

JAN 25 2017

A BILL FOR AN ACT

RELATING TO ENERGY EFFICIENCY.

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

1 SECTION 1. The legislature finds that this body passed Act
2 204, Session Laws of Hawaii 2008, which for the benefit of
3 consumers required that new homes utilize solar water heating
4 except in narrowly limited circumstances. That Act, known as
5 the "solar water heater mandate", also created a variance
6 process for non-compliant solar water heaters. For the reasons
7 described herein, the legislature finds that the variance
8 provision currently utilized in the solar water heater mandate
9 can be used to circumvent the objectives of Act 204 to the
10 detriment of consumers.

11 In 2009, attempting in part to clarify elements of Act 204,
12 Session Laws of Hawaii 2008, the legislature passed Act 155,
13 Session Laws of Hawaii 2009. Act 155 explained that in passing
14 Act 204, the legislature "found that retrofitting a home for a
15 solar water heater after [the home] was constructed was more
16 costly, and that such upfront costs . . . were substantial
17 barriers for the average consumer." However, the legislature



1 further explained that "[t]he financial barriers can be
2 addressed . . . by including the installation of a solar water
3 heater into the purchase price and mortgage of a home, where the
4 cost of the system may pay for itself immediately."

5 Part VII of Act 155 focused on clarifying the solar water
6 heater mandate created under Act 204. The solar water heater
7 mandate included a variance process by which a single family
8 dwelling can be built without a solar water heater if:

- 9 (1) Installation is impractical due to poor solar
10 resource;
- 11 (2) Installation is cost-prohibitive based upon a life
12 cycle cost-benefit analysis;
- 13 (3) A renewable energy technology system, such as a solar
14 photovoltaic system, is substituted for use as the
15 primary energy source for heating water; or
- 16 (4) A demand water heater device approved by Underwriter
17 Laboratories, Inc., is installed; provided that at
18 least one other gas appliance is installed in the
19 dwelling.

20 The legislature finds that despite the legislature's intent
21 that variances granted under the solar water heater mandate be



1 "rarely granted", the variance process is being used to
2 circumvent the legislature's objectives. Moreover, the
3 legislature intended that a variance based on the "demand water
4 heater device" provision be even rarer, stating "if the
5 potential variance applicant is not the party who will
6 ultimately pay for the energy cost consumption, then only
7 [variance exceptions (1)-(3) under the solar water mandate]
8 should apply". However, through December 2016, 4,450 variance
9 requests have been filed and more than ninety-nine per cent of
10 those requests have been granted, and nearly ninety-four per
11 cent of those requests have been for demand water heaters. In
12 addition, the variance process is being misused such that it is
13 providing benefits to unintended beneficiaries. Over 1,750 of
14 the variance requests have been submitted by a single architect
15 who ultimately does not incur the costs for energy consumption.

16 The legislature therefore finds that it is necessary to
17 amend the solar water heater mandate to implement the intent of
18 Acts 204 and 155 to better protect consumers. This need is
19 particularly sharp at a time when substantial new residential
20 tracts are being developed.



1 Accordingly, the purpose of this Act is to provide
2 housekeeping amendments to close the loophole allowing
3 applicants to circumvent the legislature's stated objectives for
4 solar water heating systems and ensure that the variance for a
5 demand water heater may only be granted if solar water heating
6 is impracticable and cost-prohibitive, and if no renewable
7 energy technology system can be substituted for use as the
8 primary energy source for heating water. In addition, a request
9 for a variance for a demand water heater may only be granted if
10 applicant attests that the applicant will also be the resident-
11 owner of the home.

12 SECTION 2. Section 196-6.5, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "**§196-6.5 Solar water heater system required for new**
15 **single-family residential construction.** (a) On or after
16 January 1, 2010, no building permit shall be issued for a new
17 single-family dwelling that does not include a solar water
18 heater system that meets the standards established pursuant to
19 section 269-44, unless the coordinator approves a variance. A
20 variance application shall only be accepted if [submitted]



1 signed by an architect or mechanical engineer licensed under
2 chapter 464, who attests that:

- 3 (1) Installation is impracticable due to poor solar
4 resource;
- 5 (2) Installation is cost-prohibitive based upon a life
6 cycle cost-benefit analysis that incorporates the
7 average residential utility bill and the cost of the
8 new solar water heater system with a life cycle that
9 does not exceed fifteen years;
- 10 (3) A renewable energy technology system, as defined in
11 section 235-12.5, is substituted for use as the
12 primary energy source for heating water; or
- 13 (4) A demand water heater device approved by Underwriters
14 Laboratories, Inc., is installed; provided that at
15 least one other gas appliance is installed in the
16 dwelling. For the purposes of this paragraph, "demand
17 water heater" means a gas-tankless instantaneous water
18 heater that provides hot water only as it is needed.

19 (b) All applications for variance under subsection (a)(4)
20 shall also:



1 (1) Be signed by the applicant who shall be the owner and
2 occupant of the dwelling and shall attest that the
3 applicant shall pay the energy costs for heating water
4 in the home; and

5 (2) Include an attestation by an architect or mechanical
6 engineer licensed under chapter 464 demonstrating that
7 a variance under subsection (a) (3) would be
8 impracticable and cost-prohibitive in accordance with
9 subsections (a) (1) and (a) (2).

10 ~~[(b)]~~ (c) A request for a variance shall be submitted to
11 the coordinator on an application prescribed by the coordinator
12 and shall include a description of the location of the property
13 and justification for the approval of a variance using the
14 criteria established in subsection (a). The coordinator may
15 exercise discretion in denying any variance application deemed
16 incomplete or insufficient to satisfy the criteria in
17 subsections (a) and (b). A variance shall be deemed approved if
18 not denied within thirty working days after receipt of the
19 variance application. The coordinator shall publicize:

20 (1) All applications for a variance within seven days
21 after receipt of the variance application; and



1 (2) The disposition of all applications for a variance
2 within seven days of the determination of the variance
3 application.

4 ~~[(e)]~~ (d) The director of business, economic development,
5 and tourism may adopt rules pursuant to chapter 91 to impose and
6 collect fees to cover the costs of administering variances under
7 this section~~[-]~~, and to impose appropriate penalties or fines
8 for false attestations in variance applications. The fees,
9 fines, or penalties, if any, shall be deposited into the energy
10 security special fund established under section 201-12.8.

11 ~~[(d)]~~ (e) Nothing in this section shall preclude any
12 county from establishing procedures and standards required to
13 implement this section.

14 ~~[(e)]~~ (f) Nothing in this section shall preclude
15 participation in any utility demand-side management program or
16 public benefits fee program under part VII of chapter 269."

17 SECTION 3. This Act does not affect rights and duties that
18 matured, penalties that were incurred, and proceedings that were
19 begun before its effective date.

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



1 SECTION 5. This Act shall take effect on July 1, 2017.

2

INTRODUCED BY: 



S.B. NO. 1121

Report Title:

Energy; Solar Water Heater Mandate; Variance

Description:

Amends the solar water heater mandate to ensure that the variance for a demand water heater may only be granted if solar water heating is impracticable and cost-prohibitive, and if no renewable energy technology system can be substituted for use as the primary energy source for heating water. Clarifies that a request for a variance for a demand water heater may only be granted if the applicant attests that the applicant will also be the resident-owner of the home.

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

