

TITLE 2

LIEUTENANT GOVERNOR

SUBTITLE 1 ADMINISTRATION

CHAPTER 1

RULEMAKING, DECLARATORY RULINGS AND
PUBLIC RECORDS AND INFORMATION

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§2-1-1 Definitions. As used in this chapter, unless otherwise specifically indicated:

"Agency" means each state or county board, commission, department, or officer authorized by law to make rules or to adjudicate contested cases except those in the legislative or judicial branches.

"Lieutenant governor" means the lieutenant governor of the State of Hawaii.

"Office" means the office of the lieutenant governor.

"Person" or "Persons" includes individuals, partnerships, associations, corporations, public or private organizations of any character other than agencies. [Eff. 9/30/69; am and ren §2-1-1 MAR 11 1982 1(Auth: HRS §91-2)(Imp: HRS §91-1)]

§2-1-2 Office. (a) The principal address of the office shall be the Hawaii State Capitol Building, Honolulu, Hawaii. Unless otherwise specifically provided by law or by direction of the office, all communications to the office shall be sent to the lieutenant governor at such address.

(b) The office shall be open for the transaction of public business between the hours of 7:45 a.m. to 4:30 p.m., Monday to Friday, inclusive, unless otherwise provided by statute or executive order.

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(c) The lieutenant governor shall have charge of the official files and records of the office and shall be responsible for the maintenance and custody of the same, in addition to all papers and requests, findings and determinations, reports, opinions, rules and approved forms. All orders and other actions of the office shall be authenticated and signed, or otherwise authorized by the lieutenant governor or the duly authorized subordinate. [Eff. 9/30/69; am and ren §2-1-2
MAR 11 1982 1(Auth: HRS §91-2)(Imp: HRS §80-1)

§2-1-3 Public records and information. (a) The term "public records" as used in this section, shall be defined as in §92-50, Hawaii Revised Statutes. Public records include the rules, written statements of policy or interpretation formulated, adopted or used by the office, all final opinions, rulings and orders, the minutes of public meetings of the office, and any other material on file for public inspection in the office, but public records shall not include records which invade the right of privacy of an individual or which are deemed confidential pursuant to law.

(b) All public records shall be available for inspection by the public in the office during the established office hours unless public inspection of such records is in violation of any law.

(c) A person may request a copy of a public record and shall be entitled to the same, provided that the person pays the cost thereof, including the cost of printing and reproduction, publication and mailing, or in the case of a charge specified by law or by rule, such specified charge.

(d) Requests for public information, requests for permission to inspect public records and requests for copies of public records may be made by the public in writing to the lieutenant governor. [Eff. 9/30/69; am and ren §2-1-3
MAR 11 1982 1(Auth: HRS §91-2)(Imp: HRS §92-21)

§2-1-4 Petition for adoption, amendment or repeal of rules. (a) A petition requesting the adoption, amendment or repeal of any rule of the lieutenant governor may be filed with the office. The petition shall include both the text of the affected rule according to the Ramseyer format and the text of the affected rule in its final form. The petition shall also clearly and concisely state: the exact changes to be made and the reasons for the changes; the final result to be expected by instituting the proposed adoption, amendment or repeal of the rule; full disclosure of the petitioner's interest including any relevant facts, views, arguments or data. The lieutenant governor may serve or require the petitioner to serve a copy of the petition on other persons or agencies known to be interested or affected thereby.

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(b) Upon filing, the petition shall be given a docket number and become a matter of public record. Within thirty days after the filing of the petition, the lieutenant governor shall either deny the petition in writing, stating the reasons for the denial, or initiate proceedings for the adoption, amendment or repeal of the rule as provided by law.

(c) Notwithstanding any petition or the disposition thereof, nothing in this section shall operate to prohibit the lieutenant governor from adopting, amending or repealing the rules or from taking any action on any matter disclosed in the petition. [Eff. 9/30/69; am and ren §2-1-4 MAR 11 1982 1
(Auth: HRS §91-2)(Imp: HRS §91-6)

§2-1-5 Public hearing for adoption, amendment or repeal of rules. (a) The lieutenant governor or the duly authorized representative shall preside over the public hearing for the adoption, amendment or repeal of the rule. The hearing shall afford all interested persons a reasonable opportunity to be heard on matters relevant to the issues involved; provided that the presiding officer shall have the authority and responsibility to take all other actions necessary to obtain a clear and competent record in an orderly manner.

(b) The hearing shall be held on the day and at the time and place designated in the notice of the hearing. A duly noticed hearing may be continued to a later time or date or to a different place if at the hearing the presiding officer first determines that the public interest would best be served by the continuance and further, that the continuance would not circumvent the spirit of this section. If the hearing is continued, notice of the new hearing shall be provided by announcing the new date, time and place at the original hearing and by giving reasonable notice to the public at large.

(c) At the commencement of the hearing, the presiding officer shall identify himself and his staff, read the notice of hearing, and outline briefly the procedure to be followed. Oral or written testimony may be received with respect to the matters specified in the notice of hearing and in such order as the presiding officer shall prescribe.

(d) All interested persons shall be given a reasonable opportunity to testify with respect to the matters specified in the notice of hearing. Every witness shall, before testifying, state his or her name and address, whom he or she represents at the hearing, and shall give such other information respecting his or her appearance as the presiding officer may request. Every witness shall be subject to questioning by the presiding officer or by any other authorized representative of the office, but no questions or cross-examination by the public shall be permitted without the presiding officer's permission.

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(e) Unless otherwise specifically ordered by the presiding officer, testimony taken at the hearing need not be recorded verbatim. [Eff. 9/30/69; am and ren §2-1-5 MAR 11 1982 1(Auth: HRS §91-2)(Imp: HRS §91-3)]

§2-1-6 Petition for declaratory rulings. (a) A petition for a declaratory ruling as to the applicability of any statutory provision or the applicability of any rule or order of the lieutenant governor may be filed with the office. The petition shall clearly and concisely state: the pertinent statutory provision, rule or order; the nature of the problem or controversy; a complete statement of the relevant facts; the remedy being sought; the reasons for the petition including full disclosure of the petitioner's interest and the effect of the statutory provision, rule or order on the petitioner.

(b) Upon receipt of the filed petition and after an examination of the contents thereof, the lieutenant governor may conduct a hearing on the matter or require the petitioner to file additional data or memoranda.

(c) After complete review of the petition and the record thereof, the lieutenant governor may either dismiss or grant the petition, or issue any other declaratory order or ruling appropriate to the matter. [Eff. 9/30/69; am and ren §2-1-6 MAR 11 1982 1(Auth: HRS §91-2)(Imp: HRS §91-8)]