

JAN 17 2014

A BILL FOR AN ACT

RELATING TO APPLICATION PROCESSING.

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

1 SECTION 1. The legislature finds that the process of
2 reviewing permits, licenses, and approvals for workforce housing
3 and other projects submitted to the State and each county is
4 long and often results in significant delays prior to the start
5 of each project. The legislature envisions that the enactment
6 of certain statutory provisions will help to streamline and
7 enhance the efficiency of the permit and license review and
8 approval process. For example, statutory provisions that
9 establish a maximum time period within which agencies must grant
10 or deny related permits, licenses, and approvals will expedite
11 the start of construction for workforce housing projects
12 throughout the State and will result in the generation of
13 construction and other related jobs that are badly needed in the
14 economy.

15 In 2009, the legislature adopted senate concurrent
16 resolution no. 132, S.D. 1, which established the construction
17 industry task force (task force) to determine the economic value
18 of the construction industry in Hawaii. As directed in the



1 concurrent resolution, the task force was charged with
2 developing a series of recommendations to stimulate the
3 construction industry and create new jobs in the local
4 construction industry. Unfortunately, to date, many of the task
5 force's recommendations have yet to be enacted by the
6 legislature. The intent of this Act is to enact and implement
7 one of the recommendations of the task force in an effort to
8 support the local construction industry.

9 Accordingly, the purpose of this Act is to streamline
10 portions of the review process for permits, licenses, and
11 approvals to minimize time delays and to expedite the start of
12 construction for workforce housing and other projects, which
13 will result in the generation of construction and other related
14 jobs.

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

18 **"§46- Third-party permit, license, and approval**
19 **processing review.** (a) Each county shall be authorized to
20 provide a third-party with permit, license, and approval
21 processing review powers that are aimed at increasing the



1 efficiency and timeliness of permit, license, or approval
2 applications submitted to the State or respective county.
3 Specifically, each county shall be authorized to contract
4 with licensed architects and engineers that are qualified by the
5 respective county to certify compliance with various building,
6 electrical, mechanical, plumbing, and structural codes, as well
7 as land use ordinances, in reviewing an application for a
8 permit, license, or approval.

9 (b) Third-party reviewers shall be retained by an owner of
10 the property being reviewed, and all fees and costs for third-
11 party review services shall be the responsibility of the owner
12 of the property being reviewed.

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

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



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

6 SECTION 3. Section 6E-42, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "**§6E-42 Review of proposed projects.** (a) Before any
9 agency or officer of the State or its political subdivisions
10 approves any project involving a permit, license, certificate,
11 land use change, subdivision, or other entitlement for use,
12 which may affect historic property, aviation artifacts, or a
13 burial site, the agency or office shall advise the department
14 and prior to any approval allow the department an opportunity
15 for review and comment on the effect of the proposed project on
16 historic properties, aviation artifacts, or burial sites,
17 consistent with section 6E-43, including those listed in the
18 Hawaii register of historic places. If:

- 19 (1) The proposed project consists of corridors or large
20 land areas;
21 (2) Access to properties is restricted; or



1 (3) Circumstances dictate that construction be done in
2 stages,
3 the department's review and comment may be based on a phased
4 review of the project; provided that there shall be a
5 programmatic agreement between the department and the project
6 applicant that identifies each phase and the estimated timelines
7 for each phase.

8 (b) The department shall inform the public of any project
9 proposals submitted to it under this section that are not
10 otherwise subject to the requirement of a public hearing or
11 other public notification.

12 (c) The department shall have a maximum of forty-five days
13 to complete a review and comment on the effect of a proposed
14 project on historic properties, aviation artifacts, or burial
15 sites, consistent with section 6E-43, including those listed in
16 the Hawaii register of historic places, beginning from the time
17 the department is advised of the proposed project by an agency
18 or officer of the State or its political subdivision. If the
19 department fails to complete a review and comment on the effect
20 of a proposed project within forty-five days, the proposed
21 project shall be deemed to be approved. Projects previously
22 reviewed by the department pursuant to this section and found to



1 have no impact on historic properties, aviation artifacts, or
2 burial sites shall not be subject to subsequent department
3 reviews.

4 [~~e~~] (d) The department shall adopt rules in accordance
5 with chapter 91 to implement this section."

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

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

9 "(a) Unless otherwise provided by law, an agency shall
10 adopt rules that specify a maximum time period to grant or deny
11 a business or development-related permit, license, or approval;
12 provided that the application is not subject to state
13 administered permit programs delegated, authorized, or approved
14 under federal law. If an agency does not have a maximum time
15 period to grant or deny a permit, license, or approval adopted
16 by rule pursuant to this section, the application for permit,
17 license, or approval shall be deemed approved thirty calendar
18 days after a completed application is submitted to the State or
19 respective county agency; provided that the completed
20 application is submitted to the State or respective county on or
21 after January 1, 2015."

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



1 (f) This section shall not apply to[+
2 ~~(1) Any~~] any proceedings of the public utilities
3 commission[~~+~~ or
4 ~~(2) Any county or county agency that is exempted by county~~
5 ~~ordinance from this section]~~.

6 (g) For purposes of this section, "application for a
7 business or development-related permit, license, or approval"
8 means any state or county application, petition, permit,
9 license, certificate, or any other form of a request for
10 approval required by law to be obtained prior to the formation,
11 operation, or expansion of a commercial or industrial
12 enterprise, or for any permit, license, certificate, or any form
13 of approval required under sections 46-4, 46-4.2, 46-4.5, 46-5,
14 and chapters 183C, 205, 205A, 340A, 340B, 340E, 340F, 342B,
15 342C, 342D, 342E, 342F, 342G, 342H, 342I, 342J, 342L, and
16 342P[~~-~~], and shall include any permit, license, certificate, or
17 other form of approval for county land use, subdivision,
18 grading, grubbing, building, or plan approval."

19 SECTION 5. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.

21



S.B. NO. 2341

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

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INTRODUCED BY: WUD. W. BNL



S.B. NO. 2341

Report Title:

Construction Industry Task Force; Permit Processing; Approvals;
Maximum Time; Application

Description:

Establishes a maximum time period within which an application for permit, license, or approval shall be acted upon by the designated agency or else deemed granted; authorizes each county to contract with a third-party reviewer to streamline the processing of applications; clarifies that previously approved projects that do not impact historic properties are not subject to subsequent reviews by SHPD.

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

