

JAN 19 2022

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# A BILL FOR AN ACT

RELATING TO TRANSITIONAL HOUSING.

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

1           SECTION 1. Section 46-4, Hawaii Revised Statutes, is  
2 amended as follows:

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

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

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



1 available data as to soil classification and physical use  
2 capabilities of the land to allow and encourage the most  
3 beneficial use of the land consonant with good zoning practices.  
4 The zoning power granted herein shall be exercised by ordinance,  
5 which may relate to:

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



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

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

17           Any civil fine or penalty provided by ordinance under this  
18 section may be imposed by the district court, or by the zoning  
19 agency after an opportunity for a hearing pursuant to chapter  
20 91. The proceeding shall not be a prerequisite for any  
21 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 July 1,  
4 1957.

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

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



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

10 2. By amending subsection (d) to read:

11 "(d) Neither this section nor any other law, county  
12 ordinance, or rule shall prohibit group living in facilities  
13 with eight or fewer residents for purposes or functions that are  
14 licensed, certified, registered, or monitored by the State;  
15 provided that a resident manager or a resident supervisor and  
16 the resident manager's or resident supervisor's family shall not  
17 be included in this resident count. These group living  
18 facilities shall meet all applicable county requirements not  
19 inconsistent with the intent of this subsection, including but  
20 not limited to building height, setback, maximum lot coverage,  
21 parking, and floor area requirements. Notwithstanding any



1 provision of this section to the contrary, no permit shall be  
2 issued by a county agency for the operation of a halfway house,  
3 a clean and sober home, or a drug rehabilitation home unless a  
4 public informational meeting is first held in the affected  
5 community. The State shall provide notification and access to  
6 relevant information pursuant to chapter 846E."

7 SECTION 2. Section 321-193.7, Hawaii Revised Statutes, is  
8 amended to read as follows:

9 "[~~§~~321-193.7~~]~~ **Clean and sober homes registry.** (a)

10 The department shall establish a voluntary clean and sober homes  
11 registry to assist persons recovering from substance abuse to  
12 have a safe, clean, and sober environment that supports their  
13 recovery. The department shall establish procedures and  
14 standards by which homes will be allowed to be listed on the  
15 registry, including but not limited to:

- 16 (1) Organizational and administrative standards;
- 17 (2) Fiscal management standards;
- 18 (3) Operation standards;
- 19 (4) Recovery support standards;
- 20 (5) Property standards; [~~and~~]
- 21 (6) Good neighbor standards~~[and]~~; and



1       (7) An application process that includes a requirement  
2       that the applicant hold a public informational meeting  
3       in the affected community before approval of the  
4       application.

5       (b) Upon review and approval of a home operator's  
6 application, the department shall issue a certificate of  
7 registration that shall specify:

8       (1) The name of the holder of the registration;

9       (2) The address to which the registration applies;

10      (3) The maximum number of persons to reside in the home;

11              and

12      (4) The period for which the registration shall be valid.

13 An owner, operator, or landlord shall not hold the property out  
14 to be or advertise to be a "registered clean and sober home"  
15 unless the home is registered and in good standing with the  
16 clean and sober homes registry.

17      (c) The certificate of registration shall be publicly  
18 displayed at the home.

19      (d) The certificate of registration shall not be  
20 transferred to a new owner or operator, or to an address other  
21 than as specified on the certificate of registration.



1           (e) Nothing in this section shall relieve a certificate  
2 holder from compliance with other pertinent statutory  
3 provisions, nor shall a certificate holder be relieved from  
4 compliance with other applicable provisions of federal, state,  
5 or county laws, ordinances, or rules.

6           (f) The department may revoke the certificate of  
7 registration if a home ceases to meet established standards or  
8 any other applicable federal, state, or county law, ordinance,  
9 or rule.

10          (g) The department may immediately revoke a certificate of  
11 registration if there are reasonable grounds to believe that the  
12 continued operation of the home presents an immediate danger to  
13 residents of the home or the general public.

14          (h) Any revocation of the certificate of registration  
15 shall be made in writing to the certificate holder.

16          (i) The department shall maintain a listing of all  
17 registered clean and sober homes on its website.

18          (j) The department shall establish a toll-free telephone  
19 number to receive complaints regarding clean and sober homes.

20          (k) This section shall not be construed to abrogate an  
21 individual's right to privacy. Unless otherwise provided by



1 law, the department shall implement sufficient protections to  
2 ensure that the identity of a clean and sober home resident  
3 remains confidential and that information collected pursuant to  
4 this section is used solely for the purposes of this section.

5 (l) The department shall adopt rules under chapter 91 as  
6 necessary to carry out the purposes of this section.

7 (m) Any clean and sober home included on the department's  
8 registry pursuant to this section shall be subject to all  
9 applicable state or county nondiscriminatory zoning laws.

10 (n) No clean and sober home located within one-half mile  
11 of a public or private elementary or secondary school shall be  
12 included on the department's registry; provided that an  
13 otherwise eligible clean and sober home that was operating  
14 before the establishment of the public or private elementary or  
15 secondary school within one-half mile of the clean and sober  
16 home shall be considered eligible for inclusion on the  
17 department's registry until the clean and sober home ceases  
18 operations; provided further that the distance of one-half mile  
19 shall be measured from the nearest property line of the public  
20 or private elementary or secondary school to the nearest  
21 property line of the clean and sober home; and provided further



1 that this subsection shall not apply to any clean and sober home  
2 established prior to July 1, 2022."

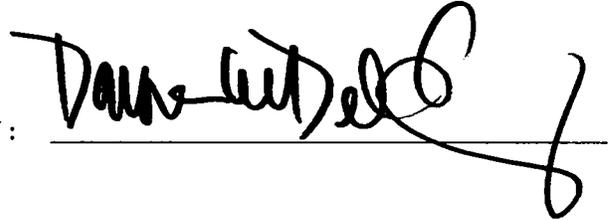
3 SECTION 3. This Act does not affect rights and duties that  
4 matured, penalties that were incurred, and proceedings that were  
5 begun before its effective date.

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

8 SECTION 5. This Act shall take effect on June 30, 2022.

9

INTRODUCED BY:



A handwritten signature in black ink, appearing to read "Dan Cutler", is written over a horizontal line. The signature is stylized and cursive.



# S.B. NO. 2137

**Report Title:**

DOH; Halfway Houses; Clean and Sober Homes; Drug Rehabilitation Homes; County Permits; Clean and Sober Homes Registry

**Description:**

Establishes a public informational meeting requirement for receipt of a county permit to operate a halfway house, clean and sober home, or drug rehabilitation home. Establishes a public information meeting requirement for clean and sober home registry applications. Prohibits the inclusion on the Department of Health's clean and sober homes registry of clean and sober homes located within one-half mile of an existing public or private elementary or secondary school.

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

