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## A BILL FOR AN ACT

RELATING TO WATER RIGHTS.

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

1           SECTION 1. Section 174C-15, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "§174C-15 Penalties and common law and other remedies.

4           (a) The commission may enforce its rules and orders adopted  
5 pursuant to this chapter by suit for injunction or for damages  
6 or both.

7           (b) Any person who violates any provision of this chapter,  
8 or any rule adopted pursuant to this chapter, may be subject to  
9 a fine imposed by the commission. [~~Such~~] The fine shall not  
10 exceed \$5,000. For a continuing offense, each day during which  
11 the offense is committed is a separate violation.

12           (c) No provision of this chapter shall bar the right of  
13 any injured person to seek other legal or equitable relief  
14 against a violator of this chapter.

15           (d) Except as otherwise provided by law, the commission or  
16 its authorized representative by proper delegation may set,  
17 charge, and collect administrative fines or bring legal action  
18 to recover administrative fees and costs as documented by



1 receipts or affidavit, including attorneys' fees and costs; or  
2 bring legal action to recover administrative fines, fees, and  
3 costs, including attorneys' fees and costs, or payment for  
4 damages resulting from a violation of this chapter or any rule  
5 adopted pursuant to this chapter.

6 (e) No provision in this chapter shall bar or prevent any  
7 person from bringing any action before the circuit court  
8 pursuant to part III of chapter 664; provided that the  
9 commission shall be made a party to any action pursued under  
10 part III of chapter 664."

11 SECTION 2. Section 664-32, Hawaii Revised Statutes, is  
12 amended to read as follows:

13 "**§664-32 Jurisdiction.** The circuit courts shall have  
14 immediate jurisdiction to hear and determine, without prior  
15 consultation with or review by the commission on water resource  
16 management or any other agency or department or the intervention  
17 of a jury, all controversies respecting rights of private way  
18 and water rights, as in this part provided."

19 SECTION 3. Section 664-33, Hawaii Revised Statutes, is  
20 amended to read as follows:

21 "**§664-33 Procedure; notice.** (a) The circuit courts shall  
22 hear and determine all controversies based upon a written grant

1 or other instrument respecting rights of private way and water  
 2 rights, between private individuals, or between private  
 3 individuals and the State. Any person interested, or the State,  
 4 may apply for the settlement of any rights involved hereunder by  
 5 filing a complaint in the circuit court of the circuit in which  
 6 the property affected is situated. [~~Thereupon~~]

7 (b) The plaintiff shall provide notice and thereupon the  
 8 court shall issue a summons to each land owner or occupant  
 9 having an interest in the controversy. A notice of the pending  
 10 action may be published in any case in the discretion of the  
 11 court."



12 SECTION 4. This Act does not affect rights and duties that  
 13 matured, penalties that were incurred, and proceedings that were  
 14 begun before its effective date.

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

17 SECTION 6. This Act shall take effect upon its approval.

18

INTRODUCED BY:

JAN 21 2011



**Report Title:**

Water Rights; Commission of Water Resource Management

**Description:**

Establishes that action may be brought directly before the circuit courts to enforce water rights pursuant to chapter 664, HRS (boundaries, fences, ways, water rights).

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

