

JAN 21 2011

A BILL FOR AN ACT

RELATING TO STREAMLINING PERMIT, LICENSE, AND APPROVAL
APPLICATION PROCESSING.

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

1 SECTION 1. Senate Concurrent Resolution No. 132, S.D. 1
2 (2009), established a task force to determine the economic
3 contributions of the construction industry in Hawaii and to
4 develop a series of proposals for state actions to preserve and
5 create new jobs in the local construction industry. This Act
6 implements one of the task force's proposals in conjunction with
7 the Abercrombie administration's support for state actions to
8 create new jobs in Hawaii's construction industry.

9 In addition, in 2010, the senate committee on economic
10 development and technology and the house committee on economic
11 revitalization, business, and military affairs convened an
12 informal small business discussion group to address the most
13 critical issues facing the small business sectors within
14 Hawaii's economy. Representatives from the Chamber of Commerce
15 of Hawaii, construction and trades industries, community
16 nonprofits, the agricultural sector, food and restaurant
17 industries, retailing, the science and technology sector, the



1 commercial transportation industry, and interested stakeholders
2 developed a package of bills that address the most pressing
3 problems facing Hawaii's small business community.

4 The purpose of this Act is to support the findings of the
5 small business working group and the recommendations proposed by
6 the construction industry task force to streamline portions of
7 the review process for permits, licenses, and approvals to
8 minimize time delays, and to expedite the start of construction
9 for workforce housing and other projects that will result in the
10 generation of construction and other related jobs.

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

14 "§46- Third-party permit, license, and approval
15 processing review. (a) Each county may provide a third-party
16 with permit, license, and approval processing review powers to
17 increase the efficiency and timeliness of permit, license, or
18 approval applications submitted to the State or respective
19 county.

20 Specifically, each county may contract with licensed
21 architects and engineers who are qualified by the respective
22 county to certify compliance with various building, electrical,



1 mechanical, plumbing, and structural codes, as well as land use
2 ordinances, by reviewing an application for a permit, license,
3 or approval.

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

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

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

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



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

3 "(a) Before any agency or officer of the State or its
4 political subdivisions approves any project involving a permit,
5 license, certificate, land use change, subdivision, or other
6 entitlement for use, which may affect historic property,
7 aviation artifacts, or a burial site, the agency or [office]
8 officer shall advise the department and prior to any approval
9 allow the department an opportunity for review and comment on
10 the effect of the proposed project on historic properties,
11 aviation artifacts, or burial sites, consistent with section
12 6E-43, including those listed in the Hawaii register of historic
13 places. The department shall have a maximum of sixty days to
14 complete a review and comment, beginning from the time the
15 department is advised of the proposed project by the agency or
16 officer of the State or its political subdivisions. If the
17 department fails to complete a review and comment within sixty
18 days, the proposed project shall be deemed approved. Projects
19 previously reviewed by the department pursuant to this section
20 and found to have no impact on historic properties, aviation
21 artifacts, or burial sites shall not be subject to subsequent
22 department reviews under this section."



1 SECTION 4. Section 91-13.5, Hawaii Revised Statutes, is
2 amended as follows:

3 1. By amending subsection (a) to read:

4 "(a) Unless otherwise provided by law, an agency shall
5 adopt rules that specify a maximum time period to grant or deny
6 a business or development-related permit, license, or approval;
7 provided that the application is not subject to state
8 administered permit programs delegated, authorized, or approved
9 under federal law. If an agency has not adopted rules
10 specifying the maximum time period to grant or deny a permit,
11 license, or approval pursuant to this section, the application
12 shall be deemed approved thirty calendar days after a completed
13 application is submitted to the State or respective county
14 agency; provided that the completed application is submitted to
15 the State or respective county on or after January 1, 2012."

16 2. By amending subsections (f) and (g) to read:

17 "(f) This section shall not apply to[+

18 ~~(1) Any] any proceedings of the public utilities~~
19 ~~commission[; or~~

20 ~~(2) Any county or county agency that is exempted by county~~
21 ~~ordinance from this section].~~



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

14 SECTION 5. Statutory material to be repealed is bracketed
 15 and stricken. New statutory material is underscored.

16 SECTION 6. This Act shall take effect on July 1, 2011.
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Report Title:

Construction Task Force (2010); Permit Processing; Maximum Time

Description:

Authorizes counties to contract with a third-party reviewer to streamline construction permit, license, and other application processing; provides that applications will be deemed approved if historic preservation division fails to review and comment within 60 days, and after 30 days if agencies fail to establish maximum time periods for permit and other application processing.

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