

JAN 21 2022

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# A BILL FOR AN ACT

RELATING TO AFFORDABLE HOUSING.

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

1       SECTION 1. The legislature finds that Hawaii is facing an  
2 affordable housing crisis. Housing costs is the most  
3 significant expense in a monthly budget for an individual or  
4 family. As of November 2021, the median price of a single-  
5 family home was \$1,000,000, while the median price of a  
6 condominium was \$500,000. As Hawaii has the lowest property tax  
7 rate in the nation, international investors and out-of-state  
8 buyers from the continent and abroad are incentivized to  
9 purchase properties across the islands. Non-resident home  
10 purchases on Oahu comprise fifteen per cent of total sales,  
11 while these purchases are over forty per cent on Kauai, Maui,  
12 and Hawaii island. The competitive real estate market pushes  
13 homeownership out of reach for many of Hawaii's residents,  
14 especially first-time buyers.

15       The legislature further finds that Hawaii's affordable  
16 housing crisis has led to the departure of many of Hawaii's best  
17 and brightest. Many young people who have attended university



1 out of state have chosen to remain after graduation, largely due  
2 to the high cost of housing in Hawaii. In addition, the lack of  
3 sufficient affordable housing has increased the number of  
4 homeless individuals who have jobs but cannot afford to pay  
5 rent. Although state and county agencies have been trying to  
6 create enough affordable housing to meet growing demand, high  
7 housing development costs lead to only a fraction of affordable  
8 housing needed across the State.

9 The lack of available inventory to satisfy demand continues  
10 to perpetuate the severe shortage of affordable housing.  
11 According to a 2019 report by the department of business,  
12 economic development, and tourism, population projections for  
13 2020 to 2030 show that 25,737 housing units are needed for a low  
14 population scenario; and 46,573 housing units are needed for a  
15 high population scenario. As the production of affordable  
16 housing units is not enough to meet current demand, it is  
17 critical for the counties to take initiative in increasing the  
18 production of affordable housing.

19 The purpose of this Act is to require counties to address  
20 chronic shortages in the housing supply by allowing higher



1 density developments to be constructed for affordable housing  
2 development.

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

5 "§46-4 County zoning. (a) This section and any  
6 ordinance, rule, or regulation adopted in accordance with this  
7 section shall apply to lands not contained within the forest  
8 reserve boundaries as established on January 31, 1957, or as  
9 subsequently amended.

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



land consonant with good zoning practices. The zoning power granted herein shall be exercised by ordinance which may relate to:

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



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

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

15       Any civil fine or penalty provided by ordinance under this  
16 section may be imposed by the district court, or by the zoning  
17 agency after an opportunity for a hearing pursuant to chapter  
18 91. The proceeding shall not be a prerequisite for any  
19 injunctive relief ordered by the circuit court.

20       Nothing in this section shall invalidate any zoning  
21 ordinance or regulation adopted by any county or other agency of



1 government pursuant to the statutes in effect prior to July 1,  
2 1957.

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

12 Neither this section nor any ordinance enacted pursuant to  
13 this section shall prohibit the continued lawful use of any  
14 building or premises for any trade, industrial, residential,  
15 agricultural, or other purpose for which the building or  
16 premises is used at the time this section or the ordinance takes  
17 effect; provided that a zoning ordinance may provide for  
18 elimination of nonconforming uses as the uses are discontinued,  
19 or for the amortization or phasing out of nonconforming uses or  
20 signs over a reasonable period of time in commercial,  
21 industrial, resort, and apartment zoned areas only. In no event



1 shall such amortization or phasing out of nonconforming uses  
2 apply to any existing building or premises used for residential  
3 (single-family or duplex) or agricultural uses. Nothing in this  
4 section shall affect or impair the powers and duties of the  
5 director of transportation as set forth in chapter 262.

6 (b) Any final order of a zoning agency established under  
7 this section may be appealed to the circuit court of the circuit  
8 in which the land in question is found. The appeal shall be in  
9 accordance with the Hawaii rules of civil procedure.

10 (c) Each county may adopt reasonable standards to allow  
11 the construction of two single-family dwelling units on any lot  
12 where a residential dwelling unit is permitted.

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



1 not limited to building height, setback, maximum lot coverage,  
2 parking, and floor area requirements.

3 (e) Neither this section nor any other law, county  
4 ordinance, or rule shall prohibit the use of land for employee  
5 housing and community buildings in plantation community  
6 subdivisions as defined in section 205-4.5(a)(12); in addition,  
7 no zoning ordinance shall provide for the elimination,  
8 amortization, or phasing out of plantation community  
9 subdivisions as a nonconforming use.

10 (f) Neither this section nor any other law, county  
11 ordinance, or rule shall prohibit the use of land for medical  
12 cannabis production centers or medical cannabis dispensaries  
13 established and licensed pursuant to chapter 329D; provided that  
14 the land is otherwise zoned for agriculture, manufacturing, or  
15 retail purposes.

16 (g) No county shall develop or enact a policy or standard  
17 for land where a residential dwelling is permitted that would  
18 amend the general plan land use designation, specific plan land  
19 use designation, or zoning of a parcel or parcels of land to a  
20 less intensive use or reducing the intensity of land use within  
21 an existing general plan land use designation, specific plan





1 land use designation, or zoning district below what was  
2 previously allowed under the land use designation and zoning  
3 ordinances; provided that this subsection does not prohibit an  
4 affected county from changing a land use designation or zoning  
5 ordinance to a less intensive use if the county concurrently  
6 changes the development standards, policies, and conditions  
7 applicable to other parcels within the jurisdiction to ensure  
8 that there is no net loss in residential capacity

9 For the purposes of this subsection, "less intensive use"  
10 includes but is not limited to reductions to height, density, or  
11 floor area ratio; new or increased open space or lot size  
12 requirements; or new or increased setback requirements, minimum  
13 frontage requirements or maximum lot coverage limitations; or  
14 anything that would lessen housing capacity."

15 SECTION 3. Statutory material to be repealed is bracketed  
16 and stricken. New statutory material is underscored.

17 SECTION 4. This Act shall take effect upon its approval.

18  
INTRODUCED BY: 



# S.B. NO. 2235

**Report Title:**

Affordable Housing; Zoning; Less Intensive Use; Counties

**Description:**

Requires the counties to address chronic housing shortages by allowing higher density developments to be constructed for affordable housing projects.

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

