. Proof of a
17 matter shall be by a preponderance of the evidence.

18 (f) Hearings to review and make determinations upon any
19 requests for hearings filed under subsection (a) shall commence
20 within sixty days following the receipt of the request for
21 hearing. The hearings officer shall issue written findings of



1 fact, conclusions of law, and an order as expeditiously as
2 practicable after the hearing has been concluded.

3 (g) Each party to the hearing shall bear the party's own
4 costs, including attorney's fees, unless otherwise ordered by
5 the hearings officer.

6 (h) Any party to a proceeding under this section who is
7 aggrieved by a final decision of a hearings officer may apply
8 for judicial review of that decision pursuant to section 91-14;
9 provided that any party seeking judicial review pursuant to
10 section 91-14 shall be responsible for the costs of preparing
11 the record on appeal, including the cost of preparing the
12 transcript of the hearing.

13 (i) The department of commerce and consumer affairs may
14 adopt rules and forms, pursuant to chapter 91, to effectuate the
15 purpose of this section and to implement its provisions."

16 SECTION 2. Section 26-9, Hawaii Revised Statutes, is
17 amended by amending subsection (f) to read as follows:

18 "(f) The director of commerce and consumer affairs may
19 appoint a hearings officer or officers not subject to chapter 76
20 to hear and decide any case or controversy regarding licenses
21 and the application and enforcement of rules involving any of
22 the boards, commissions, or regulatory programs within the



1 department of commerce and consumer affairs [-], or matters
2 pursuant to section 341- . The hearings officer or officers
3 shall have power to issue subpoenas, administer oaths, hear
4 testimony, find facts, and make conclusions of law and a
5 recommended decision; provided that the conclusions and
6 decisions shall be subject to review and redetermination by the
7 officer, board, or commission which would have heard the case in
8 the first instance in the absence of a hearings officer. The
9 review shall be conducted in accordance with chapter 91."

10 SECTION 3. The director of commerce and consumer affairs
11 shall prepare and submit to the legislature, twenty days prior
12 to the convening of the 2010 and 2011 regular sessions, a report
13 containing the director's evaluation of the operation and effect
14 of section 1 of this Act. The report shall include a summary of
15 the requests for hearing brought under the section, the
16 disposition of such requests for hearing, an appraisal of the
17 effectiveness of the section, and recommendations for changes,
18 modifications, or repeal of the section or parts thereof with
19 accompanying reasons and data.

20 SECTION 4. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.



1 SECTION 5. This Act shall take effect on July 1, 2009, and
2 shall be repealed on June 30, 2012; provided that section
3 26-9(f), Hawaii Revised Statutes, is reenacted in the form in
4 which it existed the day before the effective date of this Act.

5

INTRODUCED BY: Mele Carroll

JAN 26 2009



Report Title:

Environment; Disputes; Hearings

Description:

Authorizes the administrative hearings office of the department of commerce and consumer affairs to decide a limited number of disputes per year related to environmental issues. Effective 7/01/09, and repealed on 6/30/12.

