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# A BILL FOR AN ACT

RELATING TO PERMITS.

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

1           SECTION 1. Chapter 464, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:  
4           "§464-           Building Permits; limited liability. (a)  
5 Notwithstanding any provision to the contrary, in the case of a  
6 building permit issued for a project involving alterations or  
7 new construction that is required under any state or county law  
8 or ordinance, or rule to have its plans or specifications  
9 prepared by or under the supervision of an appropriately  
10 licensed professional engineer, architect, landscape architect,  
11 or surveyor, no public entity or public employee shall be liable  
12 to any person for injury or damage resulting from a permitted  
13 project if the plans or specifications of the project were  
14 prepared and properly stamped and signed by the required  
15 professional, except where the injury or damage was caused by  
16 the gross negligence of the public entity or public employee in  
17 issuing the permit."



1 SECTION 2. Section 201-62, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:

3 "(a) State agencies are required, and county agencies are  
4 authorized and encouraged, to participate in the facilitated  
5 application process set forth herein[-], except in the case of  
6 applications for building permits, state and county agencies are  
7 required to participate in the facilitated application process  
8 set forth herein.

9 (b) The department shall serve as the lead agency for the  
10 facilitated application procedure and shall be the lead agency  
11 to administer the facilitated application procedure for any  
12 project that requires both county permit applications and state  
13 agency approval.

14 (c) The procedure shall be as follows:

15 (1) An applicant for two or more federal, state, or county  
16 permits may apply in writing to the department  
17 requesting a facilitated application process for the  
18 consideration of the application. The written request  
19 shall include sufficient data about the proposed  
20 project for the department to determine which other  
21 agencies or authorities may have jurisdiction;



1           (2) Upon receiving a written request for the facilitated  
2           application process, the department shall notify all  
3           federal, state, and county agencies or authorities  
4           that the department determines may have jurisdiction  
5           over part or all of the proposed project, and require  
6           those state agencies or authorities and invite those  
7           county and federal agencies or authorities to  
8           participate in the facilitated application process;  
9           except in the case of a request for the facilitated  
10          application process for a building permit, the  
11          department shall require those state and county  
12          agencies or authorities, and invite those federal  
13          agencies or authorities, to participate in the  
14          facilitated application process;

15          (3) The applicant and each agency or authority required or  
16          agreeing to participate in the facilitated application  
17          process shall designate a representative to serve on  
18          the facilitated application review team;

19          (4) Any state agency or authority designated by the  
20          department as a party to an application review that is  
21          not able to participate, shall submit an explanation,

1 in writing, to the department as to the reasons and  
2 circumstances for noncompliance;

- 3 (5) The representatives of the agencies, authorities, and  
4 the applicant [~~may~~] shall develop and sign a joint  
5 agreement among themselves identifying the members of  
6 the facilitated application review team, specifying  
7 the regulatory and review responsibilities of each  
8 government agency and setting forth the  
9 responsibilities of the applicant, and establishing a  
10 timetable for regulatory review, the conduct of  
11 necessary hearings, preparation of an environmental  
12 impact statement if necessary, and other actions  
13 required to minimize duplication and coordinate the  
14 activities of the applicant, agencies, and  
15 authorities[?], except in the case of applications for  
16 building permits, representatives of state and county  
17 agencies, authorities, and the applicant shall develop  
18 and sign a joint agreement among themselves  
19 identifying the members of the facilitated application  
20 review team, specifying the regulatory and review  
21 responsibilities of each government agency and setting  
22 forth the responsibilities of the applicant, and



1 establishing a timetable for regulatory review, the  
2 conduct of necessary hearings, preparation of an  
3 environmental impact statement if necessary, and other  
4 actions required to minimize duplication and  
5 coordinate the activities of the applicant, agencies,  
6 and authorities;

7 (6) In the case of a facilitated application process  
8 requested for a building permit, the representatives  
9 of the state and county agencies or authorities shall  
10 hold all hearings for the facilitated application  
11 process jointly and shall invite those federal  
12 agencies or authorities to participate in such  
13 hearings.

14 [~~6~~] (7) Each agency or authority shall issue its own  
15 permit or approval based upon its own jurisdiction.  
16 The facilitated application process shall not affect  
17 or invalidate the jurisdiction or authority of any  
18 agency under existing law; and

19 [~~7~~] (8) The applicant shall apply directly to each  
20 federal [~~or county~~] agency that does not participate  
21 in the facilitated application process.



1 (d) If a state regulatory permit is necessary to obtain a  
2 county permit, then a county agreeing to participate in the  
3 facilitated application process [~~may~~] shall advise the applicant  
4 of the facilitated application procedure. To apply for the  
5 facilitated application procedure, applicants for county permits  
6 involving state permit approvals shall submit a form, which  
7 shall be issued by the department; provided that this procedure  
8 shall apply only to state permits that need to be approved by a  
9 state agency following a review of the plans and certifications  
10 submitted by the applicant. State permits that are approved by  
11 rule require only that the licensed design professional certify  
12 that the plans and specifications are in compliance with state  
13 rules. No review by a state agency is required for state  
14 approval. Plans and specifications requiring state agency  
15 review shall be submitted with the facilitated application  
16 procedure to the appropriate state agency, with a copy to the  
17 department. If a state permit is approved by rule, then the  
18 participating county shall provide a set of drawings and  
19 specifications submitted by the applicant to the state agency  
20 that developed the rules.

21 In developing the procedures for approval by rule and by  
22 review, permit requirements shall be clearly stated.



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1 Performance standards, rather than specific technologies or  
2 procedures, shall be specified when appropriate."

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

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

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INTRODUCED BY:

JAN 26 2011



**Report Title:**

Application; Building Permit; Facilitated Application Process

**Description:**

Establishes a joint hearing mechanism in the facilitated application process for building permits, and limits the liability of public entities or employees for issuing a building permit for a project that has been properly stamped and signed by a qualified professional.

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

