
A BILL FOR AN ACT

RELATING TO PROPERTY.

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

1 SECTION 1. The legislature finds that the district court
2 in *Hawaii Legal Short-Term Rental Alliance v. City and County of*
3 *Honolulu*, No. 22-cv-247-DKW-RT (D. Haw., 2022), permanently
4 enjoined the city and county of Honolulu from enforcing
5 Ordinance No. 22-7, insofar as it prohibited thirty- to eighty-
6 nine-day home rentals, or the advertisement of these rentals, in
7 any district on Oahu. Notwithstanding, it is the legislature's
8 intent to honor and wholeheartedly support the home rule
9 authority statutorily provided to the counties relating to
10 zoning to ensure that the counties are able to guide the overall
11 future development of their local jurisdictions in a manner they
12 deem fit, using the tools available to the counties to put their
13 general plans into effect in an orderly manner.

14 Accordingly, the purpose of this Act is to:

15 (1) Clarify the counties' authority to regulate by zoning
16 ordinance the time, place, manner, and duration in
17 which uses of land and structures may take place;



1 (2) Clarify that uses that include the provision of
2 transient accommodations are not considered
3 residential uses and may be phased out or amortized by
4 the counties; and

5 (3) Expand the scope of the transient accommodations tax
6 law to include certain shelters and vehicles with
7 sleeping accommodations.

8 SECTION 2. Section 46-4, Hawaii Revised Statutes, is
9 amended by amending subsection (a) to read as follows:

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

14 Zoning in all counties shall be accomplished within the
15 framework of a long-range, comprehensive general plan prepared
16 or being prepared to guide the overall future development of the
17 county. Zoning shall be one of the tools available to the
18 county to put the general plan into effect in an orderly manner.
19 Zoning in the counties of Hawaii, Maui, and Kauai means the
20 establishment of districts of such number, shape, and area, and
21 the adoption of regulations for each district, to carry out the



1 purposes of this section. In establishing or regulating the
2 districts, full consideration shall be given to all available
3 data as to soil classification and physical use capabilities of
4 the land to allow and encourage the most beneficial use of the
5 land consonant with good zoning practices. The zoning power
6 granted [~~herein~~] in this section shall be exercised by
7 ordinance, which may relate to:

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



- 1 (6) The location, height, bulk, number of stories, and
- 2 size of buildings and other structures;
- 3 (7) The location of roads, schools, and recreation areas;
- 4 (8) Building setback lines and future street lines;
- 5 (9) The density and distribution of population;
- 6 (10) The percentage of a lot that may be occupied, size of
- 7 yards, courts, and other open spaces;
- 8 (11) Minimum and maximum lot sizes; [~~and~~]
- 9 (12) The time, place, manner, and duration in which uses of
- 10 land and structures may take place; and
- 11 ~~[(12)]~~ (13) Other regulations the boards or [~~city~~] council
- 12 of any county find necessary and proper to permit and
- 13 encourage the orderly development of land resources
- 14 within their jurisdictions.

15 The council of any county shall prescribe rules,

16 regulations, and administrative procedures and provide personnel

17 it finds necessary to enforce this section and any ordinance

18 enacted in accordance with this section. The ordinances may be

19 enforced by appropriate fines and penalties, civil or criminal,

20 or by court order at the suit of the county or the owner or

21 owners of real estate directly affected by the ordinances.



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

6 Nothing in this section shall invalidate any zoning
7 ordinance or regulation adopted by any county or other agency of
8 government pursuant to the statutes in effect [~~prior to~~] before
9 July 1, 1957.

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

20 Neither this section nor any ordinance enacted pursuant to
21 this section shall prohibit the continued lawful use of any



1 building or premises for any trade, industrial, residential,
2 agricultural, or other purpose for which the building or
3 premises is used at the time this section or the ordinance takes
4 effect; provided that a zoning ordinance may provide for
5 elimination of nonconforming uses as the uses are discontinued,
6 or for the amortization or phasing out of nonconforming uses or
7 signs over a reasonable period of time in commercial,
8 industrial, resort, and apartment zoned areas only. In no event
9 shall ~~such~~ the amortization or phasing out of nonconforming
10 uses apply to any existing building or premises used for
11 residential (single-family or duplex) or agricultural uses[-];
12 provided that uses that include the furnishing or offering of
13 transient accommodations shall not be considered residential or
14 agricultural uses and may be phased out or amortized in any
15 zoning district by county zoning regulations; provided further
16 that a zoning ordinance may provide that transient
17 accommodations may be furnished to a transient for a period of
18 less than one hundred eighty consecutive days. Nothing in this
19 section shall affect or impair the powers and duties of the
20 director of transportation as set forth in chapter 262.



1 For purposes of this subsection, "transient accommodations"
2 has the same meaning as defined in section 237D-1. "Transient
3 accommodations" includes uses that require the payment of
4 transient accommodations taxes."

5 SECTION 3. Section 237D-1, Hawaii Revised Statutes, is
6 amended by amending the definition of "transient accommodations"
7 to read as follows:

8 "'Transient accommodations" means the furnishing of a room,
9 apartment, suite, single family dwelling, shelter, or the like
10 to a transient for less than one hundred eighty consecutive days
11 for each letting in a hotel, apartment hotel, motel, condominium
12 or unit as defined in chapter 514B, cooperative apartment,
13 vehicle equipped with or advertised as including sleeping
14 accommodations, dwelling unit, or rooming house that provides
15 living quarters, sleeping, or housekeeping accommodations, or
16 other place in which lodgings are regularly furnished to
17 transients."

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



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

3 SECTION 6. This Act shall take effect upon its approval;
4 provided that section 3 shall take effect on January 1, 2025.



Report Title:

Short-Term Rentals; County Zoning; County Home Rule Authority;
Transient Accommodations; Transient Accommodations Tax; Shelter;
Vehicles

Description:

Clarifies the counties' authority to regulate the time, place, manner, and duration in which uses of land and structures may take place. Clarifies that uses that include the provision of transient accommodations are not considered residential uses and may be phased out or amortized by the counties. Beginning 1/1/2025, expands the scope of the transient accommodations tax law to include certain shelters and vehicles with sleeping accommodations. (CD1)

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

