



GOV. MSG. NO. 704

EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

June 3, 2009

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fifth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

This is to inform you that on June 3, 2009, the following bill was signed into law:

HB640 HD1 SD2 CD1

A BILL FOR AN ACT
RELATING TO ENVIRONMENTAL IMPACT
STATEMENTS.

ACT 087 (09)

Sincerely,



LINDA LINGLE

Approved by the Governor

on JUN 3 2009

HOUSE OF REPRESENTATIVES
TWENTY-FIFTH LEGISLATURE, 2009
STATE OF HAWAII

ACT 087
H.B. NO. 640
H.D. 1
S.D. 2
C.D. 1

A BILL FOR AN ACT

RELATING TO ENVIRONMENTAL IMPACT STATEMENTS.

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

1 SECTION 1. The legislature finds that the department of
2 transportation has a critical role in ensuring the efficient and
3 timely processing of permits for proposed actions within public
4 rights-of-way. However, during the 2008 legislative session,
5 the legislature found that the problems experienced by
6 applicants in processing permits for the use of public rights-
7 of-way arose from multi-agency jurisdiction with regard to which
8 agency should take the lead role to exempt certain proposed
9 actions from the environmental assessment requirement. Act 110,
10 Session Laws of Hawaii 2008 (Act 110) provided that whenever an
11 applicant requests approval for a proposed action and there is a
12 question as to which of two or more state or county agencies
13 with jurisdiction has the responsibility of preparing the
14 environmental assessment, the office of environmental quality
15 control, after consultation with and assistance from the
16 affected agencies, is to determine which agency must prepare the
17 environmental assessment.



1 Notwithstanding Act 110, the legislature finds that the
2 department of transportation is requiring a determination from
3 the office of environmental quality control for secondary
4 actions that are clearly exempt from the environmental
5 assessment requirement under the department's own rules. As a
6 result, the legislature further finds that the office of
7 environmental quality control is overwhelmed by the number of
8 requests from the department for action reviews, which has
9 created unnecessary delays for actions that would clearly be
10 exempt from the environmental assessment requirement.

11 The purpose of this Act is to delineate a clear exemption
12 to the applicability of Chapter 343, Hawaii Revised Statutes,
13 the state's environmental impact statement law, when the primary
14 action is not subject to a discretionary consent or a public
15 hearing and the secondary action is ancillary and limited to the
16 installation, improvement, renovation, construction, or
17 development of infrastructure within an existing public right-
18 of-way.

19 SECTION 2. Chapter 343, Hawaii Revised Statutes, is
20 amended by adding a new section to be appropriately designated
21 and to read as follows:



1 "§343- Exception to applicability of chapter. (a)
2 Notwithstanding any other law to the contrary, any primary
3 action that requires a permit or approval that is not subject to
4 a discretionary consent and that involves a secondary action
5 that is ancillary and limited to the installation, improvement,
6 renovation, construction, or development of infrastructure
7 within an existing public right-of-way or highway shall be
8 exempt from this chapter.

9 (b) As used in this section:

10 "Discretionary consent" means:

- 11 (1) An action as defined in section 343-2; or
- 12 (2) An approval from a decision-making authority in an
13 agency, which approval is subject to a public hearing.

14 "Infrastructure" includes waterlines and water facilities,
15 wastewater lines and wastewater facilities, gas lines and gas
16 facilities, drainage facilities, electrical, communications,
17 telephone, and cable television utilities, and highway, roadway,
18 and driveway improvements.

19 "Primary action" refers to any action outside of the
20 highway or public right-of-way that is on private property.

21 "Secondary action" refers to any infrastructure within the
22 highway or public right-of-way."



1 SECTION 3. New statutory material is underscored.

2 SECTION 4. This Act shall take effect on July 1, 2009, and

3 shall be repealed on July 1, 2011.

APPROVED this 3 day of JUN , 2009



GOVERNOR OF THE STATE OF HAWAII

