

ACT 251

H.B. NO. 1004

A Bill for an Act Relating to Original Jurisdiction of the Hawaii Supreme Court.  
*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 37D-9, Hawaii Revised Statutes, is amended to read as follows:

**“~~[§37D-9]~~ Litigation; jurisdiction[-]; appeal.** The director of finance may petition the [supreme] circuit court of the first circuit for an opinion as to the validity of any financing or related agreement entered into pursuant to the provisions of this chapter. The petition shall constitute a [ease] civil proceeding for purposes of section [602-5,] 603-21.5(a)(3), and the [supreme] circuit court of the first circuit shall have exclusive and original jurisdiction to receive and determine the question presented in the petition, irrespective of an actual controversy or dispute regarding the agreement or its validity. Any party aggrieved by the decision of the circuit court may appeal in accordance with part I of chapter 641 and the appeal shall be given priority.”

SECTION 2. Section 103D-709, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Hearings to review and determine any request made pursuant to subsection (a) shall commence within twenty-one calendar days of receipt of the request. The hearings officers shall have power to issue subpoenas, administer oaths, hear testimony, find facts, make conclusions of law, and issue a written decision which shall be final and conclusive unless a person or governmental body adversely affected by the decision commences an appeal in the [supreme] circuit court of the circuit where the case or controversy arises under section 103D-710.”

SECTION 3. Section 103D-710, Hawaii Revised Statutes, is amended to read as follows:

**“§103D-710 Judicial review.** (a) Only parties to proceedings under section 103D-709 who are aggrieved by a final decision of a hearings officer under that section may apply for judicial review of that decision. The proceedings for review

shall be instituted in the ~~[supreme court.]~~ circuit court of the circuit where the case or controversy arises.

(b) An application for judicial review shall not operate as a stay of the decision rendered under section 103D-709.

(c) Within twenty calendar days of the filing of an application for judicial review ~~[in the supreme court,]~~ the hearings officer shall transmit the record of the administrative proceedings to the ~~[supreme court.]~~ circuit court of the circuit where the case or controversy arises.

(d) The review shall be scheduled as expeditiously as practicable. It shall be conducted on the record of the administrative proceedings, and briefs and oral argument. No new evidence shall be introduced ~~[in the appellate court,]~~ except that the circuit court may, if evidence is offered which is clearly newly discovered evidence and material to the just decision of the appeal, admit the same.

(e) Upon review of the record the circuit court may affirm the decision of the hearings officer issued pursuant to section 103D-709 or remand the case with instructions for further proceedings; or it may reverse or modify the decision and order if substantial rights may have been prejudiced because the administrative findings, conclusions, decisions, or orders are:

- (1) In violation of constitutional or statutory provisions;
- (2) In excess of the statutory authority or jurisdiction of the chief procurement officer or head of the purchasing agency;
- (3) Made upon unlawful procedure;
- (4) Affected by other error of law;
- (5) Clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or
- (6) Arbitrary, or capricious, or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

(f) Any party aggrieved by the decision of the circuit court may appeal in accordance with part I of chapter 641 and the appeal shall be given priority."

SECTION 4. Section 103D-712, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Requests for judicial review under section 103D-710 shall be filed in the ~~[supreme] circuit court of the circuit where the case or controversy arises~~ within ten calendar days after the issuance of a written decision by the hearings officer under section 103D-709."

SECTION 5. Section 201B-15, Hawaii Revised Statutes, is amended to read as follows:

**"[~~§~~201B-15[~~]~~] Court proceedings; preferences; venue.** (a) Any action or proceeding to which the authority, the State, or the county may be a party, in which any question arises as to the validity of this chapter, shall be preferred over all other civil cases, except election cases, in ~~[any] the circuit court of [this State] the circuit where the case or controversy arises,~~ and shall be heard and determined in preference to all other civil cases pending therein except election cases, irrespective of position on the calendar.

~~[The same preference shall be granted upon]~~ (b) Upon application of counsel to the authority, the same preference shall be granted in any action or proceeding questioning the validity of this chapter in which the authority may be allowed to intervene.

~~[In addition to the preference provided in this section, any]~~ (c) Any action or proceeding to which the authority, the State, or the county may be party, in which any question arises as to the validity of this chapter or any portion of this chapter, or

any action of the authority may be filed in the ~~[supreme]~~ circuit court of<sup>1</sup> ~~[the State,] of the circuit where the case or controversy arises,~~ which court is hereby vested with original jurisdiction over the action.

(d) Notwithstanding any provision of law to the contrary, declaratory relief from the ~~[supreme]~~ circuit court may be obtained for any action.

(e) Any party aggrieved by the decision of the circuit court may appeal in accordance with part I of chapter 641 and the appeal shall be given priority.’’

SECTION 6. Section 206E-20, Hawaii Revised Statutes, is amended to read as follows:

**“§206E-20 Court proceedings; preferences; venue.** (a) Any action or proceeding to which the authority, the State, or the county may be a party, in which any question arises as to the validity of this chapter, shall be ~~[preferred over all other civil cases, except election cases, in any court of this State and]~~ brought in the circuit court of the circuit where the case or controversy arises, and shall be heard and determined in preference to all other civil cases pending therein except election cases, irrespective of position on the calendar.

~~[The same preference shall be granted upon]~~ (b) Upon application of counsel to the authority, the same preference shall be granted in any action or proceeding questioning the validity of this chapter in which the authority may be allowed to intervene.

~~[In addition to the preference provided in this section, any such]~~ (c) Any action or proceeding to which the authority, the State, or the county may be a party, in which any question arises as to the validity of this chapter or any portion of this chapter, may be filed in the ~~[supreme]~~ circuit court of the<sup>2</sup> ~~[State,] of the circuit where the case or controversy arises, which court is hereby vested with original jurisdiction over [such action, and notwithstanding] the action.~~

(d) Notwithstanding any provision of law to the contrary, declaratory relief may be obtained for ~~[any such]~~ the action.

(e) Any party aggrieved by the decision of the circuit court may appeal in accordance with part I of chapter 641 and the appeal shall be given priority.’’

SECTION 7. Section 206G-10, Hawaii Revised Statutes, is amended to read as follows:

**“[E]§206G-10[] Court proceedings; preferences; venue.** (a) Any action or proceeding to which the commission, the State, or the county may be a party, in which any question arises as to the validity of this chapter, shall be preferred over all other civil cases, except election cases, in ~~[any] the circuit~~ court of ~~[this State] the first circuit~~ and shall be heard and determined in preference to all other civil cases pending therein except election cases, irrespective of position on the calendar.

~~[The same preference shall be granted upon]~~ (b) Upon application of counsel to the commission, the same preference shall be granted in any action or proceeding questioning the validity of this chapter in which the commission may be allowed to intervene.

~~[In addition to the preference provided in this section, any such]~~ (c) Any action or proceeding to which the commission, the State, or the county may be a party, in which any question arises as to the validity of this chapter or any portion of this chapter, may be filed in the ~~[supreme]~~ circuit court of the ~~[State,] first circuit,~~ which court is hereby vested with original jurisdiction over the action~~[, and notwithstanding].~~

(d) Notwithstanding any provision of law to the contrary, declaratory relief may be obtained for ~~[any such]~~ the action.

(e) Any party aggrieved by the decision of the circuit court may appeal in accordance with part I of chapter 641 and the appeal shall be given priority.’’

SECTION 8. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 9. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 10. This Act shall take effect upon its approval.

(Approved June 19, 2001.)

**Notes**

1. “Of” should be bracketed.
2. “Of the” should be bracketed.