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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 home prices in  
2 Hawaii are the highest in the nation. In 2021, the resale price  
3 for homes was two-and-a-half times the national average. This  
4 contributes to Hawaii's exorbitant cost of living, which burdens  
5 families and forces residents to seek affordable solutions out  
6 of state. Government restrictions serve as the root cause of  
7 unaffordable homes in the State.

8           The Wharton Residential Land Use Regulatory Index (Wharton  
9 Index) creates metrics that indicate a state's ability to  
10 produce housing outcomes. A Wharton Index state comparison  
11 concluded that Hawaii's regulatory environment is significantly  
12 more stringent than other surveyed communities across the  
13 nation. The land use commission process oversees a  
14 comprehensive regulatory process, which delays permitting and  
15 approvals. Additionally, the legislature should reform the  
16 environmental assessment requirement to give precedence to  
17 Hawaii's housing crisis. The legislature finds that government



1 over-regulation imposes burdens that make it difficult for  
2 residents to find housing. As over-regulation restricts supply,  
3 available housing reduces, and costs increase.

4 The purpose of this Act seeks to amend the Hawaii Revised  
5 Statutes pertaining to zoning restrictions, rules relating to  
6 building, rules relating to environmental assessments, and the  
7 timeline and approval process for the Land Use Commission and  
8 county levels. Thereby, the legislature may overcome the  
9 regulatory barriers to meet the immediate housing needs of the  
10 state.

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

13 "§46-4 County zoning. (a) This section and any  
14 ordinance, rule, or regulation adopted in accordance with this  
15 section shall apply to lands not contained within the forest  
16 reserve boundaries as established on January 31, 1957, or as  
17 subsequently amended.

18 Zoning in all counties shall be accomplished within the  
19 framework of a long-range, comprehensive general plan prepared  
20 or being prepared to guide the overall future development of the  
21 county. Zoning shall be one of the tools available to the



1 county to put the general plan into effect in an orderly manner.  
2 Zoning in the counties of Hawaii, Maui, and Kauai means the  
3 establishment of districts of such number, shape, and area, and  
4 the adoption of regulations for each district to carry out the  
5 purposes of this section. In establishing or regulating the  
6 districts, full consideration shall be given to all available  
7 data as to soil classification and physical use capabilities of  
8 the land to allow and encourage the most beneficial use of the  
9 land consonant with good zoning practices. The zoning power  
10 granted herein shall be exercised by ordinance which may relate  
11 to:

- 12 (1) The areas within which agriculture, forestry,  
13 industry, trade, and business may be conducted;
- 14 (2) The areas in which residential uses may be regulated  
15 or prohibited;
- 16 (3) The areas bordering natural watercourses, channels,  
17 and streams, in which trades or industries, filling or  
18 dumping, erection of structures, and the location of  
19 buildings may be prohibited or restricted;
- 20 (4) The areas in which particular uses may be subjected to  
21 special restrictions;



- 1           (5) The location of buildings and structures designed for
- 2                   specific uses and designation of uses for which
- 3                   buildings and structures may not be used or altered;
- 4           (6) The location, height, bulk, number of stories, and
- 5                   size of buildings and other structures;
- 6           (7) The location of roads, schools, and recreation areas;
- 7           (8) Building setback lines and future street lines;
- 8           (9) The density and distribution of population;
- 9           (10) The percentage of a lot that may be occupied, size of
- 10                   yards, courts, and other open spaces;
- 11           (11) Minimum and maximum lot sizes; and
- 12           (12) Other regulations the boards or city council find
- 13                   necessary and proper to permit and encourage the
- 14                   orderly development of land resources within their
- 15                   jurisdictions.

16           The council of any county shall prescribe rules,  
17 regulations, and administrative procedures and provide personnel  
18 it finds necessary to enforce this section and any ordinance  
19 enacted in accordance with this section. The ordinances may be  
20 enforced by appropriate fines and penalties, civil or criminal,



1 or by court order at the suit of the county or the owner or  
2 owners of real estate directly affected by the ordinances.

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

8 Nothing in this section shall invalidate any zoning  
9 ordinance or regulation adopted by any county or other agency of  
10 government pursuant to the statutes in effect prior to July 1,  
11 1957.

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



1           Neither this section nor any ordinance enacted pursuant to  
2 this section shall prohibit the continued lawful use of any  
3 building or premises for any trade, industrial, residential,  
4 agricultural, or other purpose for which the building or  
5 premises is used at the time this section or the ordinance takes  
6 effect; provided that a zoning ordinance may provide for  
7 elimination of nonconforming uses as the uses are discontinued,  
8 or for the amortization or phasing out of nonconforming uses or  
9 signs over a reasonable period of time in commercial,  
10 industrial, resort, and apartment zoned areas only. In no event  
11 shall such amortization or phasing out of nonconforming uses  
12 apply to any existing building or premises used for residential  
13 (single-family or duplex) or agricultural uses. Nothing in this  
14 section shall affect or impair the powers and duties of the  
15 director of transportation as set forth in chapter 262.

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



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

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

15 (e) Neither this section nor any other law, county  
16 ordinance, or rule shall prohibit the use of land for employee  
17 housing and community buildings in plantation community  
18 subdivisions as defined in section 205-4.5(a)(12); in addition,  
19 no zoning ordinance shall provide for the elimination,  
20 amortization, or phasing out of plantation community  
21 subdivisions as a nonconforming use.



1 (f) Neither this section nor any other law, county  
2 ordinance, or rule shall prohibit the use of land for medical  
3 cannabis production centers or medical cannabis dispensaries  
4 established and licensed pursuant to chapter 329D; provided that  
5 the land is otherwise zoned for agriculture, manufacturing, or  
6 retail purposes.

7 (g) Neither this section nor any other law, county  
8 ordinance, or rule shall prohibit the use of land for affordable  
9 housing as defined in section 46-15.25; in addition, no zoning  
10 ordinance shall provide for the elimination, amortization, or  
11 phasing out of affordable housing as a nonconforming use."

12 SECTION 3. Section 201H-38, Hawaii Revised Statutes, is  
13 amended to read as follows:

14 "**§201H-38 Housing development; exemption from statutes,**  
15 **ordinances, charter provisions, and rules.** (a) The corporation  
16 may develop on behalf of the State or with an eligible  
17 developer, or may assist under a government assistance program  
18 in the development of, housing projects that shall be exempt  
19 from all statutes, ordinances, charter provisions, and rules of  
20 any government agency relating to planning, zoning, construction



1 standards for subdivisions, development and improvement of land,  
2 and the construction of dwelling units thereon; provided that:

3 (1) The corporation finds the housing project is  
4 consistent with the purpose and intent of this  
5 chapter, and meets minimum requirements of health and  
6 safety;

7 (2) The development of the proposed housing project does  
8 not contravene any safety standards, tariffs, or rates  
9 and fees approved by the public utilities commission  
10 for public utilities or of the various boards of water  
11 supply authorized under chapter 54; and

12 ~~[(3) The legislative body of the county in which the~~  
13 ~~housing project is to be situated shall have approved~~  
14 ~~the project with or without modifications.~~

15 ~~(A) The legislative body shall approve, approve with~~  
16 ~~modification, or disapprove the project by~~  
17 ~~resolution within forty five days after the~~  
18 ~~corporation has submitted the preliminary plans~~  
19 ~~and specifications for the project to the~~  
20 ~~legislative body. If on the forty sixth day a~~



1                   ~~project is not disapproved, it shall be deemed~~  
2                   ~~approved by the legislative body;~~

3           ~~(B) No action shall be prosecuted or maintained~~  
4                   ~~against any county, its officials, or employees~~  
5                   ~~on account of actions taken by them in reviewing,~~  
6                   ~~approving, modifying, or disapproving the plans~~  
7                   ~~and specifications; and~~

8           ~~(C) The final plans and specifications for the~~  
9                   ~~project shall be deemed approved by the~~  
10                   ~~legislative body if the final plans and~~  
11                   ~~specifications do not substantially deviate from~~  
12                   ~~the preliminary plans and specifications. The~~  
13                   ~~final plans and specifications for the project~~  
14                   ~~shall constitute the zoning, building,~~  
15                   ~~construction, and subdivision standards for that~~  
16                   ~~project. For purposes of sections 501-85 and~~  
17                   ~~502-17, the executive director of the corporation~~  
18                   ~~or the responsible county official may certify~~  
19                   ~~maps and plans of lands connected with the~~  
20                   ~~project as having complied with applicable laws~~  
21                   ~~and ordinances relating to consolidation and~~



1           ~~subdivision of lands, and the maps and plans~~  
2           ~~shall be accepted for registration or recordation~~  
3           ~~by the land court and registrar; and~~

4           (4)] (3) The land use commission shall approve, approve  
5           with modification, or disapprove a boundary change  
6           within forty-five days after the corporation has  
7           submitted a petition to the commission as provided in  
8           section 205-4. If, on the forty-sixth day, the  
9           petition is not disapproved, it shall be deemed  
10          approved by the commission.

11          (b) For the purposes of this section, "government  
12          assistance program" means a housing program qualified by the  
13          corporation and administered or operated by the corporation or  
14          the United States or any of their political subdivisions,  
15          agencies, or instrumentalities, corporate or otherwise."

16          SECTION 4. Section 205-3.1, Hawaii Revised Statutes, is  
17          amended to read as follows:

18          "§205-3.1 Amendments to district boundaries. (a)  
19          District boundary amendments involving lands in the conservation  
20          district, land areas greater than [~~fifteen~~] one hundred acres,



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

3 (b) Any department or agency of the State, and department  
4 or agency of the county in which the land is situated, or any  
5 person with a property interest in the land sought to be  
6 reclassified may petition the appropriate county land use  
7 decision-making authority of the county in which the land is  
8 situated for a change in the boundary of a district involving  
9 lands less than [~~fifteen~~] one hundred acres presently in the  
10 rural and urban districts and lands less than [~~fifteen~~] one  
11 hundred acres in the agricultural district that are not  
12 designated as important agricultural lands.

13 (c) District boundary amendments involving land areas of  
14 [~~fifteen~~] one hundred acres or less, except as provided in  
15 subsection (b), shall be determined by the appropriate county  
16 land use decision-making authority for the district and shall  
17 not require consideration by the land use commission pursuant to  
18 section 205-4; provided that such boundary amendments and  
19 approved uses are consistent with this chapter. The appropriate  
20 county land use decision-making authority may consolidate  
21 proceedings to amend state land use district boundaries pursuant



1 to this subsection, with county proceedings to amend the general  
2 plan, development plan, zoning of the affected land, or such  
3 other proceedings. Appropriate ordinances and rules to allow  
4 consolidation of such proceedings may be developed by the county  
5 land use decision-making authority.

6 (d) The county land use decision-making authority shall  
7 serve a copy of the application for a district boundary  
8 amendment to the land use commission and the department of  
9 business, economic development, and tourism and shall notify the  
10 commission and the department of the time and place of the  
11 hearing and the proposed amendments scheduled to be heard at the  
12 hearing. A change in the state land use district boundaries  
13 pursuant to this subsection shall become effective on the day  
14 designated by the county land use decision-making authority in  
15 its decision. Within sixty days of the effective date of any  
16 decision to amend state land use district boundaries by the  
17 county land use decision-making authority, the decision and the  
18 description and map of the affected property shall be  
19 transmitted to the land use commission and the department of  
20 business, economic development, and tourism by the county  
21 planning director."



1 SECTION 5. Section 201H-12, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "§201H-12 Development of property. (a) The corporation,  
4 in its own behalf or on behalf of any federal, state, or county  
5 agency, may:

6 (1) Clear, improve, and rehabilitate property;

7 (2) Plan, develop, construct, and finance housing  
8 projects, including mixed-use developments; and

9 (3) In cooperation with any state or county department or  
10 agency, including the department of education and  
11 department of accounting and general services, plan  
12 facilities and related infrastructure as an integral  
13 part of its housing projects, including mixed-use  
14 developments, using all its innovative powers toward  
15 achieving that end expeditiously and economically;  
16 provided that facilities developed in cooperation with  
17 the department of education comply with the department  
18 of education's educational objectives and  
19 requirements.

20 For purposes of this subsection, "mixed-use developments" means  
21 a development that contains affordable residential dwelling



1 units that may be combined with governmental, educational,  
2 commercial, cultural, institutional, or industrial uses; is  
3 approved by the county in which the project is located; and is  
4 subject to: chapter 104; title 40 United States Code sections  
5 3141, 3142, 3143, 3144, 3146, and 3147; or a project labor  
6 agreement by law or contract in the construction of the project.

7 (b) The corporation may develop public land in an  
8 agricultural district subject to the prior approval of the land  
9 use commission, when developing lands greater than [~~fifteen~~] one  
10 hundred acres in size, and public land in a conservation  
11 district subject to the prior approval of the board of land and  
12 natural resources. The corporation shall not develop state  
13 monuments, historical sites, or parks. When the corporation  
14 proposes to develop public land, it shall file with the  
15 department of land and natural resources a petition setting  
16 forth the purpose for the development. The petition shall be  
17 conclusive proof that the intended use is a public use superior  
18 to that which the land has been appropriated.

19 (c) The corporation may develop or assist in the  
20 development of federal lands with the approval of appropriate  
21 federal authorities.



1 (d) The corporation shall not develop any public land  
2 where the development may endanger the receipt of any federal  
3 grant, impair the eligibility of any government agency for a  
4 federal grant, prevent the participation of the federal  
5 government in any government program, or impair any covenant  
6 between the government and the holder of any bond issued by the  
7 government.

8 (e) The corporation may contract or sponsor with any  
9 county, housing authority, or person, subject to the  
10 availability of funds, an experimental or demonstration housing  
11 project designed to meet the needs of elders; the disabled;  
12 displaced or homeless persons; low- and moderate-income persons;  
13 teachers or other government employees; or university and  
14 college students and faculty.

15 SECTION 6. Section 201H-13, Hawaii Revised Statutes, is  
16 amended to read as follows:

17 "[§201H-13] **Eminent domain, exchange or use of public**  
18 **property.** [~~a~~] The corporation may acquire any real property,  
19 including fixtures and improvements, or interest therein:  
20 through voluntary negotiation; through exchange of land in  
21 accordance with section 171-50, provided that the public land to



1 be exchanged need not be of like use to that of the private  
2 land; or by the exercise of the power of eminent domain which it  
3 deems necessary by the adoption of a resolution declaring that  
4 the acquisition of the property described therein is in the  
5 public interest and required for public use. The corporation  
6 shall exercise the power of eminent domain granted by this  
7 section in the same manner and procedure as is provided by  
8 chapter 101 and otherwise in accordance with all applicable  
9 provisions of the general laws of the State [~~; provided that~~  
10 ~~condemnation of parcels greater than fifteen acres shall be~~  
11 ~~subject to legislative disapproval expressed in a concurrent~~  
12 ~~resolution adopted by majority vote of the senate and the house~~  
13 ~~of representatives in the first regular or special session~~  
14 ~~following the date of condemnation.~~].

15 [(b)] The corporation may acquire by the exercise of the  
16 power of eminent domain property already devoted to a public  
17 use; provided that no property belonging to any government may  
18 be acquired without its consent, and that no property belonging  
19 to a public utility corporation may be acquired without the  
20 approval of the public utilities commission, and subject to  
21 legislative disapproval expressed in a concurrent resolution



1 adopted by majority vote of the senate and the house of  
2 representatives in the first regular or special session  
3 following the date of condemnation."

4 SECTION 7. Section 205-3.1, Hawaii Revised Statutes, is  
5 amended to read as follows:

6 "§205-3.1 Amendments to district boundaries. (a)

7 District boundary amendments involving lands in the conservation  
8 district, land areas greater than [~~fifteen~~] one hundred acres,  
9 or lands delineated as important agricultural lands shall be  
10 processed by the land use commission pursuant to section 205-4.

11 (b) Any department or agency of the State, and department  
12 or agency of the county in which the land is situated, or any  
13 person with a property interest in the land sought to be  
14 reclassified may petition the appropriate county land use  
15 decision-making authority of the county in which the land is  
16 situated for a change in the boundary of a district involving  
17 lands less than [~~fifteen~~] one hundred acres presently in the  
18 rural and urban districts and lands less than [~~fifteen~~] one  
19 hundred acres in the agricultural district that are not  
20 designated as important agricultural lands.



1           (c) District boundary amendments involving land areas of  
2   [~~fifteen~~] one hundred acres or less, except as provided in  
3   subsection (b), shall be determined by the appropriate county  
4   land use decision-making authority for the district and shall  
5   not require consideration by the land use commission pursuant to  
6   section 205-4; provided that such boundary amendments and  
7   approved uses are consistent with this chapter. The appropriate  
8   county land use decision-making authority may consolidate  
9   proceedings to amend state land use district boundaries pursuant  
10   to this subsection, with county proceedings to amend the general  
11   plan, development plan, zoning of the affected land, or such  
12   other proceedings. Appropriate ordinances and rules to allow  
13   consolidation of such proceedings may be developed by the county  
14   land use decision-making authority.

15           (d) The county land use decision-making authority shall  
16   serve a copy of the application for a district boundary  
17   amendment to the land use commission and the department of  
18   business, economic development, and tourism and shall notify the  
19   commission and the department of the time and place of the  
20   hearing and the proposed amendments scheduled to be heard at the  
21   hearing. A change in the state land use district boundaries



1 pursuant to this subsection shall become effective on the day  
2 designated by the county land use decision-making authority in  
3 its decision. Within sixty days of the effective date of any  
4 decision to amend state land use district boundaries by the  
5 county land use decision-making authority, the decision and the  
6 description and map of the affected property shall be  
7 transmitted to the land use commission and the department of  
8 business, economic development, and tourism by the county  
9 planning director."

10 SECTION 8. Section 205-4, Hawaii Revised Statutes, is  
11 amended to read as follows:

12 "§205-4 Amendments to district boundaries involving land  
13 areas greater than [~~fifteen~~] one hundred acres. (a) Any  
14 department or agency of the State, any department or agency of  
15 the county in which the land is situated, or any person with a  
16 property interest in the land sought to be reclassified, may  
17 petition the land use commission for a change in the boundary of  
18 a district. This section applies to all petitions for changes  
19 in district boundaries of lands within conservation districts,  
20 lands designated or sought to be designated as important  
21 agricultural lands, and lands greater than [~~fifteen~~] one hundred



1 acres in the agricultural, rural, and urban districts, except as  
2 provided in section 201H-38. The land use commission shall  
3 adopt rules pursuant to chapter 91 to implement section 201H-38.

4 (b) Upon proper filing of a petition pursuant to  
5 subsection (a) the commission shall, within [~~not less than sixty~~  
6 ~~and not more than one hundred and eighty~~] one hundred twenty  
7 days, conduct a hearing on the appropriate island in accordance  
8 with the provisions of sections 91-9, 91-10, 91-11, 91-12, and  
9 91-13, as applicable.

10 (c) Any other provision of law to the contrary  
11 notwithstanding, notice of the hearing together with a copy of  
12 the petition shall be served on the county planning commission  
13 and the county planning department of the county in which the  
14 land is located and all persons with a property interest in the  
15 land as recorded in the county's real property tax records. In  
16 addition, notice of the hearing shall be mailed to all persons  
17 who have made a timely written request for advance notice of  
18 boundary amendment proceedings, and public notice shall be given  
19 at least once in the county in which the land sought to be  
20 redistricted is situated as well as once statewide at least  
21 thirty days in advance of the hearing. The notice shall comply



1 with section 91-9, shall indicate the time and place that maps  
2 showing the proposed district boundary may be inspected, and  
3 further shall inform all interested persons of their rights  
4 under subsection (e).

5 (d) 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) 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 sustainable  
13 development, and the county planning department shall  
14 in every case appear as parties and make  
15 recommendations relative to the proposed boundary  
16 change;

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

20 (3) All persons who have some property interest in the  
21 land, who lawfully reside on the land, or who



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

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

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

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

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



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

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

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

9           (C) Reasonable filing fees to accompany applications.

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

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



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

13 (h) No amendment of a land use district boundary shall be  
14 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) Parties to proceedings to amend land use district  
2 boundaries may obtain judicial review thereof in the manner set  
3 forth in section 91-14, provided that the court may also reverse  
4 or modify a finding of the commission if such finding appears to  
5 be contrary to the clear preponderance of the evidence.

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

11 SECTION 9. Section 205-6, Hawaii Revised Statutes, is  
12 amended to read as follows:

13 "§205-6 **Special permit.** (a) Subject to this section, the  
14 county planning commission may permit certain unusual and  
15 reasonable uses within agricultural and rural districts other  
16 than those for which the district is classified. Any person who  
17 desires to use the person's land within an agricultural or rural  
18 district other than for an agricultural or rural use, as the  
19 case may be, may petition the planning commission of the county  
20 within which the person's land is located for permission to use  
21 the person's land in the manner desired. Each county may



1 establish the appropriate fee for processing the special permit  
2 petition. Copies of the special permit petition shall be  
3 forwarded to the land use commission, the office of planning and  
4 sustainable development, and the department of agriculture for  
5 their review and comment.

6 (b) The planning commission, upon consultation with the  
7 central coordinating agency, except in counties where the  
8 planning commission is advisory only in which case the central  
9 coordinating agency, shall establish by rule or regulation, the  
10 time within which the hearing and action on petition for special  
11 permit shall occur. The county planning commission shall notify  
12 the land use commission and such persons and agencies that may  
13 have an interest in the subject matter of the time and place of  
14 the hearing.

15 (c) The county planning commission may, under such  
16 protective restrictions as may be deemed necessary, permit the  
17 desired use, but only when the use would promote the  
18 effectiveness and objectives of this chapter; provided that a  
19 use proposed for designated important agricultural lands shall  
20 not conflict with any part of this chapter. A decision in favor



1 of the applicant shall require a majority vote of the total  
2 membership of the county planning commission.

3 (d) Special permits for land the area of which is greater  
4 than [~~fifteen~~] one hundred acres or for lands designated as  
5 important agricultural lands shall be subject to approval by the  
6 land use commission. The land use commission may impose  
7 additional restrictions as may be necessary or appropriate in  
8 granting the approval, including the adherence to  
9 representations made by the applicant.

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

16 Within forty-five days after receipt of the complete record  
17 from the county planning commission, the land use commission  
18 shall act to approve, approve with modification, or deny the  
19 petition. A denial either by the county planning commission or  
20 by the land use commission, or a modification by the land use  
21 commission, as the case may be, of the desired use shall be



1 appealable to the circuit court of the circuit in which the land  
2 is situated and shall be made pursuant to the Hawaii rules of  
3 civil procedure.

4 (f) Land uses substantially involving or supporting  
5 educational ecotourism, related to the preservation of native  
6 Hawaiian endangered, threatened, proposed, and candidate  
7 species, that are allowed in an approved habitat conservation  
8 plan under section 195D-21 or safe harbor agreement under  
9 section 195D-22, which are not identified as permissible uses  
10 within the agricultural district under sections 205-2 and 205-  
11 4.5, may be permitted in the agricultural district by special  
12 permit under this section, on lands with soils classified by the  
13 land study bureau's detailed land classification as overall  
14 (master) productivity rating class C, D, E, or U."

15 SECTION 10. Section 225M-2, Hawaii Revised Statutes, is  
16 amended by amending subsection (d) to read:

17 "(d) The office of planning and sustainable development  
18 and the land use commission shall establish procedures and  
19 safeguards to avoid actual or perceived conflicts of interest  
20 that may otherwise arise as a result of any proceedings before  
21 the land use commission to which the office of planning and



1 sustainable development is a party, including but not limited to  
2 petitions for amendments to district boundaries involving land  
3 areas greater than [~~fifteen~~] one hundred acres pursuant to  
4 section 205-4, and contested case proceedings pursuant to  
5 section 205-19. These procedures and safeguards shall include a  
6 reporting structure for the land use commission and its  
7 executive director and employees that is separate from the  
8 reporting structure for the land use division of the office."

9 SECTION 11. Chapter 343, Hawaii Revised Statutes, is  
10 amended by adding a new section to be appropriately designated  
11 and to read as follows:

12 "§343- Determination regarding exemption for certain  
13 affordable housing projects. Notwithstanding any law to the  
14 contrary, the county agency having jurisdiction over planning  
15 and permitting in any county having a population of 500,000 or  
16 more shall determine whether certain affordable housing, as  
17 defined in section 46-15.25, shall be exempt from chapter 343  
18 and any applicable rules, pursuant to chapter 11-200.1,  
19 subchapter 8, Hawaii Administrative Rules."

20 SECTION 12. Statutory material to be repealed is bracketed  
21 and stricken. New statutory material is underscored.



1 SECTION 13. This Act shall take effect on July 1, 2024.

2

INTRODUCED BY:

*Jim McIntosh*  
*David R. ...*  
*Ken ...*  
*[Signature]*  
*[Signature]*

JAN 18 2024



# H.B. NO. 1702

**Report Title:**

Minority Caucus Package; Zoning; Housing; Regulation; Land Use

**Description:**

Reduces zoning restrictions for affordable housing development.

Exempts new affordable housing construction from environmental assessment requirements. Exempts certain housing development from legislative approval. Limits the land use commission's managing authority to land areas greater than one hundred acres.

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

