
A BILL FOR AN ACT

RELATING TO ALTERNATIVE HOUSING.

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

1 SECTION 1. The legislature finds that the supply of
2 affordable housing in Hawaii does not sufficiently meet demand.
3 Many financially vulnerable residents are homeless or at risk of
4 becoming homeless. The shortage of affordable housing will not
5 be eliminated solely by subsidies from the government. The
6 legislature further finds that there is a need for alternative
7 solutions in battling the affordable housing shortage, including
8 help from the private sector.

9 Accordingly, the purpose of this Act is to address Hawaii's
10 housing needs by allowing the counties to grant zoning
11 exemptions for alternative dwellings and alternative dwelling
12 parks that can be built by private parties.

13 SECTION 2. Section 46-1.5, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§46-1.5 General powers and limitation of the counties.**
16 Subject to general law, each county shall have the following



1 powers and shall be subject to the following liabilities and
2 limitations:

3 (1) Each county shall have the power to frame and adopt a
4 charter for its own self-government that shall
5 establish the county executive, administrative, and
6 legislative structure and organization, including but
7 not limited to the method of appointment or election
8 of officials, their duties, responsibilities, and
9 compensation, and the terms of their office;

10 (2) Each county shall have the power to provide for and
11 regulate the marking and lighting of all buildings and
12 other structures that may be obstructions or hazards
13 to aerial navigation, so far as may be necessary or
14 proper for the protection and safeguarding of life,
15 health, and property;

16 (3) Each county shall have the power to enforce all claims
17 on behalf of the county and approve all lawful claims
18 against the county, but shall be prohibited from
19 entering into, granting, or making in any manner any
20 contract, authorization, allowance payment, or



1 liability contrary to the provisions of any county
2 charter or general law;

3 (4) Each county shall have the power to make contracts and
4 to do all things necessary and proper to carry into
5 execution all powers vested in the county or any
6 county officer;

7 (5) Each county shall have the power to:

8 (A) Maintain channels, whether natural or artificial,
9 including their exits to the ocean, in suitable
10 condition to carry off storm waters;

11 (B) Remove from the channels, and from the shores and
12 beaches, any debris that is likely to create an
13 unsanitary condition or become a public nuisance;
14 provided that, to the extent any of the foregoing
15 work is a private responsibility, the
16 responsibility may be enforced by the county in
17 lieu of the work being done at public expense;

18 (C) Construct, acquire by gift, purchase, or by the
19 exercise of eminent domain, reconstruct, improve,
20 better, extend, and maintain projects or
21 undertakings for the control of and protection



1 against floods and flood waters, including the
2 power to drain and rehabilitate lands already
3 flooded;

4 (D) Enact zoning ordinances providing that lands
5 deemed subject to seasonable, periodic, or
6 occasional flooding shall not be used for
7 residence or other purposes in a manner as to
8 endanger the health or safety of the occupants
9 thereof, as required by the Federal Flood
10 Insurance Act of 1956 (chapter 1025, Public Law
11 1016); and

12 (E) Establish and charge user fees to create and
13 maintain any stormwater management system or
14 infrastructure;

15 (6) Each county shall have the power to exercise the power
16 of condemnation by eminent domain when it is in the
17 public interest to do so;

18 (7) Each county shall have the power to exercise
19 regulatory powers over business activity as are
20 assigned to them by chapter 445 or other general law;



- 1 (8) Each county shall have the power to fix the fees and
2 charges for all official services not otherwise
3 provided for;
- 4 (9) Each county shall have the power to provide by
5 ordinance assessments for the improvement or
6 maintenance of districts within the county;
- 7 (10) Except as otherwise provided, no county shall have the
8 power to give or loan credit to, or in aid of, any
9 person or corporation, directly or indirectly, except
10 for a public purpose;
- 11 (11) Where not within the jurisdiction of the public
12 utilities commission, each county shall have the power
13 to regulate by ordinance the operation of motor
14 vehicle common carriers transporting passengers within
15 the county and adopt and amend rules the county deems
16 necessary for the public convenience and necessity;
- 17 (12) Each county shall have the power to enact and enforce
18 ordinances necessary to prevent or summarily remove
19 public nuisances and to compel the clearing or removal
20 of any public nuisance, refuse, and uncultivated
21 undergrowth from streets, sidewalks, public places,



1 and unoccupied lots. In connection with these powers,
2 each county may impose and enforce liens upon the
3 property for the cost to the county of removing and
4 completing the necessary work where the property
5 owners fail, after reasonable notice, to comply with
6 the ordinances. The authority provided by this
7 paragraph shall not be self-executing, but shall
8 become fully effective within a county only upon the
9 enactment or adoption by the county of appropriate and
10 particular laws, ordinances, or rules defining "public
11 nuisances" with respect to each county's respective
12 circumstances. The counties shall provide the
13 property owner with the opportunity to contest the
14 summary action and to recover the owner's property;

15 (13) Each county shall have the power to enact ordinances
16 deemed necessary to protect health, life, and
17 property, and to preserve the order and security of
18 the county and its inhabitants on any subject or
19 matter not inconsistent with, or tending to defeat,
20 the intent of any state statute where the statute does
21 not disclose an express or implied intent that the



1 statute shall be exclusive or uniform throughout the
2 State;

3 (14) Each county shall have the power to:

4 (A) Make and enforce within the limits of the county
5 all necessary ordinances covering all:

6 (i) Local police matters;

7 (ii) Matters of sanitation;

8 (iii) Matters of inspection of buildings;

9 (iv) Matters of condemnation of unsafe

10 structures, plumbing, sewers, dairies, milk,
11 fish, and morgues; and

12 (v) Matters of the collection and disposition of
13 rubbish and garbage;

14 (B) Provide exemptions for homeless facilities and
15 any other program for the homeless authorized by
16 part XVII of chapter 346, and for the building of
17 alternative dwellings and alternative dwelling
18 parks defined under section 46-15.6, for all
19 matters under this paragraph;

20 (C) Appoint county physicians and sanitary and other
21 inspectors as necessary to carry into effect



1 ordinances made under this paragraph, who shall
 2 have the same power as given by law to agents of
 3 the department of health, subject only to
 4 limitations placed on them by the terms and
 5 conditions of their appointments; and

6 (D) Fix a penalty for the violation of any ordinance,
 7 which penalty may be a misdemeanor, petty
 8 misdemeanor, or violation as defined by general
 9 law;

10 (15) Each county shall have the power to provide public
 11 pounds; to regulate the impounding of stray animals
 12 and fowl, and their disposition; and to provide for
 13 the appointment, powers, duties, and fees of animal
 14 control officers;

15 (16) Each county shall have the power to purchase and
 16 otherwise acquire, lease, and hold real and personal
 17 property within the defined boundaries of the county
 18 and to dispose of the real and personal property as
 19 the interests of the inhabitants of the county may
 20 require, except that:



- 1 (A) Any property held for school purposes may not be
2 disposed of without the consent of the
3 superintendent of education;
- 4 (B) No property bordering the ocean shall be sold or
5 otherwise disposed of; and
- 6 (C) All proceeds from the sale of park lands shall be
7 expended only for the acquisition of property for
8 park or recreational purposes;
- 9 (17) Each county shall have the power to provide by charter
10 for the prosecution of all offenses and to prosecute
11 for offenses against the laws of the State under the
12 authority of the attorney general of the State;
- 13 (18) Each county shall have the power to make
14 appropriations in amounts deemed appropriate from any
15 moneys in the treasury, for the purpose of:
- 16 (A) Community promotion and public celebrations;
- 17 (B) The entertainment of distinguished persons as may
18 from time to time visit the county;
- 19 (C) The entertainment of other distinguished persons,
20 as well as, public officials when deemed to be in
21 the best interest of the community; and



1 (D) The rendering of civic tribute to individuals
2 who, by virtue of their accomplishments and
3 community service, merit civic commendations,
4 recognition, or remembrance;

5 (19) Each county shall have the power to:

6 (A) Construct, purchase, take on lease, lease,
7 sublease, or in any other manner acquire, manage,
8 maintain, or dispose of buildings for county
9 purposes, sewers, sewer systems, pumping
10 stations, waterworks, including reservoirs,
11 wells, pipelines, and other conduits for
12 distributing water to the public, lighting
13 plants, and apparatus and appliances for lighting
14 streets and public buildings, and manage,
15 regulate, and control the same;

16 (B) Regulate and control the location and quality of
17 all appliances necessary to the furnishing of
18 water, heat, light, power, telephone, and
19 telecommunications service to the county;

20 (C) Acquire, regulate, and control any and all
21 appliances for the sprinkling and cleaning of the



- 1 streets and the public ways, and for flushing the
2 sewers; and
- 3 (D) Open, close, construct, or maintain county
4 highways or charge toll on county highways;
5 provided that all revenues received from a toll
6 charge shall be used for the construction or
7 maintenance of county highways;
- 8 (20) Each county shall have the power to regulate the
9 renting, subletting, and rental conditions of property
10 for places of abode by ordinance;
- 11 (21) Unless otherwise provided by law, each county shall
12 have the power to establish by ordinance the order of
13 succession of county officials in the event of a
14 military or civil disaster;
- 15 (22) Each county shall have the power to sue and be sued in
16 its corporate name;
- 17 (23) Each county shall have the power to establish and
18 maintain waterworks and sewer works; to collect rates
19 for water supplied to consumers and for the use of
20 sewers; to install water meters whenever deemed
21 expedient; provided that owners of premises having



1 vested water rights under existing laws appurtenant to
2 the premises shall not be charged for the installation
3 or use of the water meters on the premises; to take
4 over from the State existing waterworks systems,
5 including water rights, pipelines, and other
6 appurtenances belonging thereto, and sewer systems,
7 and to enlarge, develop, and improve the same;

8 (24) (A) Each county may impose civil fines, in addition
9 to criminal penalties, for any violation of
10 county ordinances or rules after reasonable
11 notice and requests to correct or cease the
12 violation have been made upon the violator. Any
13 administratively imposed civil fine shall not be
14 collected until after an opportunity for a
15 hearing under chapter 91. Any appeal shall be
16 filed within thirty days from the date of the
17 final written decision. These proceedings shall
18 not be a prerequisite for any civil fine or
19 injunctive relief ordered by the circuit court;

20 (B) Each county by ordinance may provide for the
21 addition of any unpaid civil fines, ordered by



1 any court of competent jurisdiction, to any
2 taxes, fees, or charges, with the exception of
3 fees or charges for water for residential use and
4 sewer charges, collected by the county. Each
5 county by ordinance may also provide for the
6 addition of any unpaid administratively imposed
7 civil fines, which remain due after all judicial
8 review rights under section 91-14 are exhausted,
9 to any taxes, fees, or charges, with the
10 exception of water for residential use and sewer
11 charges, collected by the county. The ordinance
12 shall specify the administrative procedures for
13 the addition of the unpaid civil fines to the
14 eligible taxes, fees, or charges and may require
15 hearings or other proceedings. After addition of
16 the unpaid civil fines to the taxes, fees, or
17 charges, the unpaid civil fines shall not become
18 a part of any taxes, fees, or charges. The
19 county by ordinance may condition the issuance or
20 renewal of a license, approval, or permit for
21 which a fee or charge is assessed, except for



1 water for residential use and sewer charges, on
2 payment of the unpaid civil fines. Upon
3 recordation of a notice of unpaid civil fines in
4 the bureau of conveyances, the amount of the
5 civil fines, including any increase in the amount
6 of the fine which the county may assess, shall
7 constitute a lien upon all real property or
8 rights to real property belonging to any person
9 liable for the unpaid civil fines. The lien in
10 favor of the county shall be subordinate to any
11 lien in favor of any person recorded or
12 registered prior to the recordation of the notice
13 of unpaid civil fines and senior to any lien
14 recorded or registered after the recordation of
15 the notice. The lien shall continue until the
16 unpaid civil fines are paid in full or until a
17 certificate of release or partial release of the
18 lien, prepared by the county at the owner's
19 expense, is recorded. The notice of unpaid civil
20 fines shall state the amount of the fine as of
21 the date of the notice and maximum permissible



1 daily increase of the fine. The county shall not
2 be required to include a social security number,
3 state general excise taxpayer identification
4 number, or federal employer identification number
5 on the notice. Recordation of the notice in the
6 bureau of conveyances shall be deemed, at such
7 time, for all purposes and without any further
8 action, to procure a lien on land registered in
9 land court under chapter 501. After the unpaid
10 civil fines are added to the taxes, fees, or
11 charges as specified by county ordinance, the
12 unpaid civil fines shall be deemed immediately
13 due, owing, and delinquent and may be collected
14 in any lawful manner. The procedure for
15 collection of unpaid civil fines authorized in
16 this paragraph shall be in addition to any other
17 procedures for collection available to the State
18 and county by law or rules of the courts;

19 (C) Each county may impose civil fines upon any
20 person who places graffiti on any real or
21 personal property owned, managed, or maintained



1 by the county. The fine may be up to \$1,000 or
2 may be equal to the actual cost of having the
3 damaged property repaired or replaced. The
4 parent or guardian having custody of a minor who
5 places graffiti on any real or personal property
6 owned, managed, or maintained by the county shall
7 be jointly and severally liable with the minor
8 for any civil fines imposed hereunder. Any such
9 fine may be administratively imposed after an
10 opportunity for a hearing under chapter 91, but
11 such a proceeding shall not be a prerequisite for
12 any civil fine ordered by any court. As used in
13 this subparagraph, "graffiti" means any
14 unauthorized drawing, inscription, figure, or
15 mark of any type intentionally created by paint,
16 ink, chalk, dye, or similar substances;

17 (D) At the completion of an appeal in which the
18 county's enforcement action is affirmed and upon
19 correction of the violation if requested by the
20 violator, the case shall be reviewed by the
21 county agency that imposed the civil fines to



1 determine the appropriateness of the amount of
2 the civil fines that accrued while the appeal
3 proceedings were pending. In its review of the
4 amount of the accrued fines, the county agency
5 may consider:

- 6 (i) The nature and egregiousness of the
7 violation;
- 8 (ii) The duration of the violation;
- 9 (iii) The number of recurring and other similar
10 violations;
- 11 (iv) Any effort taken by the violator to correct
12 the violation;
- 13 (v) The degree of involvement in causing or
14 continuing the violation;
- 15 (vi) Reasons for any delay in the completion of
16 the appeal; and
- 17 (vii) Other extenuating circumstances.

18 The civil fine that is imposed by administrative
19 order after this review is completed and the
20 violation is corrected shall be subject to



1 judicial review, notwithstanding any provisions
2 for administrative review in county charters;
3 (E) After completion of a review of the amount of
4 accrued civil fine by the county agency that
5 imposed the fine, the amount of the civil fine
6 determined appropriate, including both the
7 initial civil fine and any accrued daily civil
8 fine, shall immediately become due and
9 collectible following reasonable notice to the
10 violator. If no review of the accrued civil fine
11 is requested, the amount of the civil fine, not
12 to exceed the total accrual of civil fine prior
13 to correcting the violation, shall immediately
14 become due and collectible following reasonable
15 notice to the violator, at the completion of all
16 appeal proceedings;
17 (F) If no county agency exists to conduct appeal
18 proceedings for a particular civil fine action
19 taken by the county, then one shall be
20 established by ordinance before the county shall
21 impose the civil fine;



1 (25) Any law to the contrary notwithstanding, any county
2 mayor, by executive order, may exempt donors, provider
3 agencies, homeless facilities, and any other program
4 for the homeless under part XVII of chapter 346 from
5 real property taxes, water and sewer development fees,
6 rates collected for water supplied to consumers and
7 for use of sewers, and any other county taxes,
8 charges, or fees; provided that any county may enact
9 ordinances to regulate and grant the exemptions
10 granted by this paragraph;

11 (26) Any county may establish a captive insurance company
12 pursuant to article 19, chapter 431; and

13 (27) Each county shall have the power to enact and enforce
14 ordinances regulating towing operations."

15 SECTION 3. Section 46-15.6, Hawaii Revised Statutes, is
16 amended by adding two new definitions to be appropriately
17 inserted and to read as follows:

18 "Alternative dwelling" includes mobile homes, recreational
19 vehicles, converted shipping container units, micro housing
20 units, prefabricated sheds, indigenous Hawaiian dwellings using
21 traditional Hawaiian architectural practices and materials,



1 tents, yurts, and lean-to shelters that are leased by a willing
2 lessor to a willing lessee through a rental agreement between
3 parties, or by willing parties through fee simple.

4 "Alternative dwelling parks" means more than one
5 alternative dwelling that may have common shared elements
6 including bathrooms, showers, dining facilities, swimming pools,
7 playgrounds, sewage, water, trash collection, or electricity."

8 SECTION 4. New statutory material is underscored.

9 SECTION 5. This Act shall take effect upon a date to be
10 determined.



Report Title:

Affordable Housing; Alternative Dwellings

Description:

Authorizes the counties to provide exemptions for alternative dwellings and alternative dwelling parks. (HB1373 HD1)

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

