

JAN 17 2020

A BILL FOR AN ACT

RELATING TO IMPORTANT HOUSING LANDS.

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

1 SECTION 1. Chapter 205, Hawaii Revised Statutes, is
2 amended by adding a new part to be appropriately designated and
3 to read as follows:

4 "PART . IMPORTANT HOUSING LANDS

5 §205-A Important housing lands; definition and objectives.

6 (a) As used in this part, unless the context otherwise
7 requires, "important housing lands" means those public lands of
8 the State that are located within 0.5 miles of any rail mass
9 transit station and needed to promote the expansion of available
10 housing for the future.

11 (b) The objectives for the identification of important
12 housing lands is to:

13 (1) Identify and plan for the maintenance of a strategic
14 base of lands to meet housing demand for concurrent
15 and future generations;

16 (2) Create highly walkable, mixed use neighborhoods that
17 minimize car usage and maximizes density;



(3) Promote land development and land use planning that delineates blocks of promising land areas for housing opportunities; and

(4) Establish incentives that promote the long-term use and protection of these promising land areas for housing opportunities.

§205-B Important housing lands; policies. State and county housing policies, tax policies, land use plans, ordinances, and rules shall promote the long-term viability of important housing lands and shall be consistent with and implement the following policies:

(1) Promote the retention of important housing lands in blocks of contiguous, intact, and functional land units;

(2) Discourage the fragmentation of important housing lands and the conversion of these lands to non-housing uses;

(3) Direct incompatible uses and activities from important housing lands to other areas and ensure that uses on important housing lands are actually for housing and mixed use purposes;



- 1 (4) Provide infrastructure and services on important
2 housing lands necessary to support housing uses and
3 activities;
- 4 (5) Facilitate the long-term dedication of important
5 housing lands for future housing needs through the use
6 of incentives;
- 7 (6) Facilitate the access of low-income individuals to
8 important housing lands for long-term viable housing
9 use; and
- 10 (7) Promote the maintenance of essential housing
11 infrastructure systems.

12 **§205-C Standards and criteria for the identification of**
13 **important housing lands.** The standards and criteria in this
14 section shall be used to identify important housing lands.
15 Lands identified as important housing lands need not meet every
16 standard and criteria listed below. Rather, lands meeting any
17 of the criteria below shall be given initial consideration;
18 provided that the designation of important housing lands shall
19 be made by weighing the standards and criteria with each other
20 and the objectives and policies for important housing lands in



sections 205-A and 205-B. The standards and criteria shall be as follows:

- (1) Land currently used for housing development;
- (2) Land that supports housing development;
- (3) Land identified by the land use commission as housing lands of importance to the State;
- (4) Land whose designation as important housing lands is consistent with general, development, and community plans of the county; and
- (5) Land with or near support infrastructure conducive to housing development.

§205-D Incentives for important housing lands. (a) To achieve the long-term use of important housing lands, the State and each county shall ensure that their:

- (1) Housing development, land use, water use, regulatory tax, and land protection policies; and
- (2) Permitting and approval procedures, enable and promote the economic sustainability of housing development.

Housing development on important housing lands shall be eligible for incentives and protections provided by the State



1 and counties pursuant to this section to promote the viability
2 of housing development on important housing lands and to assure
3 the availability of important housing lands for long-term
4 housing use.

5 (b) State and county incentive programs shall provide
6 preference to important housing lands. The State and each
7 county shall cooperate in program development to prevent
8 duplication of and to streamline and consolidate access to
9 programs and services for housing development on important
10 housing lands.

11 (c) Incentive and protection programs shall be designed to
12 provide a mutually supporting framework of programs and measures
13 that enhance housing development on important housing lands.

14 (d) State and county agencies shall review the protection
15 and incentive measures enacted for important housing lands and
16 housing development pursuant to this chapter at least every five
17 years to:

18 (1) Determine their effectiveness in providing housing
19 opportunities in Hawaii;

20 (2) Determine whether the effectiveness of tax credits or
21 incentive programs will be enhanced by creating



1 revolving funds or increasing rates based upon the tax
2 revenues generated by enhanced investment and housing
3 development on important housing lands; and

4 (3) Modify measures and programs as needed.

5 (e) This section shall apply only to those lands
6 designated as important housing lands pursuant to section 205-H.

7 **§205-E Identification of important housing lands; county**

8 **process.** (a) Each county shall identify and map potential
9 important housing lands within its jurisdiction based on the
10 standards and criteria in section 205-C and intent of this part,
11 except lands that have been designated, through the State land
12 use, zoning, or county planning process for urban use by State
13 or county.

14 (b) Each county shall develop maps of potential lands to
15 be considered for designation as important housing lands in
16 consultation and cooperation with interested stakeholders, as
17 determined by the county.

18 (c) Each county, through its planning department, shall
19 develop an inclusive process for public involvement in the
20 identification of potential lands and the development of maps of
21 lands to be recommended as important housing lands. The



1 planning departments may also establish one or more citizen
2 advisory committees on important housing lands to provide
3 further public input, utilize an existing process (such as
4 general plan, development plan, community plan), or employ
5 appropriate existing and adopted general plan, development plan,
6 or community plan maps.

7 (d) The counties shall take notice of those lands that
8 have already been designated as important housing lands by the
9 commission.

10 Upon identification of potential lands to be recommended to
11 the county council as potential important housing lands, the
12 counties shall take reasonable action to notify each owner of
13 those lands by mail or posted notice on the affected lands to
14 inform them of the potential designation of their lands.

15 In formulating its final recommendations to the respective
16 county councils, the planning departments shall report on the
17 manner in which the important housing lands mapping relates to,
18 supports, and is consistent with the:

19 (1) Standards and criteria set forth in section 205-C;



(2) County's adopted land use plans, as applied to both the identification and exclusion of important housing lands from the designation; and

(3) Comments received from government agencies and others identified in subsection (b).

(e) The important housing lands maps shall be submitted to the county council for decision-making. The county council shall adopt the maps, with or without changes, by resolution. The adopted maps shall be transmitted to the land use commission for further action pursuant to section 205-F.

§205-F Receipt of maps of eligible important housing lands; land use commission. (a) the land use commission shall receive the county recommendations and maps delineating those lands eligible to be designated important housing lands no sooner than three years after the effective date of this part.

(b) The office of planning shall review the county report and recommendations and provide comments to the land use commission within forty-five days of receipt of the report and maps by the land use commission. The land use commission may also consult with the office of planning as needed.



1 (c) State agency review shall be based on an evaluation of
2 the degree that the:

3 (1) County recommendations result in an identified
4 resource base that meets the definition of important
5 housing land and the objectives and policies for
6 important housing lands in sections 205-A and 205-B;
7 and

8 (2) County has met the minimum standards and criteria for
9 the identification and mapping process in sections
10 205-C and 205-E.

11 **§205-G Designation of important housing lands; adoption of**
12 **important housing lands maps.** (a) After receipt of the maps of
13 eligible important housing lands from the counties and the
14 recommendations of the office of planning, the commission shall
15 then proceed to identify and designate important housing lands.
16 The decision shall consider the county maps of eligible
17 important housing lands; declaratory orders issued by the
18 commission designating important housing lands; and any other
19 relevant information.



1 In designating important housing lands in the State,
2 pursuant to the recommendations of individual counties, the
3 commission shall consider the extent to which:

4 (1) The proposed lands meet the standards and criteria
5 under section 205-C; and

6 (2) The proposed designation is necessary to meet the
7 objectives and policies for important housing lands in
8 sections 205-A and 205-B.

9 Any decision regarding the designation of lands as
10 important housing lands and the adoption of maps of those lands
11 pursuant to this section shall be based upon written findings of
12 fact and conclusions of law, presented in at least one public
13 hearing conducted in the county where the land is located in
14 accordance with chapter 91, that the subject lands meet the
15 standards and criteria set forth in section 205-C and shall be
16 approved by two-thirds of the membership to which the commission
17 is entitled.

18 (b) Copies of the maps of important housing lands adopted
19 under this section shall be transmitted to each county planning
20 department and county council, the office of planning, and other
21 state agencies involved in land use matters. The maps of



1 important housing lands shall guide all decision-making on the
2 proposed reclassification or rezoning of important housing lands
3 and other state and county land use planning and decision-
4 making.

5 (c) The land use commission shall have the sole authority
6 to interpret the adopted map boundaries delineating the
7 important housing lands.

8 (d) The land use commission may designate lands as
9 important housing lands and adopt maps for a designation
10 pursuant to the county process for identifying and recommending
11 lands for important housing lands under section 205-E no sooner
12 than six years after the enactment of this part.

13 **§205-H Standards and criteria for the reclassification or**
14 **rezoning of important housing lands.** (a) any land use district
15 boundary amendment or change in zoning involving important
16 housing lands identified pursuant to this chapter shall be
17 subject to this section.

18 (b) Upon acceptance by the county for processing, any
19 application for a special permit involving important housing
20 lands shall be referred to the office of planning for review and
21 comment.



1 (c) Any decision by the land use commission or county
2 pursuant to this section shall specifically consider the
3 following standards and criteria:

4 (1) The relative importance of the land for housing
5 development based on the stock of similarly suited
6 lands in the area and the State as a whole;

7 (2) The district boundary amendment or zone change will
8 not cause the fragmentation of or intrusion of non-
9 housing uses;

10 (3) The public benefit to be derived from the proposed
11 action is justified by a need for additional lands for
12 non-housing purpose; and

13 (4) The impact of the proposed district boundary amendment
14 or zone change on the necessity and capacity of state
15 and county agencies to provide and support additional
16 housing infrastructure or services in the area.

17 (d) Any decision pursuant to this section shall be based
18 upon a determination that:

19 (1) On balance, the public benefit from the proposed
20 district boundary amendment or zone change outweighs



1 the benefits of retaining the land for housing
2 purposes; and

3 (2) The proposed action will have no significant impact
4 upon the viability of housing development on adjacent
5 housing lands.

6 (e) The standards and criteria of this section shall be in
7 addition to:

8 (1) The decision-making criteria of section 205-17
9 governing decisions of the land use commission under
10 this chapter; and

11 (2) The decision-making criteria adopted by each county to
12 govern decisions of county decision-making authorities
13 under this chapter.

14 (f) Any decision of the land use commission and any
15 decision of any county on a land use district boundary amendment
16 or change in zoning involving important housing lands shall be
17 approved by the body responsible for the decision by a two-
18 thirds vote of the membership to which the body is entitled.

19 **§205-I Important housing lands; county ordinances.** (a)

20 Each county shall adopt ordinances that reduce infrastructure



1 standards for important housing lands no later than three years
2 after the effective date of this part.

3 (b) For counties without ordinances to subsection (a),
4 important housing lands designated pursuant to this part may be
5 subdivided without county processing or standards; provided that
6 the leasehold lots shall return to the original lot of record
7 upon expiration or termination of the lease.

8 **§205-J Periodic review and amendment of important housing**
9 **land maps.** The maps delineating important housing lands shall
10 be reviewed in conjunction with the county general plan and
11 community and development plan revision process, or at least one
12 every ten years following the adoption of the maps of the land
13 use commission; provided that the maps shall not be reviewed
14 more than once every five years. Any review and amendment of
15 the maps of important housing lands shall be conducted in
16 accordance with this part."

17 SECTION 2. Section 205-3.1, Hawaii Revised Statutes, is
18 amended by amending subsection (a) to read as follows:

19 "(a) District boundary amendments involving lands in the
20 conservation district, land areas greater than fifteen acres,
21 lands delineated as important housing lands, or lands delineated



1 as important agricultural lands shall be processed by the land
2 use commission pursuant to section 205-4."

3 SECTION 3. Section 205-4, Hawaii Revised Statutes, is
4 amended as follows:

5 1. By amending subsection (a) to read:

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

19 2. By amending subsection (h) to read:

20 "(h) No amendment of a land use district boundary shall be
21 approved unless the commission finds upon the clear



1 preponderance of the evidence that the proposed boundary is
2 reasonable, not violative of section 205-2 and [~~part~~] parts III
3 and _____ of this chapter, and consistent with the policies and
4 criteria established pursuant to sections 205-16 and 205-17.
5 Six affirmative votes of the commission shall be necessary for
6 any boundary amendment under this section."

7 SECTION 4. Section 205-6, Hawaii Revised Statutes, is
8 amended by amending subsections (c), (d) and (e) to read as
9 follows:

10 "(c) The county planning commission may, under such
11 protective restrictions as may be deemed necessary, permit the
12 desired use, but only when the use would promote the
13 effectiveness and objectives of this chapter; provided that a
14 use proposed for designated important agricultural lands or
15 designated important housing lands shall not conflict with any
16 part of this chapter. A decision in favor of the applicant
17 shall require a majority vote of the total membership of the
18 county planning commission.

19 (d) Special permits for land the area of which is greater
20 than fifteen acres or for lands designated as important
21 agricultural lands or important housing lands shall be subject



1 to approval by the land use commission. The land use commission
2 may impose additional restrictions as may be necessary or
3 appropriate in granting the approval, including the adherence to
4 representations made by the applicant.

5 (e) A copy of the decision, together with the complete
6 record of the proceeding before the county planning commission
7 on all special permit requests involving a land area greater
8 than fifteen acres or for lands designated as important
9 agricultural lands[7] or important housing lands, shall be
10 transmitted to the land use commission within sixty days after
11 the decision is rendered.

12 Within forty-five days after receipt of the complete record
13 from the county planning commission, the land use commission
14 shall act to approve, approve with modification, or deny the
15 petition. A denial either by the county planning commission or
16 by the land use commission, or a modification by the land use
17 commission, as the case may be, of the desired use shall be
18 appealable to the circuit court of the circuit in which the land
19 is situated and shall be made pursuant to the Hawaii rules of
20 civil procedure."



1 SECTION 5. Section 205-17, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§205-17 Land use commission decision-making criteria.** In
4 its review of any petition for reclassification of district
5 boundaries pursuant to this chapter, the commission shall
6 specifically consider the following:

7 (1) The extent to which the proposed reclassification
8 conforms to the applicable goals, objectives, and
9 policies of the Hawaii state plan and relates to the
10 applicable priority guidelines of the Hawaii state
11 plan and the adopted functional plans;

12 (2) The extent to which the proposed reclassification
13 conforms to the applicable district standards;

14 (3) The impact of the proposed reclassification on the
15 following areas of state concern:

16 (A) Preservation or maintenance of important natural
17 systems or habitats;

18 (B) Maintenance of valued cultural, historical, or
19 natural resources;



- 1 (C) Maintenance of other natural resources relevant
- 2 to Hawaii's economy, including agricultural
- 3 resources;
- 4 (D) Commitment of state funds and resources;
- 5 (E) Provision for employment opportunities and
- 6 economic development; and
- 7 (F) Provision for housing opportunities for all
- 8 income groups, particularly the low, low-
- 9 moderate, and gap groups;
- 10 (4) The standards and criteria for the reclassification or
- 11 rezoning of important agricultural lands in section
- 12 205-50 [7] and important housing lands in section
- 13 205-H;
- 14 (5) The county general plan and all community,
- 15 development, or community development plans adopted
- 16 pursuant to the county general plan, as they relate to
- 17 the land that is the subject of the reclassification
- 18 petition; and
- 19 (6) The representations and commitments made by the
- 20 petitioner in securing a boundary change."



SECTION 6. Each county shall submit its report and maps with recommendations for lands eligible for designation as important housing lands to the land use commission no later than sixty months from the date of county receipt of state funds appropriated for the identification process. Upon receipt of the county maps, the land use commission shall review and adopt maps designating important housing lands to the State in accordance with section 205-G, Hawaii Revised Statutes.

SECTION 7. There is appropriated out of the general revenues of the State of Hawaii the sum of \$ or so much thereof as may be necessary for fiscal year 2020-2021 for grants-in-aid to the counties for the identification and mapping of important housing lands to the State in accordance with section 1 of this Act.

The sum appropriated shall be expended by the department of business, economic development, and tourism for the disbursement of funds by the land use commission to each county for the identification of important housing lands pursuant to this Act.

SECTION 8. In codifying the new sections added by section 1 of this Act, the revisor of statutes shall substitute



1 appropriate section numbers for the letters used in designating
2 the new sections in this Act.

3 SECTION 9. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 10. This Act shall take effect on July 1, 2020.

6

INTRODUCED BY:









S.B. NO. 2205

Report Title:

Housing; Important Lands; Appropriation

Description:

Establishes that important housing lands are public lands owned by the State that are located within 0.5 miles of any rail mass transit station and needed to promote the expansion of available housing for the future. Requires the State and counties to identify and designate important housing lands. Appropriates funds.

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