

JAN 24 2018

A BILL FOR AN ACT

RELATING TO APPELLATE JURISDICTION.

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

1 SECTION 1. Chapter 602, Hawaii Revised Statutes, is
2 amended by adding a new section to part I to be appropriately
3 designated and to read as follows:

4 "§602- Criteria for assignment of cases. In assigning
5 a case to the appropriate court of appeal under section
6 602-5(b), the chief justice or the chief justice's designee may
7 consider the following among other relevant matters and their
8 substantiality in determining whether the case involves a
9 question of such importance that it should be assigned to the
10 supreme court:

11 (1) Whether the case involves a question of first
12 impression or presents a novel legal question;

13 (2) Whether the case involves a question of state or
14 federal constitutional interpretation;

15 (3) Whether the case raises a question of law regarding
16 the validity of a state statute, county ordinance, or
17 agency regulation;



1 (4) Whether the case involves issues upon which there is
2 an inconsistency in the decisions of the intermediate
3 appellate court or of the supreme court; or

4 (5) Whether the sentence in the case is life imprisonment
5 without the possibility of parole."

6 SECTION 2. Chapter 661, Hawaii Revised Statutes, is
7 amended by adding a new section to part I to be appropriately
8 designated and to read as follows:

9 "§661- Judgment of supreme court final. The judgment
10 of the supreme court in all matters brought before it on appeal,
11 under this chapter, shall be final."

12 SECTION 3. Section 11-51, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "§11-51 Appeal from board[-] to supreme court. Any
15 affected person, political party, or any of the county clerks,
16 may appeal to the [~~intermediate appellate~~] supreme court,
17 subject to chapter 602, in the manner provided for civil appeals
18 to the supreme court from the circuit court; provided that the
19 appeal is brought no later than 4:30 p.m. on the tenth day after
20 the board serves its written decision, including findings of
21 fact and conclusions of law, upon the appellant. This written



1 decision of the board shall be a final appealable order. The
2 board shall not consider motions for reconsideration. Service
3 upon the appellant shall be made personally or by registered
4 mail, which shall be deemed complete upon deposit in the mails,
5 postage prepaid, and addressed to the appellant's last known
6 address."

7 SECTION 4. Section 11-52, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "§11-52 **Hearing; decision final.** When the appeal is
10 perfected, the supreme court shall hear the appeal as soon
11 thereafter as may be reasonable. The determination by the court
12 of the question shall be final."

13 SECTION 5. Section 11-53, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "§11-53 **Decision, notice; action on.** Immediately upon
16 rendering a final decision upon any appeal, the supreme court
17 shall notify the board of registration from which the appeal was
18 taken; and if the decision reverses the decision of the board,
19 the board shall immediately order the register to be corrected
20 to conform with the decision."



1 SECTION 6. Section 11-54, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§11-54 Status pending appeal. In case of an appeal from
4 a decision of any board of registration the name of the person
5 shall be placed or remain upon the register pending the decision
6 of the [~~appellate courts~~] supreme court concerning the same. If
7 the person so registered votes at any election before the appeal
8 is decided and acted upon, the ballot of [~~such~~] the voter shall
9 be handled in accordance with section 11-25(c)."

10 SECTION 7. Section 40-91, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "§40-91 Appeal from comptroller[~~-~~] to the supreme court.

13 In case of any question or difference of opinion arising between
14 the comptroller and any officer of the State regarding the
15 proper appropriation to which any item or amount of expense is
16 charged, or any other matter regarding the construction of this
17 chapter or the authority vested in either of them by this
18 chapter, and in all cases where a claim is disallowed by the
19 comptroller in consequence of the absence of an original warrant
20 voucher, or upon an imperfect warrant voucher or an incorrect
21 certificate, or if any person feels aggrieved by any decision of



1 the comptroller, in the rejection or the surcharge of the
2 returns or refusal to approve or allow any demand presented by
3 the person, any of the persons concerned may appeal from the
4 decision to the [~~intermediate-appellate~~] supreme court, subject
5 to chapter 602. After such investigation as the [~~appellate~~]
6 supreme court or the intermediate appellate court, as the case
7 may be, considers equitable, it may make such order directing
8 the relief of the appellant in whole or in part as appears to
9 the court to be just and reasonable. If the demand of the
10 officer, bill, claim of any person, or the return of any public
11 accountant is approved, in whole or in part by the court, the
12 court shall so indorse its findings on the same and it shall
13 thereafter be presented to the comptroller, who shall enter it
14 in the proper book in like manner as other demands and
15 indorsement shall be made by the comptroller of its having been
16 so entered before it can be paid."

17 SECTION 8. Section 47-46, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "**§47-46 Disputed ownership.** If there are two or more
20 claimants claiming adversely, each to the other or others, to be
21 the owner in due course of a bond, coupon, or both, as the case



1 may be, alleged to have been lost, stolen, destroyed, or
2 defaced, the director of finance, in the director's discretion,
3 may require the claimants, if not within the State, to appoint
4 agents within the State to accept service of process, or
5 otherwise to submit to the jurisdiction of the courts of the
6 State, and may bring suit on behalf of the State in any circuit
7 court against the claimants, by interpleader, for the
8 determination of the claimant or claimants entitled to the
9 payment of the bond, coupon, or both, as the case may be.
10 Jurisdiction is hereby conferred upon the designated circuit
11 court to hear and determine, without a jury, the suits and to
12 determine whether any of the claimants is entitled to the
13 payment, and, if so, which of the claimants is so entitled;
14 provided that no such judicial determination shall dispense with
15 the condition prescribed by section 47-45 requiring a surety
16 bond before the payment of the claims. The cost of the suit
17 shall be borne by the claimants and the court may decree the
18 payment of such costs by any of the unsuccessful claimants, or
19 the apportionments thereof, as may be deemed just. The decision
20 of the court may be appealed to the [~~intermediate appellate~~]



1 supreme court, subject to chapter 602, in the manner provided
2 for civil appeals from the circuit court."

3 SECTION 9. Section 53-6, Hawaii Revised Statutes, is
4 amended by amending subsection (c) to read as follows:

5 "(c) Hearings and trial upon any issue raised in any
6 action, suit, or proceeding in any court involving the
7 construction, interpretation, or validity of this chapter, or
8 involving the legality or validity of any action taken or
9 proposed to be taken under or pursuant to this chapter, whether
10 by way of injunction, suit for declaratory judgment, submission
11 on agreed statement of facts, or otherwise, shall be given
12 precedence in the trial courts and, on appeal. An appeal to the
13 [~~intermediate appellate~~] supreme court, subject to chapter 602,
14 shall lie from any decision of any trial court holding valid or
15 invalid any provision of this chapter, or any contract made or
16 proposed, or other action taken or proposed to be taken, under
17 or pursuant to this chapter."

18 SECTION 10. Section 91-14, Hawaii Revised Statutes, is
19 amended by amending subsection (b) to read as follows:

20 "(b) Except as otherwise provided herein, proceedings for
21 review shall be instituted in the circuit court or, if



1 applicable, the environmental court, within thirty days after
2 the preliminary ruling or within thirty days after service of
3 the certified copy of the final decision and order of the agency
4 pursuant to rule of court, except where a statute provides for a
5 direct appeal to the supreme court [~~or the intermediate~~
6 ~~appellate court~~], subject to chapter 602. In such cases, the
7 appeal shall be treated in the same manner as an appeal from the
8 circuit court to the supreme court [~~or the intermediate~~
9 ~~appellate court~~], including payment of the fee prescribed by
10 section 607-5 for filing the notice of appeal (except in cases
11 appealed under sections 11-51 and 40-91). The court in its
12 discretion may permit other interested persons to intervene."

13 SECTION 11. Section 101-10, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "§101-10 Circuit courts have jurisdiction. The circuit
16 courts shall try and determine all actions arising under this
17 part, subject only to an appeal to the supreme court in
18 accordance with law. The court, on its own motion or on motion
19 of any party, may try and determine any issue in the case in
20 advance of other issues."



1 SECTION 12. Section 101-32, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§101-32 Possession pending appeal. At any time after
4 judgment has been rendered in the circuit court for or in favor
5 of the plaintiff, or pending an appeal to the supreme court by
6 either plaintiff or defendant, the plaintiff, if not already in
7 possession of the land sought to be condemned under an order
8 entered pursuant to sections 101-28 and 101-29, may be put into
9 possession thereof upon the payment, to the clerk of the court,
10 of the amount assessed as compensation or damages and such
11 further sum as may be required by the court as a fund to pay any
12 further compensation or damages that may be awarded, as well as
13 all damages that may be sustained by the defendant if for any
14 cause the property is not finally taken for public use. Upon
15 such payment, the court shall make an order putting plaintiff
16 into possession of the property sought to be condemned with the
17 right to use the same during the pendency of and until the final
18 conclusion of the litigation. If the plaintiff has appealed[7]
19 to the supreme court, the amount shall be held by the clerk
20 until the entry of final judgment, and the final judgment shall
21 include, as part of the just compensation and damages awarded,



1 interest at the rate provided in section 101-25 from the date of
2 the order letting plaintiff into possession. If the defendant
3 who is entitled to the amount of money assessed as compensation
4 or damages and paid into court under this section has
5 appealed[7] to the supreme court, the defendant shall have the
6 right to demand and receive payment of the same at any time
7 thereafter, upon filing a receipt therefor and an abandonment of
8 all defenses to the action or proceeding, except as to the
9 amount of compensation or damages that the defendant may be
10 entitled to if a new trial shall be granted."

11 SECTION 13. Section 101-34, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "§101-34 Issue as to use may be set for immediate trial.
14 If the defendant, in the defendant's answer or in return to the
15 order to show cause, issued under section 101-28, denies that
16 the use for which the property sought to be condemned is a
17 public use, or a superior public use within the meaning of
18 section 101-7, the issue, upon the motion of any party, may be
19 set for immediate trial, without a jury and without regard to
20 position on the calendar. Notwithstanding any provision of
21 section 641-1, an interlocutory appeal shall lie from the



1 decision on the issue as of right, and the appeal shall be given
2 precedence in the [~~intermediate appellate~~] supreme court.
3 Failure of the defendant to raise the issue within ten days
4 after service of an order granting immediate possession shall be
5 deemed an admission that the use is a public use or a superior
6 public use, as the case may be."

7 SECTION 14. Section 101-52, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "§101-52 Proceedings authorized. Any officer authorized
10 to bring eminent domain proceedings under part I, and any county
11 when thereunto authorized in the manner provided by section 101-
12 13, which is made applicable to this part, may file or cause to
13 be filed a special proceeding for the acquisition by the State
14 or county, as the case may be, of public property required for
15 public uses which are under the officer's or county's
16 jurisdiction and control. The circuit courts may try and
17 determine the proceedings without a jury, subject only to an
18 appeal to the supreme court in accordance with chapter 602, in
19 the manner provided for civil appeals from the circuit courts.
20 The circuit court, on its own motion or on motion of any party,
21 may try and determine any issue in the case in advance of other



1 issues. Compensation or damages shall be paid by the condemning
2 authority for the condemnation of any public property taken
3 under this chapter."

4 SECTION 15. Section 124A-105, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "§124A-105 Judicial review[~~-~~] by the supreme court. (a)

7 An accused, who was tried by a special or general court-martial
8 and who still deems the accused's self aggrieved after the
9 accused has exhausted all of the accused's rights of review
10 under this part, shall be entitled to appeal the judgment or
11 sentence of the special or general court-martial, as may have
12 been modified on review under this part prior to judicial review
13 under this section, to the supreme court, subject to chapter
14 602, in the manner provided for civil appeals from the circuit
15 courts, and within the time provided by the rules of court. All
16 appeals, whether heard by the intermediate appellate court or
17 the supreme court, shall be filed with the clerk of the supreme
18 court and shall be subject to one filing fee.

19 (b) The filing of an appeal pursuant to subsection (a)
20 shall not of itself stay the execution of the judgment or
21 sentence appealed from, but the supreme court or the



1 intermediate appellate court may stay the same upon motion upon
2 such conditions as it may deem proper, notwithstanding any
3 conflicting or contrary provision in this chapter relating to
4 the effective date or execution of sentences or any other
5 contrary provision of law.

6 (c) In reviewing the judgment or sentence of a special or
7 general court-martial, as may have been modified on review prior
8 to judicial review, the supreme court or the intermediate
9 appellate court, as the case may be, may take any of the
10 actions, and exercise any of the powers specified in section
11 641-16 as the court may deem appropriate in reviewing a judgment
12 or sentence of a military court-martial, and the court shall
13 follow as appropriate or applicable the standards and
14 requirements in section 641-16.

15 (d) Upon the request of the accused, the state judge
16 advocate shall appoint a lawyer, who is a member of the bar of
17 the highest court of the State and who has been certified under
18 section 124A-45, to represent the accused in the accused's
19 appeal of the court-martial judgment or sentence[-] to the
20 supreme court. If the accused wishes to be represented by



1 civilian counsel, rather than by appointed military counsel, the
2 accused may do so at the accused's own expense."

3 SECTION 16. Section 127A-23, Hawaii Revised Statutes, is
4 amended to read as follows:

5 " [H] §127A-23 [H] **Determination of damages.** The governor or
6 mayor, as applicable, shall appoint a board of three
7 disinterested certified appraisers with whom may be filed any
8 claim for damages arising out of any failure to return private
9 property, the temporary use of which was requisitioned, or which
10 was leased, or any claim for damages arising out of the
11 condition in which the private property is returned; provided
12 that no such claim shall be filed for deterioration of property
13 resulting from ordinary wear and tear, and not for any
14 deterioration or damage, except such as is shown to have
15 resulted from the taking or use of the property. Any claim
16 shall be filed within thirty days after the return of the
17 property or after the governor or mayor proclaims that all
18 private property has been returned to the owners, whichever is
19 earlier. The decision of the appraisers shall be final and
20 binding upon the governor or mayor, as applicable, and the
21 claimant; provided that either party may file a petition in the



1 circuit court within sixty days after the rendering of a
2 decision of the board, praying for the decision of the court
3 upon the claim. The petition, if filed by the State, shall be
4 entitled in the name of the State, by the attorney general, and
5 if filed by the county, shall be entitled in the name of the
6 county, by its corporation counsel, and shall be heard and
7 decided by the circuit court without the intervention of a jury.
8 If filed by any other party, the petition shall be filed, heard,
9 and decided in the manner provided for suits against the State.
10 Appellate review by the supreme court may be had, subject to
11 chapter 602, in the manner provided for civil appeals from the
12 circuit courts. The court may order the joinder of other
13 parties or may allow other parties to intervene. Any award that
14 has become final shall be paid out of any funds available under
15 this chapter and, if not sufficient, out of the general revenues
16 of the State as appropriated or out of the general revenues of
17 the county as appropriated."

18 SECTION 17. Section 196D-5, Hawaii Revised Statutes, is
19 amended by amending subsection (d) to read as follows:

20 "(d) Where the contested case provisions under chapter 91
21 apply to any one or more of the permits to be issued by the



1 agency for the purposes of the project, the agency, if there is
2 a contested case involving any of the permits, may be required
3 to conduct only one contested case hearing on the permit or
4 permits within its jurisdiction. Any appeal from a decision
5 made by the agency pursuant to a public hearing or hearings
6 required in connection with a permit shall be made directly on
7 the record to the [~~intermediate appellate~~] supreme court,
8 subject to chapter 602."

9 SECTION 18. Section 232-1, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "§232-1 Appeals by persons under contractual obligations.

12 Whenever any person is under a contractual obligation to pay a
13 tax assessed against another, the person shall have the same
14 rights of appeal to the board of review, the tax appeal court,
15 and the [~~intermediate appellate~~] supreme court, subject to
16 chapter 602, in the person's own name, as if the tax were
17 assessed against the person. The person against whom the tax is
18 assessed shall also have a right to appear and be heard on any
19 such application or appeal."

20 SECTION 19. Section 232-19, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "§232-19 Appeals [~~r~~] to the supreme court; procedure. (a)
2 Any taxpayer or county aggrieved or the assessor may appeal to
3 the [~~intermediate appellate~~] supreme court, subject to chapter
4 602, from the decision of the tax appeal court by filing a
5 written notice of appeal with the tax appeal court and
6 depositing therewith the costs of appeal within thirty days
7 after the filing of the decision. The appeal shall be
8 considered and treated for all purposes as a general appeal and
9 shall bring up for determination all questions of fact and all
10 questions of law, including constitutional questions, involved
11 in the appeal. A notice of appeal may be amended at any time up
12 to the final determination of the tax liability by the last
13 court from which an appeal may be taken. The [~~appellate~~]
14 supreme court shall enter a judgment in conformity with its
15 opinion or decision.

16 (b) All such appeals shall be speedily disposed of and, in
17 the hearing and disposition thereof, shall be given preference
18 over other litigation in the discretion of the court."

19 SECTION 20. Section 232-20, Hawaii Revised Statutes, is
20 amended to read as follows:



1 "§232-20 Certificate of appeal. (a) Upon the perfection
2 of an appeal[7] to the supreme court, the judge of the tax
3 appeal court shall send to the [appellate] supreme court a
4 certificate in which there shall be set forth, among other
5 things:

- 6 (1) A brief description of the assessment and the property
7 involved in the appeal, if any, in sufficient detail
8 to identify the same together with the valuation
9 placed on the property by the assessor;
- 10 (2) The valuation claimed by the taxpayer or county;
- 11 (3) The taxpayer's or county's grounds of objection to the
12 assessment;
- 13 (4) The valuation, if any, placed thereon by an
14 administrative body established by county ordinance
15 equivalent to a state board of review; and
- 16 (5) The valuation placed thereon by the tax appeal court.

17 (b) The certificate shall be accompanied by the taxpayer's
18 return, if any, a copy of the notice of appeal from the
19 assessment and any amendments thereof, the decision, if any, of
20 the state board of review or equivalent county administrative
21 body, a copy of the notice of appeal from the decision of the



1 state board of review or equivalent county administrative body,
 2 if any, and any amendments thereof, and a transcript or
 3 statement of the evidence before and the decision of the tax
 4 appeal court, and all exhibits, motions, orders, or other
 5 documents specified by either the taxpayer, the county, or the
 6 assessor. No failure of the judge of the tax appeal court to
 7 send or properly prepare the certificate or the accompanying
 8 documents shall prejudice, limit, or in any manner affect the
 9 taxpayer's, county's, or assessor's appeal, and the certificate
 10 of appeal may be amended at any time up to the final
 11 determination of the appeal."

12 SECTION 21. Section 232-21, Hawaii Revised Statutes, is
 13 amended to read as follows:

14 "§232-21 ~~[Appellate]~~ Supreme court may admit additional
 15 evidence. Upon appeal [7] to the supreme court, the ~~[appellate]~~
 16 court may permit any party to introduce, or, of its own motion,
 17 may require the taking of, additional evidence material to the
 18 matter in dispute."

19 SECTION 22. Section 232-22, Hawaii Revised Statutes, is
 20 amended to read as follows:



1 "§232-22 Costs; deposit for on appeal. (a) No costs
2 shall be charged on appeal to the state board of review.

3 (b) The nonrefundable costs to be deposited in any one
4 case per taxpayer on any appeal to the tax appeal court shall be
5 an amount set pursuant to rules adopted by the supreme court,
6 which shall not exceed \$100.

7 (c) On appeal to the [~~intermediate appellate~~] supreme
8 court, the deposit for costs, and costs chargeable, shall be the
9 same as in appeals to the supreme court from decisions of
10 circuit courts, as provided by sections 607-5 and 607-6. If the
11 decision of [~~the intermediate appellate court or~~] the supreme
12 court [~~on transfer from or review of the intermediate appellate~~
13 ~~court~~] is in favor of the taxpayer, the taxpayer shall pay no
14 costs for the appeal, and any payment or deposit therefor shall
15 be returned to the taxpayer. If the decision is only partly in
16 favor of the taxpayer, the costs shall be prorated in the manner
17 provided by section 232-23. No costs shall be payable by, and
18 no deposit shall be required from, the assessor or the county in
19 any case."

20 SECTION 23. Section 232-23, Hawaii Revised Statutes, is
21 amended by amending subsection (b) to read as follows:



1 "(b) In the event of an appeal by a taxpayer to the tax
2 appeal court, if the appeal or objection is sustained in whole,
3 the costs deposited shall be returned to the appellant. If the
4 appeal or objection is sustained in part only, or if an
5 agreement or compromise is made between the appellant and the
6 tax assessor or other proper officer, whereby a reduction is
7 made in the total amount of the valuation assessed (in cases of
8 real property tax appeals) or the tax assessed (in other cases),
9 then a part of the costs proportionate to the amount for which
10 the appellant obtains a judgment or proportionate to the amount
11 of the reduction, as the case may be, shall be returned to the
12 appellant. In the event of dismissal of the appeal without
13 hearing upon the merits, the costs deposited in the amount set
14 pursuant to rules adopted by the supreme court shall be returned
15 to the appellant.

16 In the event of a final determination of an appeal by a
17 county to the tax appeal court [~~the intermediate appellate~~
18 ~~court,~~] or the supreme court [~~on review,~~] that a higher
19 assessment should be made of the property involved, the
20 additional tax due shall be collected in the same manner as the
21 tax based upon the original assessment."



1 SECTION 24. Section 235-114, Hawaii Revised Statutes, is
2 amended by amending subsections (a) and (b) to read as follows:

3 "(a) Any person aggrieved by any assessment of the tax or
4 liability imposed by this chapter may appeal from the assessment
5 in the manner and within the time hereinafter set forth. Appeal
6 may be made either to the district board of review or to the tax
7 appeal court. The first appeal to either the district board of
8 review or to the tax appeal court may be made without payment of
9 the tax so assessed. Either the taxpayer or the assessor may
10 appeal to the tax appeal court from a decision by the board or
11 to the [~~intermediate appellate~~] supreme court from a decision by
12 the tax appeal court; provided that if the decision by the board
13 or the tax appeal court is appealed by the taxpayer, or the
14 decision by the board in favor of the department is not
15 appealed, the taxpayer shall pay the tax so assessed plus
16 interest as provided in section 231-39(b)(4).

17 (b) If the appeal is first made to the board, the appeal
18 shall either be heard by the board or be transferred to the tax
19 appeal court for hearing at the election of the taxpayer or
20 employer. If heard by the board, an appeal shall lie from the
21 decision thereof to the tax appeal court and to the



1 ~~[intermediate appellate]~~ supreme court, subject to chapter 602,
2 in the manner and with the costs provided by chapter 232. The
3 supreme court shall prescribe forms to be used in the appeals.

4 The forms shall show:

5 (1) The amount of taxes or liability upon the basis of the
6 taxpayer's computation of the taxpayer's taxable
7 income or the employer's computation of the employer's
8 liability;

9 (2) The amount upon the basis of the assessor's
10 computation;

11 (3) The amount upon the basis of the decisions of the
12 board of review and tax appeal court, if any; and

13 (4) The amount in dispute.

14 If or when the appeal is filed with or transferred to the tax
15 appeal court, the court shall proceed to hear and determine the
16 appeal, subject to appeal to the ~~[intermediate appellate]~~
17 supreme court as is provided in chapter 232."

18 SECTION 25. Section 269-15, Hawaii Revised Statutes, is
19 amended by amending subsection (b) to read as follows:

20 "(b) In addition to any other remedy available, the
21 commission or its enforcement officer may issue citations to any



1 person acting in the capacity of or engaging in the business of
2 a public utility within the State, without having a certificate
3 of public convenience and necessity or other authority
4 previously obtained under and in compliance with this chapter or
5 the rules adopted thereunder.

6 (1) The citation may contain an order of abatement and an
7 assessment of civil penalties as provided in section
8 269-28(c). All penalties collected under this
9 subsection shall be deposited in the treasury of the
10 State. Service of a citation issued under this
11 subsection shall be made by personal service whenever
12 possible, or by certified mail, restricted delivery,
13 sent to the last known business or residence address
14 of the person cited.

15 (2) Any person served with a citation under this
16 subsection may submit a written request to the
17 commission for a hearing, within twenty days from the
18 receipt of the citation, with respect to the
19 violations alleged, the scope of the order of
20 abatement and the amount of civil penalties assessed.
21 If the person cited under this subsection timely



1 notifies the commission of the request for a hearing,
2 the commission shall afford an opportunity for a
3 hearing under chapter 91. The hearing shall be
4 conducted by the commission or the commission may
5 designate a hearings officer to hold the hearing.

- 6 (3) If the person cited under this subsection does not
7 submit a written request to the commission for a
8 hearing within twenty days from the receipt of the
9 citation, the citation shall be deemed a final order
10 of the commission. The commission may apply to the
11 appropriate court for a judgment to enforce the
12 provisions of any final order, issued by the
13 commission or designated hearings officer pursuant to
14 this subsection, including the provisions for
15 abatement and civil penalties imposed. In any
16 proceeding to enforce the provisions of the final
17 order of the commission or designated hearings
18 officer, the commission need only show that the notice
19 was given, a hearing was held or the time granted for
20 requesting the hearing has run without such a request,



1 and a certified copy of the final order of the
2 commission or designated hearings officer.

3 (4) If any party is aggrieved by the decision of the
4 commission or the designated hearings officer, the
5 party may appeal to the [~~intermediate appellate~~
6 supreme court, subject to chapter 602, in the manner
7 provided for civil appeals from the circuit court;
8 provided that the operation of an abatement order
9 shall not be stayed on appeal unless specifically
10 ordered by a court of competent jurisdiction after
11 applying the stay criteria enumerated in section 91-
12 14(c). The sanctions and disposition authorized under
13 this subsection shall be separate and in addition to
14 all other remedies either civil or criminal provided
15 in any other applicable statutory provision. The
16 commission may adopt rules under chapter 91 as may be
17 necessary to fully effectuate this subsection."

18 SECTION 26. Section 269-54, Hawaii Revised Statutes, is
19 amended by amending subsection (e) to read as follows:

20 "(e) The consumer advocate may file with the commission
21 and serve on any public utility a request in writing to furnish



1 any information reasonably relevant to any matter or proceeding
2 before the commission or reasonably required by the consumer
3 advocate to perform the duties hereunder. Any such request
4 shall set forth with reasonable specificity the purpose for
5 which the information is requested and shall designate with
6 reasonable specificity the information desired. The public
7 utility shall comply with such request within the time limit set
8 forth by the consumer advocate unless within ten days following
9 service it requests a hearing on the matter before the public
10 utilities commission and states its reasons therefor. If a
11 hearing is requested, the public utilities commission shall
12 proceed to hold the hearing and make its determination on the
13 request within thirty days after the same is filed. The
14 consumer advocate or the public utility may appeal to the
15 supreme court the decision of the commission on any such
16 request, subject to chapter 602, in the manner provided for
17 civil appeals from the circuit courts. Subject to the
18 foregoing, such requests may ask the public utility to:
19 (1) Furnish any information with which the consumer
20 advocate may require concerning the condition,



1 operations, practices, or services of the public
2 utility;

3 (2) Produce and permit the consumer advocate or the
4 consumer advocate's representative to inspect and copy
5 any designated documents (including writings,
6 drawings, graphs, charts, photographs, recordings, and
7 other data compilations from which information can be
8 obtained), or to inspect and copy, test, or sample any
9 designated tangible thing which is in the possession,
10 custody, or control of the public utility; or

11 (3) Permit entry upon land or other property in the
12 possession or control of the utility for the purpose
13 of inspection and measuring, surveying, photographing,
14 testing, or sampling the property or any designated
15 object thereon."

16 SECTION 27. Section 271-27, Hawaii Revised Statutes, is
17 amended by amending subsection (j) to read as follows:

18 "(j) In addition to any other remedy available, the
19 commission or its enforcement officer, including a motor vehicle
20 safety officer employed and assigned by the department of
21 transportation pursuant to section 271-38, may issue citations



1 to persons acting in the capacity of or engaging in the business
2 of a motor carrier within this State, without having a
3 certificate of public convenience and necessity or other
4 authority previously obtained under and in compliance with this
5 chapter and rules adopted, or to any shipper or consignee
6 located in this State, or any officer, employee, agent, or
7 representative thereof who engages the services of those
8 persons.

9 (1) The citation may contain an order of abatement and an
10 assessment of civil penalties as provided in
11 subsection (h). All penalties collected under this
12 subsection shall be deposited in the treasury of the
13 State. Service of a citation issued under this
14 subsection shall be made by personal service whenever
15 possible or by certified mail, restricted delivery,
16 sent to the last known business or residence address
17 of the person cited.

18 (2) Any person served with a citation under this
19 subsection may submit a written request to the
20 commission for a hearing within twenty days from the
21 receipt of the citation, with respect to the



1 violations alleged, the scope of the order of
2 abatement, and the amount of civil penalties assessed.
3 If the person cited under this subsection notifies the
4 commission of the request for a hearing in time, the
5 commission shall afford the person an opportunity for
6 a hearing under chapter 91. The hearing shall be
7 conducted by the commission, or the commission may
8 designate a hearings officer to hold the hearing.

9 (3) If the person cited under this subsection does not
10 submit a written request to the commission for a
11 hearing in time, the citation shall be deemed a final
12 order of the commission. The commission may apply to
13 the appropriate court for a judgment to enforce the
14 provisions of any final order issued by the commission
15 or designated hearings officer pursuant to this
16 subsection, including the provisions for abatement and
17 civil penalties imposed. In any proceeding to enforce
18 the final order, the commission need only produce a
19 certified copy of the final order and show that the
20 notice was given and that a hearing was held or the



1 time granted for requesting the hearing has run
2 without a request.

- 3 (4) If any party is aggrieved by the decision of the
4 commission or the designated hearings officer, the
5 party may appeal[-] to the supreme court, subject to
6 chapter 602, in the manner provided for civil appeals
7 from the circuit courts; provided that the operation
8 of an abatement order shall not be stayed on appeal
9 unless specifically ordered by a court of competent
10 jurisdiction after applying the stay criteria
11 enumerated in section 91-14(c). The sanctions and
12 disposition authorized under this subsection shall be
13 separate and in addition to all other remedies either
14 civil or criminal provided by law.

15 The commission may adopt any rules under chapter 91 that may be
16 necessary to fully effectuate this subsection."

17 SECTION 28. Section 271-32, Hawaii Revised Statutes, is
18 amended by amending subsection (e) to read as follows:

19 "(e) An appeal shall lie[-] to the supreme court, subject
20 to chapter 602, from every order made by the commission that is
21 final, or if preliminary, is of the nature defined by section



1 91-14(a), in the manner provided for civil appeals from the
2 circuit court; provided the order is made after reconsideration
3 or rehearing or is the subject of a motion for reconsideration
4 or rehearing, which the commission has denied. An appeal shall
5 lie[7] to the supreme court, subject to chapter 602, in the
6 manner provided for civil appeals from the circuit courts, only
7 by a person aggrieved in the contested case hearing provided for
8 in this section."

9 SECTION 29. Section 271-33, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "§271-33 Appeals. From the order made on an application
12 for reconsideration or rehearing by the public utilities
13 commission under this chapter, an appeal shall lie[7] to the
14 supreme court, subject to chapter 602, in the manner and within
15 the time provided for civil appeals from the circuit courts and
16 by the rules of court; provided that the order is final, or if
17 preliminary, is of the nature defined by section 91-14(a). The
18 appeal, of itself, shall not stay the operation of the order
19 appealed from, but the court may stay the same after a hearing
20 upon a motion therefor and may impose such conditions as it may
21 deem proper as to giving a bond and keeping the necessary



1 accounts or otherwise to secure a restitution of the excess
2 charges, if any, made during the pendency of the appeal, in case
3 the order appealed from is sustained, reversed, or modified in
4 whole or in part."

5 SECTION 30. Section 271G-19, Hawaii Revised Statutes, is
6 amended by amending subsection (e) to read as follows:

7 "(e) In addition to any other remedy available, the
8 commission or its enforcement officer may issue citations to
9 persons acting in the capacity of or engaging in the business of
10 a water carrier within the State, without having a certificate
11 of public convenience and necessity or other authority
12 previously obtained under and in compliance with this chapter
13 and the rules adopted thereunder.

14 (1) The citation may contain an order of abatement and an
15 assessment of civil penalties of not less than \$100,
16 nor more than \$500 for each such offense, and, in the
17 case of a continuing violation, not less than \$200 nor
18 more than \$500 for each day that uncertified activity
19 continues. All penalties collected under this
20 subsection shall be deposited in the treasury of the
21 State. Service of a citation issued under this



1 subsection shall be made by personal service whenever
2 possible, or by certified mail, restricted delivery,
3 sent to the last known business or residence address
4 of the person cited.

5 (2) Any person served with a citation under this
6 subsection may submit a written request to the
7 commission for a hearing, within twenty days from the
8 receipt of the citation, with respect to the
9 violations alleged, the scope of the order of
10 abatement and the amount of civil penalties assessed.
11 If the person cited under this subsection timely
12 notifies the commission of the request for a hearing,
13 the commission shall afford an opportunity for a
14 hearing under chapter 91. The hearing shall be
15 conducted by the commission or the commission may
16 designate a hearings officer to hold the hearing.

17 (3) If the person cited under this subsection does not
18 submit a written request to the commission for a
19 hearing within twenty days from the receipt of the
20 citation, the citation shall be deemed a final order
21 of the commission. The commission may apply to the



1 appropriate court for a judgment to enforce the
2 provisions of any final order, issued by the
3 commission or designated hearings officer pursuant to
4 this subsection, including the provisions for
5 abatement and civil penalties imposed. In any
6 proceeding to enforce the provisions of the final
7 order of the commission or designated hearings
8 officer, the commission need only show that the notice
9 was given, a hearing was held or the time granted for
10 requesting the hearing has run without such a request,
11 and a certified copy of the final order of the
12 commission or designated hearings officer.

- 13 (4) If any party is aggrieved by the decision of the
14 commission or the designated hearings officer, the
15 party may appeal~~[7]~~ to the supreme court, subject to
16 chapter 602, in the manner provided for civil appeals
17 from the circuit courts; provided that the operation
18 of an abatement order shall not be stayed on appeal
19 unless specifically ordered by a court of competent
20 jurisdiction after applying the stay criteria
21 enumerated in section 91-14(c). The sanctions and



1 disposition authorized under this subsection shall be
2 separate and in addition to all other remedies, either
3 civil or criminal, provided in any other applicable
4 statutory provision.

5 The commission may adopt rules under chapter 91 as may be
6 necessary to fully effectuate this subsection."

7 SECTION 31. Section 271G-24, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "§271G-24 Appeals. From an order of the public utilities
10 commission under this chapter, an appeal shall lie^[7] to the
11 supreme court, subject to chapter 602, in the manner provided
12 for civil appeals from the circuit courts and by the rules of
13 court; provided that the order is final, or if preliminary, is
14 of the nature defined by section 91-14(a). The appeal, of
15 itself, shall not stay the operation of the order appealed from,
16 but the court may stay the same after a hearing upon a motion
17 therefor and may impose such conditions as it may deem proper as
18 to giving a bond and keeping the necessary accounts or otherwise
19 to secure a restitution of the excess charges, if any, made
20 during the pendency of the appeal, in case the order appealed
21 from is sustained, revised, or modified in whole or in part."



1 SECTION 32. Section 281-92, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§281-92 Appeals. Any licensee aggrieved by any order
4 assessing or providing for the collection of a penalty, or by
5 any order suspending or revoking any license, may appeal
6 therefrom in the manner provided in chapter 91 to the circuit
7 court of the circuit in which the liquor commission or liquor
8 control adjudication board making the order has jurisdiction and
9 the judgment of the court shall be subject to review^[7] by the
10 supreme court, subject to chapter 602, in the manner provided
11 for civil appeals from the circuit courts."

12 SECTION 33. Section 286-60, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "§286-60 Rules of procedure; costs; appeal. The supreme
15 court may prescribe rules of procedure relating to the appeals
16 and hearings before the district courts. An appeal shall lie
17 from the judgment or order of the district court to the
18 [~~intermediate appellate~~] supreme court, subject to chapter 602.
19 The rules shall provide for informal procedure and for
20 minimizing expense and delay to litigants therein. The costs
21 upon such appeal to the district court shall be \$1, which may be



1 waived by the court for good cause shown. No costs shall be
2 chargeable against the county director of finance."

3 SECTION 34. Section 356D-96, Hawaii Revised Statutes, is
4 amended by amending subsection (b) to read as follows:

5 "(b) Except as otherwise provided in this section,
6 proceedings for review shall be instituted in the circuit court
7 within thirty days after the preliminary ruling or within thirty
8 days after service of the certified copy of the final decision
9 and order of the authority pursuant to the rules of court,
10 except where a statute provides for a direct appeal to the
11 [~~intermediate appellate~~] supreme court. In such cases, the
12 appeal shall be treated in the same manner as an appeal from the
13 circuit court[~~7~~] to the supreme court, including payment of the
14 fee prescribed by section 607-5 for filing the notice of appeal.
15 The court in its discretion may permit other interested persons
16 to intervene."

17 SECTION 35. Section 356D-97, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "§356D-97 Appeals. An aggrieved party may secure a review
20 of any final judgment of the circuit court under this part by
21 appeal to the [~~appellate courts~~7] supreme court, subject to



1 chapter 602. The appeal shall be taken in the manner provided
2 in the rules of court."

3 SECTION 36. Section 377-9, Hawaii Revised Statutes, is
4 amended by amending subsection (j) to read as follows:

5 "(j) Any party may appeal from the judgment of a circuit
6 court entered under this chapter[7] to the supreme court,
7 subject to chapter 602, in the manner provided for civil appeals
8 from the circuit courts."

9 SECTION 37. Section 380-10, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "§380-10 **Appeal.** Whenever any court of the State issues
12 or denies any temporary injunction in a case involving or
13 growing out of a labor dispute, an appeal shall lie as of
14 right[7] to the supreme court, subject to chapter 602, in the
15 manner provided for civil appeals from the circuit courts,
16 notwithstanding any provision of section 641-1. The appeal
17 shall be heard and the temporary injunctive order affirmed,
18 modified, or set aside with the greatest possible expedition,
19 giving the proceedings precedence over all other matters of the
20 same character."



1 SECTION 38. Section 383-41, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§383-41 Judicial review. The director of labor and
4 industrial relations or any party to the proceedings before the
5 referee may obtain judicial review of the decision of the
6 referee in the manner provided in chapter 91, by instituting
7 proceedings in the circuit court of the circuit in which the
8 claimant resides or in which the claimant was last employed. In
9 any such court proceedings, every other party to the proceeding
10 before the referee shall be made a party respondent. The
11 director shall be deemed to be a party to any such proceeding.
12 The proceedings shall be heard in a summary manner and shall be
13 given precedence over all other civil cases except proceedings
14 arising under the workers' compensation law of the State.
15 Proceedings for review by the [~~intermediate appellate~~] supreme
16 court may be taken and had in the same manner as is provided for
17 a review of a judgment of a circuit court. No bond shall be
18 required as a condition of initiating a proceeding for judicial
19 review or initiating proceedings for review by the [~~intermediate~~
20 ~~appellate~~] supreme court. Upon the final termination of any



1 judicial proceeding, the referee shall enter an order in
2 accordance with the mandate of the court."

3 SECTION 39. Section 383-69, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "§383-69 Procedure for rate determination. The department
6 of labor and industrial relations, as soon as is reasonably
7 possible in each period, shall make its classification of
8 employers for the period and notify each employer of the
9 employer's rate of contributions for the period as determined
10 pursuant to sections 383-63 to 383-69. The determination shall
11 become conclusive and binding upon the employer unless the
12 employer appeals the determination by filing a written notice of
13 appeal within fifteen days after the mailing of notice of the
14 determination to the employer's last known address. The appeal
15 shall be heard by the referee in accordance with applicable
16 provisions of sections 383-38 and 383-39 but no employer shall
17 have standing, in any proceeding involving the employer's rate
18 of contributions or contribution liability, to contest the
19 chargeability to the employer's account of any benefits paid in
20 accordance with a determination, redetermination, or decision
21 pursuant to sections 383-31 to 383-43; provided that the



1 services on the basis of which the benefits were found to be
2 chargeable did not constitute services performed in employment
3 for the employer and only if the employer was not a party to the
4 determination, redetermination, or decision, or to any other
5 proceedings under this chapter in which the character of the
6 services was determined. The referee's determination shall
7 become final unless a proceeding for judicial review in the
8 manner provided in chapter 91 is commenced in the circuit court
9 of the judicial circuit in which the employer resides or has the
10 employer's principal place of business or in the circuit court
11 of the first judicial circuit. An appeal may be taken from the
12 decision of the circuit court to the [~~intermediate appellate~~]
13 supreme court, subject to chapter 602."

14 SECTION 40. Section 383-76, Hawaii Revised Statutes, is
15 amended by amending subsection (b) to read as follows:

16 "(b) The applicant shall be promptly notified of the
17 action of the department upon any application for adjustment or
18 refund pursuant to subsection (a) [~~of this section~~]. In case
19 any such application is denied in whole or in part, the
20 applicant, within thirty days after the date of mailing of
21 notice of the action to the applicant's last known address, or



1 in the absence of such mailing within thirty days after the
2 delivery of the notice to the applicant, may appeal from such
3 denial to the circuit court of the judicial circuit wherein is
4 the principal place of business of the applicant or the circuit
5 court of the first judicial circuit. The department shall be
6 the party respondent to any such judicial proceedings. The
7 procedure in the trial before the circuit court shall be in
8 accordance with the procedure applicable to actions under
9 section 40-35. Proceedings for review by the [~~intermediate~~
10 ~~appellate~~] supreme court may be taken and had, subject to
11 chapter 602, in the same manner, but not inconsistent with this
12 chapter, as is provided in civil actions. In case the final
13 determination in any such judicial proceedings shall be in favor
14 of the employing unit, in whole or in part, any amount
15 determined by such final judgment to have been erroneously paid
16 shall be adjusted or refunded, without interest and without the
17 addition of any other charges, in the same manner as other
18 adjustments or refunds under this chapter."

19 SECTION 41. Section 386-73, Hawaii Revised Statutes, is
20 amended to read as follows:



1 "§386-73 Original jurisdiction over controversies. Unless
2 otherwise provided, the director of labor and industrial
3 relations shall have original jurisdiction over all
4 controversies and disputes arising under this chapter. The
5 decisions of the director shall be enforceable by the circuit
6 court as provided in section 386-91. There shall be a right of
7 appeal from the decisions of the director to the appellate board
8 and thence to the [~~intermediate appellate~~] supreme court,
9 subject to chapter 602, as provided in sections 386-87 and 386-
10 88, but in no case shall an appeal operate as a supersedeas or
11 stay unless the appellate board or the [~~appellate~~] supreme court
12 so orders."

13 SECTION 42. Section 386-73.5, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "§386-73.5 Proceedings to determine employment and
16 coverage. The director of labor and industrial relations shall
17 have original jurisdiction over all controversies and disputes
18 over employment and coverage under this chapter. Except in
19 cases where services are specifically and expressly excluded
20 from "employment" under section 386-1, it shall be presumed that
21 coverage applies unless the party seeking exclusion is able to



1 establish under both the control test and the relative nature of
2 the work test that coverage is not appropriate under this
3 chapter. There shall be a right of appeal from decisions of the
4 director to the appellate board and thence to the [~~intermediate~~
5 appellate] supreme court, subject to chapter 602."

6 SECTION 43. Section 386-88, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "§386-88 Judicial review. The decision or order of the
9 appellate board shall be final and conclusive, except as
10 provided in section 386-89, unless within thirty days after
11 mailing of a certified copy of the decision or order, the
12 director or any other party appeals to the [~~intermediate~~
13 appellate] supreme court, subject to chapter 602, by filing a
14 written notice of appeal with the appellate board, or by
15 electronically filing a notice of appeal in accordance with the
16 Hawaii rules of appellate procedure. A fee in the amount
17 prescribed by section 607-5 for filing a notice of appeal from a
18 circuit court shall be paid to the appellate board for filing
19 the notice of appeal from the board, which together with the
20 appellate court costs shall be deemed costs of the appellate
21 court proceeding. The appeal shall be on the record, and the



1 court shall review the appellate board's decision on matters of
2 law only. No new evidence shall be introduced in the appellate
3 court, except that if evidence is offered that is clearly newly
4 discovered evidence and material to the just decision of the
5 appeal, the court may admit the evidence."

6 SECTION 44. Section 386-93, Hawaii Revised Statutes, is
7 amended by amending subsection (b) to read as follows:

8 "(b) If an employer appeals a decision of the director or
9 appellate board, the costs of the proceedings of the appellate
10 board or the [~~appellate~~] supreme court, together with reasonable
11 attorney's fees, shall be assessed against the employer if the
12 employer loses; provided that if an employer or an insurance
13 carrier, other than the employer who appealed, is held liable
14 for compensation, the costs of the proceedings of the appellate
15 board or the [~~appellate~~] supreme court, together with reasonable
16 attorney's fees, shall be assessed against the party held liable
17 for the compensation."

18 SECTION 45. Section 392-21.5, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "§392-21.5 Proceedings to determine employment and
21 coverage. The director of labor and industrial relations shall



1 have original jurisdiction over all controversies and disputes
2 over employment and coverage under this chapter. Except in
3 cases where services are specifically and expressly excluded
4 from "employment" under section 392-5, it shall be presumed that
5 coverage applies unless the party seeking exclusion is able to
6 establish under both the control test and the relative nature of
7 the work test that coverage is not appropriate under this
8 chapter. There shall be a right of appeal from decisions of the
9 director to the circuit court and thence to the [~~intermediate~~
10 ~~appellate~~] supreme court, subject to chapter 602."

11 SECTION 46. Section 392-75, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "§392-75 **Judicial review.** Any party or the director may
14 obtain judicial review of the decision of the referee in the
15 manner provided in chapter 91, by instituting proceedings in the
16 circuit court of the circuit in which the claimant resides or in
17 which the claimant was last employed. The proceedings shall be
18 heard in a summary manner and shall be given precedence over all
19 other civil cases except proceedings arising under the
20 Employment Security Law and the Workers' Compensation Law of the
21 State. Proceedings for review by the [~~intermediate appellate~~]



1 supreme court, subject to chapter 602, may be taken and had in
2 the same manner as is provided for a review of a judgment of a
3 circuit court. No bond shall be required as a condition of
4 initiating a proceeding for judicial review or initiating
5 proceedings for review by the [~~intermediate appellate~~] supreme
6 court. Upon the final termination of any judicial proceeding,
7 the referee shall enter an order in accordance with the mandate
8 of the court."

9 SECTION 47. Section 412:2-501, Hawaii Revised Statutes, is
10 amended by amending subsection (c) to read as follows:

11 "(c) An order by the circuit court made pursuant to this
12 section may be appealed to the [~~intermediate appellate~~] supreme
13 court, subject to chapter 602, but no stay of the order shall be
14 granted pending such appeal."

15 SECTION 48. Section 431:14-118, Hawaii Revised Statutes,
16 is amended by amending subsection (b) to read as follows:

17 "(b) Any final order or decision of the commissioner may
18 be reviewed in the circuit court of the first circuit, and an
19 appeal from the decision of the court shall lie to the
20 [~~intermediate appellate~~] supreme court, subject to chapter 602.



1 The review shall be taken and had in the manner provided in
2 chapter 91."

3 SECTION 49. Section 482-9, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "§482-9 Appeal. Any person aggrieved by any action of the
6 director under this chapter in issuing or revoking a certificate
7 of registration of a trade name or in denying an application,
8 within thirty days after the action by the director, or if no
9 order has been entered either granting or denying the
10 application within four months after the filing of the
11 application, may commence proceedings to obtain judicial review
12 thereof by the circuit court of the first circuit by filing in
13 the court a notice of appeal. Proceedings for review by the
14 [~~intermediate appellate~~] supreme court, subject to chapter 602,
15 may be had and taken in the same manner as is provided for a
16 review of a judgment of a circuit court."

17 SECTION 50. Section 571-54, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "§571-54 Appeal. (a) An interested party, aggrieved by
20 any order or decree of the court, may appeal to the
21 [~~intermediate appellate~~] supreme court for review of questions



1 of law and fact upon the same terms and conditions as in other
2 cases in the circuit court, and review shall be governed by
3 chapter 602, except as hereinafter provided. Where the decree
4 or order affects the custody of a child or minor, the appeal
5 shall be heard at the earliest practicable time. In cases under
6 section 571-11, the record on appeal shall be given a fictitious
7 title, to safeguard against publication of the names of the
8 children or minors involved.

9 **(b)** The stay of enforcement of an order or decree, or the
10 pendency of an appeal, shall not suspend the order or decree of
11 the court regarding a child or minor, or discharge the child or
12 minor from the custody of the court or of the person,
13 institution, or agency to whose care the child or minor has been
14 committed, unless otherwise ordered by the family court or by
15 the supreme or intermediate appellate court after an appeal is
16 taken. Pending final disposition of the case, the family court
17 or the supreme or intermediate appellate court, after the appeal
18 is taken, may make such order for temporary custody as is
19 appropriate in the circumstances. If the supreme or the
20 intermediate appellate court does not dismiss the proceedings
21 and discharge the child or minor, it shall affirm or modify the



1 order of the family court and remand the child or minor to the
2 jurisdiction of the court for disposition not inconsistent with
3 the supreme or intermediate appellate court's finding on the
4 appeal.

5 (c) An order or decree entered in a proceeding based upon
6 section 571-11(1), (2), or (6) shall be subject to appeal to the
7 supreme court only as follows:

8 Within twenty days from the date of the entry of any such
9 order or decree, any party directly affected thereby may file a
10 motion for a reconsideration of the facts involved. The motion
11 and any supporting affidavit shall set forth the grounds on
12 which a reconsideration is requested and shall be sworn to by
13 the movant or the movant's representative. The judge shall hold
14 a hearing on the motion, affording to all parties concerned the
15 full right of representation by counsel and presentation of
16 relevant evidence. The findings of the judge upon the hearing
17 of the motion and the judge's determination and disposition of
18 the case thereafter, and any decision, judgment, order, or
19 decree affecting the child and entered as a result of the
20 hearing on the motion, shall be set forth in writing and signed
21 by the judge. Any party aggrieved by any such findings,



1 judgment, order, or decree shall have the right to appeal
2 therefrom to the [~~intermediate-appellate~~] supreme court, upon
3 the same terms and conditions as in other cases in the circuit
4 court, and review shall be governed by chapter 602; provided
5 that no such motion for reconsideration shall operate as a stay
6 of any such findings, judgment, order, or decree unless the
7 judge of the family court so orders; and provided further that
8 no informality or technical irregularity in the proceedings
9 prior to the hearing on the motion for reconsideration shall
10 constitute grounds for the reversal of any such findings,
11 judgment, order, or decree by the [~~appellate~~] supreme court."

12 SECTION 51. Section 602-5, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "§602-5 Jurisdiction and powers; filing. (a) Except as
15 otherwise provided, the supreme court shall have jurisdiction
16 and powers as follows:

17 (1) To hear and determine all questions of law, or of
18 mixed law and fact, which are properly brought before
19 it [~~by application for a writ of certiorari to the~~
20 ~~intermediate appellate court or by transfer as~~



~~provided in this chapter,]~~ on any appeal allowed by law from any other court or agency;

(2) To answer, in its discretion, any question of law reserved by a circuit court, the land court, or the tax appeal court, or any question or proposition of law certified to it by a federal district or appellate court if the supreme court shall so provide by rule;

(3) To entertain, in its discretion, any case submitted without suit when there is a question which might be the subject of a civil action or proceeding in the supreme court, circuit court, or tax appeal court, and the parties agree upon a case containing the facts upon which the controversy depends;

~~[-3-]~~ (4) To exercise original jurisdiction in all questions arising under writs directed to courts of inferior jurisdiction and returnable before the supreme court, or if the supreme court consents to receive the case arising under writs of mandamus directed to public officers to compel them to fulfill the duties of their offices; and such other original jurisdiction as may be expressly conferred by law;



1 [~~(4)~~] (5) To issue writs of habeas corpus, or orders to
2 show cause as provided by chapter 660, returnable
3 before the supreme court or a circuit court, and any
4 justice may issue writs of habeas corpus or such
5 orders to show cause, returnable as above stated;

6 [~~(5)~~] (6) To make or issue any order or writ necessary or
7 appropriate in aid of its jurisdiction, and in such
8 case, any justice may issue a writ or an order to show
9 cause returnable before the supreme court; and

10 [~~(6)~~] (7) To make and award such judgments, decrees, orders
11 and mandates, issue such executions and other
12 processes, and do such other acts and take such other
13 steps as may be necessary to carry into full effect
14 the powers which are or shall be given to it by law or
15 for the promotion of justice in matters pending before
16 it.

17 (b) All cases addressed to the jurisdiction of the supreme
18 court or of the intermediate appellate court shall be filed with
19 the clerk of the supreme court as provided by the rules of
20 court. The ~~[clerk shall maintain the record of each case~~
21 ~~whether addressed to the jurisdiction of the supreme court or~~



1 ~~the jurisdiction of the intermediate appellate court.]~~ chief
2 justice or the chief justice's designee from any of the
3 associate justices or the intermediate appellate judges shall
4 receive each case and shall assign the case either to the
5 intermediate appellate court or to the supreme court within
6 twenty days of the filing deadline for the last document
7 permissible to be filed in the case pursuant to the rules of
8 court.

9 (c) The supreme court may order the immediate reassignment
10 of a case to itself after its assignment to the intermediate
11 appellate court whenever the supreme court in its discretion
12 deems that the case concerns an issue of imperative or of
13 fundamental public importance."

14 SECTION 52. Section 602-57, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "§602-57 Jurisdiction. [~~Notwithstanding any other law to~~
17 ~~the contrary, the]~~ The intermediate appellate court shall have
18 concurrent jurisdiction[~~, subject to transfer as provided in~~
19 ~~section 602-58 or review on application for a writ of certiorari~~
20 ~~as provided in section 602-59.~~



- 1 ~~(1) To hear and determine appeals from any court or agency~~
2 ~~when appeals are allowed by law;~~
- 3 ~~(2) To entertain, in its discretion, any case submitted~~
4 ~~without suit when there is a question of law that~~
5 ~~could be the subject of a civil action or proceeding~~
6 ~~in the circuit court, or tax appeal court, and the~~
7 ~~parties agree upon the facts upon which the~~
8 ~~controversy depends; and~~
- 9 ~~(3) To make or issue any order or writ necessary or~~
10 ~~appropriate in the aid of its jurisdiction, and in~~
11 ~~such case, any judge may issue a writ or an order to~~
12 ~~show cause returnable before the court.]~~

13 with the supreme court on all matters set out in section 602-
14 5(a)(1) through (7), subject to assignment of cases set out in
15 section 602-5(b) and (c)."

16 SECTION 53. Section 641-1, Hawaii Revised Statutes, is
17 amended by amending subsection (a) to read as follows:

18 "(a) Appeals shall be allowed in civil matters from all
19 final judgments, orders, or decrees of circuit and district
20 courts and the land court to the supreme court or to the
21 intermediate appellate court, except as otherwise provided by



1 law and subject to [chapter 602.] the authority of the
2 intermediate appellate court to certify reassignment of a matter
3 directly to the supreme court and subject to the authority of
4 the supreme court to reassign a matter to itself from the
5 intermediate appellate court."

6 SECTION 54. Section 641-2, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "§641-2 Review on and disposition of appeal. [†] (a) [†]

9 In case of appeal to the supreme court from a judgment, order,
10 or decree of a circuit or district court or the land court, in a
11 civil matter, the [~~appellate~~] supreme court shall have power to
12 review, reverse, affirm, amend, or modify such judgment, order,
13 or decree, in whole or in part, as to any or all of the parties.
14 It may enter an amended or modified judgment, order, or decree,
15 or may remand the case to the trial court for the entry of the
16 same or for other or further proceedings, as in its opinion the
17 facts and law warrant. Any judgment, order, or decree entered
18 by the [~~appellate~~] supreme court may be enforced by it or
19 remitted for enforcement by the trial court.

20 [†] (b) [†] Every appeal shall be taken on the record, and
21 no new evidence shall be introduced in the supreme court. The



1 [appellate] supreme court may correct any error appearing on the
2 record, but need not consider a point that was not presented in
3 the trial court in an appropriate manner. No judgment, order,
4 or decree shall be reversed, amended, or modified for any error
5 or defect, unless the court is of the opinion that it has
6 injuriously affected the substantial rights of the appellant."

7 SECTION 55. Section 641-11, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "§641-11 From circuit courts. Any party aggrieved by the
10 judgment of a circuit court in a criminal matter may appeal to
11 the [~~intermediate appellate~~] supreme court, subject to chapter
12 602, in the manner and within the time provided by the rules of
13 court. The sentence of the court in a criminal case shall be
14 the judgment. All appeals shall be filed with the clerk of the
15 supreme court and shall be subject to one filing fee."

16 SECTION 56. Section 641-12, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "§641-12 From district courts. [†] (a) [†] Appeals upon
19 the record shall be allowed from all final decisions and final
20 judgments of district courts in all criminal matters. Such
21 appeals may be made to the [~~intermediate appellate~~] supreme



1 court, subject to chapter 602, whenever the party appealing
2 shall file notice of the party's appeal within thirty days, or
3 such other time as may be provided by the rules of the court.

4 [†] (b) [†] Within a reasonable time after an appeal has
5 been perfected from a decision of a district court to the
6 [appellate] supreme court in a criminal matter, it shall be
7 incumbent upon the district court to make a return thereof,
8 together with all papers and exhibits filed in such case.

9 [†] (c) [†] It shall be the duty of the respective clerk of
10 the supreme court or the intermediate appellate court, whichever
11 has heard the appeal, to transmit within a reasonable time, to
12 the district court from whose decision the appeal was made, a
13 statement showing the disposition of the case.

14 (d) All appeals, whether heard by the intermediate
15 appellate court or the supreme court, shall be filed with the
16 clerk of the supreme court and shall be subject to one filing
17 fee."

18 SECTION 57. Section 641-13, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "§641-13 By State in criminal cases. An appeal may be
21 taken by and on behalf of the State from the district or circuit



1 courts to the [~~intermediate appellate~~] supreme court, subject to
2 chapter 602, in all criminal matters, in the following
3 instances:

- 4 (1) From an order or judgment quashing, setting aside, or
5 sustaining a motion to dismiss any indictment,
6 information, or complaint or any count thereof;
- 7 (2) From an order or judgment sustaining a special plea in
8 bar or dismissing the case where the defendant has not
9 been put in jeopardy;
- 10 (3) From an order granting a new trial;
- 11 (4) From an order arresting judgment;
- 12 (5) From a ruling on a question of law adverse to the
13 State, where the defendant was convicted and appeals
14 from the judgment;
- 15 (6) From the sentence, on the ground that it is illegal;
- 16 (7) From a pretrial order granting a motion for the
17 suppression of evidence, including a confession or
18 admission, or the return of property, in which case
19 the intermediate appellate court or the supreme court,
20 as the case may be, shall give priority to the appeal



1 and the order shall be stayed pending the outcome of
2 the appeal;

3 (8) From an order denying a request by the State for
4 protective order for nondisclosure of witness for
5 reason of personal safety under rule 16(e)(4) of the
6 Hawaii rules of penal procedure, in which case the
7 intermediate appellate court or the supreme court, as
8 the case may be, shall give priority to the appeal and
9 the order shall be stayed pending outcome of the
10 appeal;

11 (9) From a judgment of acquittal following a jury verdict
12 of guilty; and

13 (10) From a denial of an application for an order of
14 approval or authorization of the interception of a
15 wire, oral, or electronic communication pursuant to
16 section 803-44."

17 SECTION 58. Section 641-17, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "§641-17 Interlocutory appeals from circuit courts,
20 criminal matters. Upon application made within the time
21 provided by the rules of court, an appeal in a criminal matter



1 may be allowed to a defendant from the circuit court to the
2 [~~intermediate appellate~~] supreme court, subject to chapter 602,
3 from a decision denying a motion to dismiss or from other
4 interlocutory orders, decisions, or judgments, whenever the
5 judge in the judge's discretion may think the same advisable for
6 a more speedy termination of the case. The refusal of the judge
7 to allow an interlocutory appeal to the appellate court shall
8 not be reviewable by any other court."

9 SECTION 59. Section 660-28, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "§660-28 Bail, etc., before judgment. Except as otherwise
12 provided:

13 (1) Until judgment is given, the court may remand the
14 party or accept bail for the party's appearance from
15 day to day or may place the party under special care
16 and custody, as circumstances may require; and

17 (2) After judgment is given, an order made by the court
18 under paragraph (1) shall be continued in effect
19 during a stay of enforcement of judgment, unless the
20 trial court [~~the intermediate appellate court,~~] or
21 the supreme court after taking of the appeal,



1 terminates the order or makes other provision in the
2 circumstances."

3 SECTION 60. Section 664-5, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§664-5 No patent on award until boundaries settled.** The
6 department of land and natural resources is forbidden to issue
7 any patent in confirmation of an award by name, made by the
8 commissioners to quiet land titles, without the boundaries being
9 defined in such patent, according to the decision of a
10 commissioner of boundaries, or the [~~intermediate appellate~~
11 ~~court, or the~~] supreme court on appeal."

12 SECTION 61. Section 664-8, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "**§664-8 Appeal.** Any party aggrieved by the decision of
15 the commissioner of boundaries may appeal therefrom to the
16 [~~intermediate appellate~~] supreme court, subject to chapter 602,
17 within thirty days from the rendition of the decision, and
18 within the period shall pay all costs accrued and shall pay or
19 deposit costs for appeal as provided in sections 607-5, 607-6,
20 and 607-7; provided that any land owner absent from the State
21 and not represented by an authorized agent within the State



1 shall have the right of appeal for one year from the rendition
2 of the decision."

3 SECTION 62. Section 664-9, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "§664-9 Record on; new evidence. Whenever any person
6 appeals, the commissioner of boundaries shall transmit to the
7 clerk of the supreme court a copy of the record and of the
8 commissioner's decision, together with any exhibits filed and
9 the bond for costs as in other cases. The [~~intermediate~~
10 ~~appellate court or the~~] supreme court may permit the
11 introduction of new evidence that could not with due diligence
12 have been obtained before, and the court's decision shall be
13 final and binding."

14 SECTION 63. Section 664-25, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "§664-25 Appeal. Any party aggrieved by the decree of the
17 court may appeal therefrom to the [~~intermediate appellate~~]
18 supreme court, subject to chapter 602, in the manner and within
19 the time provided for civil appeals from the circuit courts."

20 SECTION 64. Section 664-36, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "§664-36 Appeal. Any party aggrieved by the judgment of
2 the court may appeal therefrom to the [~~intermediate appellate~~]
3 supreme court, subject to chapter 602, in the manner and within
4 the time provided for civil appeals from the circuit courts."

5 SECTION 65. Appeals pending in the intermediate appellate
6 court on the effective date of this Act may be transferred to
7 the supreme court as the chief justice, in the chief justice's
8 sole discretion, directs.

9 SECTION 66. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 67. This Act shall take effect on July 1, 2019,
12 and shall apply to appeals filed on or after the effective date
13 of this Act; provided that the amendments made to sections 91-
14 14(b) and 602-5, Hawaii Revised Statutes, by sections 10 and 51
15 of this Act, respectively, shall not be repealed when those
16 sections are reenacted on July 1, 2019, pursuant to section 14
17 of Act 48, Session Laws of Hawaii 2016.

18

INTRODUCED BY: 



S.B. NO. 3040

Report Title:

Courts; Appellate Jurisdiction

Description:

Amends appellate jurisdiction of the supreme court and the intermediate appellate court to conditions as they existed prior to July 1, 2006. Reestablishes criteria for assigning appeals. Reestablishes requirement that most appeals be filed with the supreme court instead of the intermediate appellate court. Eff. 7/1/2019.

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

