

JAN 20 2023

A BILL FOR AN ACT

RELATING TO HOUSING CAPACITY.

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

1 SECTION 1. The legislature finds that Hawaii's lack of
2 affordable housing requires reform of zoning laws that have
3 restricted housing density in residential districts. The
4 majority of urban districts statewide that allow for residential
5 use are zoned for single-family housing, which limits the
6 ability of property owners to create affordable units that meet
7 the needs of middle-income families.

8 The legislature further finds that multiple states and
9 municipalities across the country have successfully reformed
10 zoning laws to allow construction of duplexes, triplexes, and
11 fourplexes in areas zoned for detached single-family homes.
12 This moderate change allows for the speedier creation of more
13 housing without affecting the character of neighborhoods
14 involved or stressing local infrastructure.

15 Therefore, the purpose of this Act is to require the
16 counties to reform their zoning ordinances to permit the
17 construction of duplexes, triplexes, and fourplexes on all



1 residential land where single-family homes are permitted that
2 have an urban state land use district classification. Reform
3 would address standards relating to lot size, parking
4 requirements, floor area, height, setbacks, and other existing
5 development restrictions that are incompatible with the
6 construction of multi-unit dwellings and an increase in housing
7 density. Moreover, this Act encourages the counties to identify
8 and reform any portions of the county code relating to
9 permitting, building, or planning that could make it difficult
10 for property owners to build such multi-unit dwellings.

11 SECTION 2. Section 46-4, Hawaii Revised Statutes, is
12 amended to read as follows:

13 **"§46-4 County zoning.** (a) This section and any
14 ordinance, rule, or regulation adopted in accordance with this
15 section shall apply to lands not contained within the forest
16 reserve boundaries as established on January 31, 1957, or as
17 subsequently amended.

18 Zoning in all counties shall be accomplished within the
19 framework of a long-range, comprehensive general plan prepared
20 or being prepared to guide the overall future development of the
21 county. Zoning shall be one of the tools available to the



1 county to put the general plan into effect in an orderly manner.
2 Zoning in the counties of Hawaii, Maui, and Kauai means the
3 establishment of districts of such number, shape, and area, and
4 the adoption of regulations for each district to carry out the
5 purposes of this section. In establishing or regulating the
6 districts, full consideration shall be given to all available
7 data as to soil classification and physical use capabilities of
8 the land to allow and encourage the most beneficial use of the
9 land consonant with good zoning practices. The zoning power
10 granted herein shall be exercised by ordinance which may relate
11 to:

- 12 (1) The areas within which agriculture, forestry,
13 industry, trade, and business may be conducted;
- 14 (2) The areas in which residential uses may be regulated
15 or prohibited;
- 16 (3) The areas bordering natural watercourses, channels,
17 and streams, in which trades or industries, filling or
18 dumping, erection of structures, and the location of
19 buildings may be prohibited or restricted;
- 20 (4) The areas in which particular uses may be subjected to
21 special restrictions;



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- 1 (5) The location of buildings and structures designed for
- 2 specific uses and designation of uses for which
- 3 buildings and structures may not be used or altered;
- 4 (6) The location, height, bulk, number of stories, and
- 5 size of buildings and other structures;
- 6 (7) The location of roads, schools, and recreation areas;
- 7 (8) Building setback lines and future street lines;
- 8 (9) The density and distribution of population;
- 9 (10) The percentage of a lot that may be occupied, size of
- 10 yards, courts, and other open spaces;
- 11 (11) Minimum and maximum lot sizes; and
- 12 (12) Other regulations the boards or city council find
- 13 necessary and proper to permit and encourage the
- 14 orderly development of land resources within their
- 15 jurisdictions[-];

16 provided that each county shall adopt reasonable standards to
 17 allow the construction of up to four dwelling units on any land
 18 with an urban state land use district classification that is
 19 zoned for residential use where a single-family dwelling unit is
 20 permitted. These standards shall include amendments to existing
 21 restrictions relating to lot size, parking requirements, floor

1 area, height, setbacks, and other zoning ordinances that are
2 incompatible with the construction of multi-unit dwellings and
3 an increase in housing density. Counties are encouraged to
4 identify and reform any portions of the county code relating to
5 permitting, building, or planning that may frustrate
6 construction of the increased number of dwelling units.

7 The council of any county shall prescribe rules,
8 regulations, and administrative procedures and provide personnel
9 it finds necessary to enforce this section and any ordinance
10 enacted in accordance with this section. The ordinances may be
11 enforced by appropriate fines and penalties, civil or criminal,
12 or by court order at the suit of the county or the owner or
13 owners of real estate directly affected by the ordinances.

14 Any civil fine or penalty provided by ordinance under this
15 section may be imposed by the district court, or by the zoning
16 agency after an opportunity for a hearing pursuant to chapter
17 91. The proceeding shall not be a prerequisite for any
18 injunctive relief ordered by the circuit court.

19 Nothing in this section shall invalidate any zoning
20 ordinance or regulation adopted by any county or other agency of



1 government pursuant to the statutes in effect prior to July 1,
2 1957.

3 The powers granted herein shall be liberally construed in
4 favor of the county exercising them, and in such a manner as to
5 promote the orderly development of each county or city and
6 county in accordance with a long-range, comprehensive general
7 plan to ensure the greatest benefit for the State as a whole.
8 This section shall not be construed to limit or repeal any
9 powers of any county to achieve these ends through zoning and
10 building regulations, except insofar as forest and water reserve
11 zones are concerned and as provided in subsections (c) and (d)
12 and the multi-unit dwelling requirement in this subsection
13 relating to residential development in the urban district.

14 Neither this section nor any ordinance enacted pursuant to
15 this section shall prohibit the continued lawful use of any
16 building or premises for any trade, industrial, residential,
17 agricultural, or other purpose for which the building or
18 premises is used at the time this section or the ordinance takes
19 effect; provided that a zoning ordinance may provide for
20 elimination of nonconforming uses as the uses are discontinued,
21 or for the amortization or phasing out of nonconforming uses or



1 signs over a reasonable period of time in commercial,
2 industrial, resort, and apartment zoned areas only. In no event
3 shall such amortization or phasing out of nonconforming uses
4 apply to any existing building or premises used for residential
5 (single-family or duplex) or agricultural uses. Nothing in this
6 section shall affect or impair the powers and duties of the
7 director of transportation as set forth in chapter 262.

8 (b) Any final order of a zoning agency established under
9 this section may be appealed to the circuit court of the circuit
10 in which the land in question is found. The appeal shall be in
11 accordance with the Hawaii rules of civil procedure.

12 (c) Each county may adopt reasonable standards to allow
13 the construction of two single-family dwelling units on any lot,
14 except a lot with an urban state land use district
15 classification, where a residential dwelling unit is permitted.

16 (d) Neither this section nor any other law, county
17 ordinance, or rule shall prohibit group living in facilities
18 with eight or fewer residents for purposes or functions that are
19 licensed, certified, registered, or monitored by the State;
20 provided that a resident manager or a resident supervisor and
21 the resident manager's or resident supervisor's family shall not



1 be included in this resident count. These group living
2 facilities shall meet all applicable county requirements not
3 inconsistent with the intent of this subsection, including but
4 not limited to building height, setback, maximum lot coverage,
5 parking, and floor area requirements.

6 (e) Neither this section nor any other law, county
7 ordinance, or rule shall prohibit the use of land for employee
8 housing and community buildings in plantation community
9 subdivisions as defined in section 205-4.5(a)(12); in addition,
10 no zoning ordinance shall provide for the elimination,
11 amortization, or phasing out of plantation community
12 subdivisions as a nonconforming use.

13 (f) Neither this section nor any other law, county
14 ordinance, or rule shall prohibit the use of land for medical
15 cannabis production centers or medical cannabis dispensaries
16 established and licensed pursuant to chapter 329D; provided that
17 the land is otherwise zoned for agriculture, manufacturing, or
18 retail purposes."

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



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1 SECTION 4. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 5. This Act shall take effect upon its approval.

4

INTRODUCED BY:

A handwritten signature in black ink, appearing to be 'B. L. S.', is written over a horizontal line.



S.B. NO. 138

Report Title:

Housing; Urban District; County Zoning; Single-family Residential; Duplexes; Triplexes; Fourplexes

Description:

Requires each county to adopt reasonable standards to allow the construction of up to four dwelling units on any land with an urban state land use district classification that is zoned for residential use where a single-family dwelling unit is permitted.

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

