

JAN 21 2016

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# A BILL FOR AN ACT

RELATING TO ZONING.

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

1       SECTION 1. Section 46-4, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:

3       "(a) This section and any ordinance, rule, or regulation  
4 adopted in accordance with this section shall apply to lands not  
5 contained within the forest reserve boundaries as established on  
6 January 31, 1957, or as subsequently amended.

7       Zoning in all counties shall be accomplished within the  
8 framework of a long-range, comprehensive general plan prepared  
9 or being prepared to guide the overall future development of the  
10 county. Zoning shall be one of the tools available to the  
11 county to put the general plan into effect in an orderly manner.  
12 Zoning in the counties of Hawaii, Maui, and Kauai means the  
13 establishment of districts of such number, shape, and area, and  
14 the adoption of regulations for each district to carry out the  
15 purposes of this section. In establishing or regulating the  
16 districts, full consideration shall be given to all available  
17 data as to soil classification and physical use capabilities of



1 the land to allow and encourage the most beneficial use of the  
2 land consonant with good zoning practices. The zoning power  
3 granted herein shall be exercised by ordinance which may relate  
4 to:

- 5 (1) The areas within which agriculture, forestry,  
6 industry, trade, and business may be conducted;
- 7 (2) The areas in which residential uses may be regulated  
8 or prohibited;
- 9 (3) The areas bordering natural watercourses, channels,  
10 and streams, in which trades or industries, filling or  
11 dumping, erection of structures, and the location of  
12 buildings may be prohibited or restricted;
- 13 (4) The areas in which particular uses may be subjected to  
14 special restrictions;
- 15 (5) The location of buildings and structures designed for  
16 specific uses and designation of uses for which  
17 buildings and structures may not be used or altered;
- 18 (6) The location, height, bulk, number of stories, and  
19 size of buildings and other structures;
- 20 (7) The location of roads, schools, and recreation areas;
- 21 (8) Building setback lines and future street lines;



- 1           (9)    The density and distribution of population;
- 2           (10)   The percentage of a lot that may be occupied, size of
- 3                 yards, courts, and other open spaces;
- 4           (11)   Minimum and maximum lot sizes; and
- 5           (12)   Other regulations the boards or city council find
- 6                 necessary and proper to permit and encourage the
- 7                 orderly development of land resources within their
- 8                 jurisdictions.

9           The council of any county shall prescribe rules,

10   regulations, and administrative procedures and provide personnel

11   it finds necessary to enforce this section and any ordinance

12   enacted in accordance with this section. The ordinances may be

13   enforced by appropriate fines and penalties, civil or criminal,

14   or by court order at the suit of the county or the owner or

15   owners of real estate directly affected by the ordinances.

16           Any civil fine or penalty provided by ordinance under this

17   section may be imposed by the district court, or by the zoning

18   agency after an opportunity for a hearing pursuant to chapter

19   91. The proceeding shall not be a prerequisite for any

20   injunctive relief ordered by the circuit court.



1        Nothing in this section shall invalidate any zoning  
2 ordinance or regulation adopted by any county or other agency of  
3 government pursuant to the statutes in effect [~~prior to~~] before  
4 July 1, 1957.

5        The powers granted herein shall be liberally construed in  
6 favor of the county exercising them, and in such a manner as to  
7 promote the orderly development of each county or city and  
8 county in accordance with a long-range, comprehensive general  
9 plan to ensure the greatest benefit for the State as a whole.

10      This section shall not be construed to limit or repeal any  
11 powers of any county to achieve these ends through zoning and  
12 building regulations, except insofar as forest and water reserve  
13 zones are concerned and as provided in subsections (c) and (d).

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



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1 signs over a reasonable period of time in commercial,  
2 industrial, resort, and apartment zoned areas only~~[-]~~; provided  
3 further that a zoning ordinance may provide for the amortization  
4 or phasing out of nonconforming single-family transient vacation  
5 rental units over a reasonable period of time in an area of any  
6 zoning classification. In no event shall ~~[such]~~ the  
7 amortization or phasing out of nonconforming uses apply to any  
8 existing building or premises used for residential (single-  
9 family or duplex) or agricultural uses. Nothing in this section  
10 shall affect or impair the powers and duties of the director of  
11 transportation as set forth in chapter 262."

12 SECTION 2. Statutory material to be repealed is bracketed  
13 and stricken. New statutory material is underscored.

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

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INTRODUCED BY: \_\_\_\_\_

  
BY REQUEST



# S.B. NO. 2/23

**Report Title:**

HSAC Package; Zoning; Counties; Authority; Single-Family Residential; Vacation Rental Use

**Description:**

Clarifies county zoning authority by distinguishing single-family residential use from single-family vacation rental use and allowing amortization by ordinance for single-family transient vacation rentals over a reasonable period.

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

