
A BILL FOR AN ACT

RELATING TO SPECIAL TREATMENT FACILITIES.

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

1 SECTION 1. Chapter 321, Part I, Hawaii Revised Statutes,
2 is amended by adding 4 new sections to be appropriately
3 designated and to read as follows:

4 "§321-A Special treatment facilities; licenses and
5 renewals; notice of public hearing. (a) Upon receipt of any
6 application for a license to create, develop, or operate a
7 special treatment facility or for renewal of a license to
8 operate a special treatment facility, the director shall fix a
9 date and give notice for a public hearing on the license or
10 license renewal application at least once in each of two
11 consecutive weeks in a newspaper of general circulation in the
12 county where the proposed or existing special treatment facility
13 is located. The date of the hearing shall be not less than
14 forty-five days after the first notice. The notice shall
15 require that all protests or objections against the issuance of
16 the license or license renewal applied for shall be filed with
17 the director before the date of the hearing.



1 Before giving notice, the director shall collect from the
2 applicant reimbursement for the cost of giving the public
3 notice.

4 (b) Immediately upon the director's fixing a date for the
5 public hearing, the applicant shall mail a notice setting forth
6 the time and place of the hearing to each of the following:

7 (1) Not fewer than two-thirds of the owners and lessees of
8 record of real estate located within a distance of one
9 mile from the proposed or existing location of the
10 special treatment facility. Notice by mail may be
11 addressed to the last known address of the person
12 concerned or to the address as shown in the current
13 real property tax record of the person or the person's
14 agent or representative;

15 (2) Each individual condominium project or cooperative
16 apartment unit located within a distance of one mile
17 from the proposed or existing location of the special
18 treatment facility; provided that one notice of the
19 hearing shall be sent by mail addressed "To the
20 Residents, In Care of the Manager", followed by the
21 name and address of the condominium or cooperative
22 apartment involved; and



1 (3) The principal of any school located within a distance
2 of one mile from the proposed or existing location of
3 the special treatment facility.

4 The notices required under this subsection shall be mailed at
5 least forty-five days prior to the date set for the hearing.
6 Before the hearing and within seven business days of having
7 mailed the notices, the applicant shall file with the director
8 an affidavit that the notices have been mailed in accordance
9 with this subsection. In addition to the affidavit, the
10 applicant shall include both a master list of all the addressees
11 and addresses required by paragraphs (1) through (3) and another
12 mailing list consisting of the portion of addressees and their
13 respective addresses who were mailed the notice to meet the
14 requirements of paragraph (1). The director shall make the
15 affidavit, master list, and mailing list available for public
16 review upon request. For purposes of this section, "master
17 list" means every owner and lessee or person who would otherwise
18 be required to receive notice of the public hearing according to
19 the requirement of paragraphs (1) through (3), even if they were
20 not actually included in the two-thirds requirement of paragraph
21 (1).



1 If the requirements of this section are not met, the
2 director may cancel the hearing or continue the public hearing
3 subject to this section. If the director finds that the
4 requirements of this section are not met as a result of the bad
5 faith of the applicant, the director may deny or revoke the
6 license as the case may be.

7 (c) For purposes of this section:

8 (1) Notice to one co-owner and one co-lessee of real
9 estate shall be sufficient notice to all co-owners and
10 all co-lessees of the affected real estate; and

11 (2) One notice shall be sufficient for an owner or lessee
12 of affected multiple properties.

13 **§321-B Special treatment facilities; licenses and**

14 **renewals; protests.** (a) Protests against granting of a license
15 to create, develop, or operate a new special treatment facility
16 or renewing a license to operate a special treatment facility
17 may be filed with the director by:

18 (1) Any owner or lessee of real estate situated within a
19 distance of one mile;

20 (2) Any person who resides within a distance of one mile;
21 or



1 (3) The principal of any school located within a distance
2 of one mile
3 from the proposed or existing location of the special treatment
4 facility. A protest shall include written statements submitted
5 to the director prior to the hearing and written or oral
6 testimony submitted at the hearing.

7 (b) The applicant shall have thirty days from the date of
8 the hearing pursuant to section 321-A to submit to the director
9 a plan to address each protest filed with the director.

10 §321-C Special treatment facilities; licenses and
11 renewals; hearing; consideration of application. (a) On the
12 date of the hearing pursuant to section 321-A, the director
13 shall consider the license or license renewal application, any
14 protests and objections to the granting of the license or
15 renewing of the license, and any written or oral testimony by
16 interested parties. Within ninety days after the hearing, the
17 director shall consider the plan submitted by the applicant to
18 address each protest filed with the director and grant or refuse
19 the application; provided that if a majority of the:

20 (1) Owners and lessees of record of real estate situated
21 within a distance of one mile from the proposed or
22 existing location of the special treatment facility;



1 (2) Persons who reside within a distance of one mile from
2 the proposed or existing location of the special
3 treatment facility; or

4 (3) Principals of any public schools located within a
5 distance of one mile from the proposed or existing
6 location of the special treatment facility; or

7 (4) Any combination of the above,
8 have duly filed or caused to be filed protests against the
9 granting or renewal of the license, or if there appears to be
10 any other disqualification under this chapter, the license or
11 license renewal application shall be denied. Otherwise, the
12 director, in the director's discretion and in accordance with
13 this chapter, may grant or refuse the license or license renewal
14 application.

15 For the purposes of this section, a protest submitted by a
16 majority of the co-owners or the majority of co-lessees of a
17 property shall constitute a protest by all the owners or lessees
18 of record of that property. A protest filed by an owner or
19 lessee who owns more than one property shall be counted
20 separately as a protest for each property.

21 (b) The director shall make available to the applicant and
22 any protestor for review before the public hearing the list of



1 those persons who filed a protest or objection to the
2 application. All applicants and protestors may submit
3 corrections, additions, or deletions to the master list and the
4 list of protestors at the public hearing. The director shall
5 rule on proposed corrections, additions, and deletions and give
6 reasons for the ruling.

7 (c) The director shall make available to any protestor for
8 review before a ruling on the application the plan submitted by
9 the applicant to address each protest filed with the director.

10 §321-D Special treatment facilities; licenses and
11 renewals; applicant plan; violation; license revocation or
12 suspension; public hearing. Upon a licensee's failure to adhere
13 to the plan submitted by the applicant under section 321-B(b) to
14 address each protest filed with the director, the director shall
15 fix a date and give notice of a public hearing, pursuant to
16 section 321-A, to determine whether to revoke or suspend the
17 applicant's license."

18 SECTION 2. In codifying the new sections added by section
19 1 of this Act, the revisor of statutes shall substitute
20 appropriate section numbers for the letters used in designating
21 the new sections in this Act.

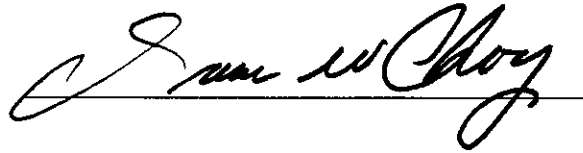
22 SECTION 3. New statutory material is underscored.



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

2

INTRODUCED BY:

A handwritten signature in cursive script, appearing to read "James W. Hoy", is written over a horizontal line.

JAN 19 2011



Report Title:

Special Treatment Facility; Public Approval

Description:

Requires public approval from residents within a 1-mile radius for the licensing of a new special treatment facility, or for renewal of such a license.

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