

JAN 19 2018

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# A BILL FOR AN ACT

RELATING TO HOUSING.

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

1       SECTION 1. The legislature finds that the department of  
2 business, economic development, and tourism report, *Measuring*  
3 *Housing Demand in Hawaii, 2015-2025*, predicts the demand for  
4 additional housing units by county will be 25,847 units for  
5 Honolulu, 19,610 for Hawaii, 13,949 for Maui, and 5,287 for  
6 Kauai during the 2015-2025 period. Further, a September 2015  
7 report conducted by the City and County of Honolulu, *Housing*  
8 *Oahu: Affordable Housing Strategy - Draft for Review and*  
9 *Discussion*, states:

10       The marketplace is not building enough affordable housing  
11 to keep up with demand. Many people live in overcrowded  
12 homes, spend more than 45% of their incomes on combined  
13 housing and transportation costs, or are homeless and  
14 living on the streets. Oahu would need more than 24,000  
15 additional housing units to address pent-up demand combined  
16 with new household formation by 2016. Over 18,000 or 75%  
17 of the total projected demand is for households earning



1 less than 80% of area median income (AMI), or \$76,650 for a  
2 family of four.

3 While studies show the projected lack of supply of housing  
4 over the next ten years, none of the counties have acknowledged  
5 the problem or suggested possible solutions of how they will  
6 increase the production of housing in Hawaii to meet the  
7 projected demand.

8 Hawaii's comprehensive land use system and policies coupled  
9 with an overlapping county entitlement process are the dominant  
10 reasons for the severe housing shortage in the State. The  
11 aggregate land area for all islands is about four million acres  
12 with roughly half designated as agriculture and the other half  
13 allocated to conservation. About 200,000 acres, or five per  
14 cent, of island lands are designated as urban and available for  
15 development.

16 In order to address this, the legislature finds that it is  
17 in the State's best interest to "streamline" the process of  
18 housing development.

19 The purpose of this Act is to align state and county  
20 processes to ensure that there is sufficient developable land  
21 and infrastructure to support the additional housing units



1 required and establish housing production goals for each county,  
2 with a streamlined housing approval process to expedite the  
3 fulfillment of previously unmet housing production goals.

4 SECTION 2. Section 205-4, Hawaii Revised Statutes, is  
5 amended to read as follows:

6 **"§205-4 Amendments to district boundaries involving land**  
7 **areas greater than fifteen acres.** (a) Any department or agency  
8 of the State, any department or agency of the county in which  
9 the land is situated, or any person with a property interest in  
10 the land sought to be reclassified, may petition the land use  
11 commission for a change in the boundary of a district. This  
12 section applies to all petitions for changes in district  
13 boundaries of lands within conservation districts, lands  
14 designated or sought to be designated as important agricultural  
15 lands, and lands greater than fifteen acres in the agricultural,  
16 rural, and urban districts, except as provided in section 201H-  
17 38. The land use commission shall adopt rules pursuant to  
18 chapter 91 to implement section 201H-38.

19 (b) Upon proper filing of a petition pursuant to  
20 subsection (a) the commission shall, within not less than sixty  
21 and not more than one hundred and eighty days, conduct a hearing



1 on the appropriate island in accordance with the provisions of  
2 sections 91-9, 91-10, 91-11, 91-12, and 91-13, as applicable.

3 (c) Any other provision of law to the contrary  
4 notwithstanding, notice of the hearing together with a copy of  
5 the petition shall be served on the county planning commission  
6 and the county planning department of the county in which the  
7 land is located and all persons with a property interest in the  
8 land as recorded in the county's real property tax records. In  
9 addition, notice of the hearing shall be mailed to all persons  
10 who have made a timely written request for advance notice of  
11 boundary amendment proceedings, and public notice shall be given  
12 at least once in the county in which the land sought to be  
13 redistricted is situated as well as once statewide at least  
14 thirty days in advance of the hearing. The notice shall comply  
15 with section 91-9, shall indicate the time and place that maps  
16 showing the proposed district boundary may be inspected, and  
17 further shall inform all interested persons of their rights  
18 under subsection ~~[(e)-]~~ (g).

19 (d) Any other provisions of law to the contrary  
20 notwithstanding, boundary amendments reflected in the general  
21 plan, development plan, community plan, or sustainable community



1 plan shall be adopted in accordance with the approved plan,  
2 without need for further action from the commission, upon:

3 (1) Approval by the appropriate county land use decision-  
4 making authority;

5 (2) Concurrence from the land use commission; and

6 (3) Establishment by the State of quantitative annual  
7 housing production goals for each of the following  
8 income categories:

9 (A) Market (greater than one hundred forty per cent  
10 of area median income);

11 (B) Workforce (greater than eighty per cent to one  
12 hundred forty per cent of area median income);

13 (C) Moderate income (greater than sixty per cent to  
14 eighty per cent of area median income); and

15 (D) Low Income (sixty per cent of area median income  
16 or less).

17 (e) Any other provisions of law to the contrary

18 notwithstanding, all agencies responsible for providing public  
19 infrastructure to areas of planned growth requiring boundary  
20 amendments adopted pursuant to subsection (d) shall prepare a  
21 budget within one year of the effective date of the boundary



1 amendment that will prioritize funding for all infrastructure  
2 required to support the planned growth reflected in the adopted  
3 general plan, development plan, community plan, or sustainable  
4 community plan.

5       ~~[(d)]~~ (f) Any other provisions of law to the contrary  
6 notwithstanding, prior to hearing of a petition the commission  
7 and its staff may view and inspect any land which is the subject  
8 of the petition.

9       ~~[(e)]~~ (g) Any other provisions of law to the contrary  
10 notwithstanding, agencies and persons may intervene in the  
11 proceedings in accordance with this subsection.

12       (1) The petitioner, the office of planning, and the county  
13 planning department shall in every case appear as  
14 parties and make recommendations relative to the  
15 proposed boundary change;

16       (2) All departments and agencies of the State and of the  
17 county in which the land is situated shall be admitted  
18 as parties upon timely application for intervention;

19       (3) All persons who have some property interest in the  
20 land, who lawfully reside on the land, or who  
21 otherwise can demonstrate that they will be so



1 directly and immediately affected by the proposed  
2 change that their interest in the proceeding is  
3 clearly distinguishable from that of the general  
4 public shall be admitted as parties upon timely  
5 application for intervention;

6 (4) All other persons may apply to the commission for  
7 leave to intervene as parties. Leave to intervene  
8 shall be freely granted; provided that the commission  
9 or its hearing officer, if one is appointed, may deny  
10 an application to intervene when in the commission's  
11 or hearing officer's sound discretion it appears that:

12 (A) The position of the applicant for intervention  
13 concerning the proposed change is substantially  
14 the same as the position of a party already  
15 admitted to the proceeding; and

16 (B) The admission of additional parties will render  
17 the proceedings inefficient and unmanageable.

18 A person whose application to intervene is denied may  
19 appeal the denial to the circuit court pursuant to  
20 section 91-14; and



(5) The commission, pursuant to chapter 91, shall adopt rules governing the intervention of agencies and persons under this subsection. The rules shall without limitation establish:

(A) The information to be set forth in any application for intervention;

(B) The limits within which applications shall be filed; and

(C) Reasonable filing fees to accompany applications.

~~[(f)]~~ (h) Together with other witnesses that the commission may desire to hear at the hearing, it shall allow a representative of a citizen or a community group to testify who indicates a desire to express the view of such citizen or community group concerning the proposed boundary change.

~~[(g)]~~ (i) Within a period of not more than three hundred sixty-five days after the proper filing of a petition, unless otherwise ordered by a court, or unless a time extension, which shall not exceed ninety days, is established by a two-thirds vote of the members of the commission, the commission, by filing findings of fact and conclusions of law, shall act to approve the petition, deny the petition, or to modify the petition by





1 imposing conditions necessary to uphold the intent and spirit of  
2 this chapter or the policies and criteria established pursuant  
3 to section 205-17 or to assure substantial compliance with  
4 representations made by the petitioner in seeking a boundary  
5 change. The commission may provide by condition that absent  
6 substantial commencement of use of the land in accordance with  
7 such representations, the commission shall issue and serve upon  
8 the party bound by the condition an order to show cause why the  
9 property should not revert to its former land use classification  
10 or be changed to a more appropriate classification. Such  
11 conditions, if any, shall run with the land and be recorded in  
12 the bureau of conveyances.

13       ~~[(h)]~~ (j) No amendment of a land use district boundary  
14 shall be approved unless the commission finds upon the clear  
15 preponderance of the evidence that the proposed boundary is  
16 reasonable, not violative of section 205-2 and part III of this  
17 chapter, and consistent with the policies and criteria  
18 established pursuant to sections 205-16 and 205-17. Six  
19 affirmative votes of the commission shall be necessary for any  
20 boundary amendment under this section.



1       ~~[(+i)]~~ (k) Parties to proceedings to amend land use  
2 district boundaries may obtain judicial review thereof in the  
3 manner set forth in section 91-14, provided that the court may  
4 also reverse or modify a finding of the commission if such  
5 finding appears to be contrary to the clear preponderance of the  
6 evidence.

7       ~~[(+j)]~~ (l) At the hearing, all parties may enter into  
8 appropriate stipulations as to findings of fact, conclusions of  
9 law, and conditions of reclassification concerning the proposed  
10 boundary change. The commission may but shall not be required  
11 to approve such stipulations based on the evidence adduced."

12       SECTION 3. (a) For boundary amendments adopted pursuant  
13 to section 205-4(d), Hawaii Revised Statutes, each county shall  
14 provide by April 1 of each year an annual report to the Hawaii  
15 housing finance and development corporation that includes the  
16 following:

- 17       (1) The number of net new units of housing, including  
18           rental housing and for-sale housing, that have been  
19           issued a completed entitlement, building permit, or  
20           certificate of occupancy thus far in the housing  
21           element cycle;



(2) For each entitlement, building permit, or certificate of occupancy, a unique site identifier, which must include a tax map key parcel number but may also include a street address or other identifiers;

(3) The income category that each unit of housing, including rental housing and housing designated for home ownership, satisfies; and

(4) For each income category, the number of rental housing units and the number of for-sale housing units.

(b) When a county fails to meet any annual housing production goal established by the State pursuant to section 205-4(d), Hawaii Revised Statutes, for two consecutive years for any income category, the streamlined housing approval process shall apply for each housing development necessary to fulfill the unmet production goal.

(c) A developer may submit an application for a housing development that is subject to the streamlined housing approval process described in this section for units priced at income categories for which the county failed to meet a production goal, without need to obtain a conditional use permit, if the development satisfies all of the following planning standards:



(1) The development is a multifamily housing development that contains two or more residential units;

(2) The development is located on a site that:

(A) Is a legal parcel or parcels; and

(B) Is designated urban by the land use commission and:

(i) Is zoned for residential use;

(ii) Is zoned for residential mixed-use development;

(iii) Has a general plan designation that allows residential use; or

(iv) Is zoned for a mix of residential and nonresidential uses, with at least two-thirds of the square footage of the development designated for residential use;

(3) The development of a market rate housing project is subject to one of the following requirements mandating a minimum percentage of below market rate housing:

(A) A requirement established through a zoning ordinance adopted by the county that greater than ten per cent of the units shall be dedicated to



1           housing affordable to households earning eighty  
2           per cent of the area median income or less, that  
3           zoning ordinance applies; or

4       (B)   In the absence of the affordable housing  
5           requirement described in subparagraph (A), a  
6           requirement that ten per cent of the proposed  
7           units, on projects with greater than ten units,  
8           shall be priced for households earning eighty per  
9           cent or below the area median income;

10       (4)   The county permitting agency may review the proposed  
11           project for compliance with codes and ordinances and  
12           for consistency with surrounding existing projects;  
13           however, the review shall be completed within ninety  
14           days after filing the proposed project to the county  
15           permitting agency. The county is prohibited from  
16           imposing any non-code related condition or exaction on  
17           projects processed through the streamlined housing  
18           approval process; and

19       (5)   If the development involves more than ten units and is  
20           not entirely a public works project, all construction  
21           workers employed in the execution of the development



1           shall be paid at least the general prevailing rate of  
2           per diem wages for the type of work and geographic  
3           area.

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

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

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INTRODUCED BY:

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# S.B. NO. 2419

**Report Title:**

Housing; Streamlined Housing Approval Process; Boundary  
Amendments; Land Use

**Description:**

Requires boundary amendments to be adopted uniformly among the various housing development plans once an amendment is approved. Establishes a streamlined housing approval process to expedite the fulfillment of previously unmet housing production goals.

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

