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# 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:



1 (A) Regulate the time, place, manner, and duration in  
2 which uses of land and structures may take place;  
3 and

4 (B) Amortize or phase out transient vacation rental  
5 units in an area of any zoning classification;  
6 and

7 (2) Expand the scope of the transient accommodations tax  
8 law to include certain shelters and vehicles with  
9 sleeping accommodations.

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

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

16 Zoning in all counties shall be accomplished within the  
17 framework of a long-range, comprehensive general plan prepared  
18 or being prepared to guide the overall future development of the  
19 county. Zoning shall be one of the tools available to the  
20 county to put the general plan into effect in an orderly manner.  
21 Zoning in the counties of Hawaii, Maui, and Kauai means the



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

- 10 (1) The areas within which agriculture, forestry,  
11 industry, trade, and business may be conducted;
- 12 (2) The areas in which residential uses may be regulated  
13 or prohibited;
- 14 (3) The areas bordering natural watercourses, channels,  
15 and streams, in which trades or industries, filling or  
16 dumping, erection of structures, and the location of  
17 buildings may be prohibited or restricted;
- 18 (4) The areas in which particular uses may be subjected to  
19 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) The time, place, manner, and duration in which uses of  
13 land and structures may take place; provided that  
14 zoning regulations that restrict the time, place,  
15 manner, or duration of a use of property shall not be  
16 deemed to create different types of land uses or  
17 structures based on time, place, manner, or duration  
18 restrictions established by the counties; and

19 ~~[(12)]~~ (13) Other regulations the boards or [city] council  
20 of any county find necessary and proper to permit and



1 encourage the orderly development of land resources  
2 within their jurisdictions.

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

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

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

19 The powers granted [~~herein~~] in this section shall be  
20 liberally construed in favor of the county exercising them, and  
21 in [~~such~~] a manner [~~as to promote~~] that promotes the orderly



1 development of each county or city and county in accordance with  
2 a long-range, comprehensive general plan to ensure the greatest  
3 benefit for the State as a whole. This section shall not be  
4 construed to limit or repeal any powers of any county to achieve  
5 these ends through zoning and building regulations, except  
6 insofar as forest and water reserve zones are concerned and as  
7 provided in subsections (c) and (d).

8       Neither this section nor any ordinance enacted pursuant to  
9 this section shall prohibit the continued lawful use of any  
10 building or premises for any trade, industrial, residential,  
11 agricultural, or other purpose for which the building or  
12 premises is used at the time this section or the ordinance takes  
13 effect; provided that a zoning ordinance may provide for  
14 elimination of nonconforming uses as the uses are discontinued,  
15 or for the amortization or phasing out of nonconforming uses or  
16 signs over a reasonable period of time in commercial,  
17 industrial, resort, and apartment zoned areas only~~[=]~~; provided  
18 that transient vacation rental units may be amortized or phased  
19 out in an area of any zoning classification. In no event shall  
20 ~~[such]~~ the amortization or phasing out of nonconforming uses  
21 apply to any existing building or premises, other than transient



1 vacation rental units as provided in this subsection, used for  
2 residential (single-family or duplex) or agricultural uses.  
3 Nothing in this section shall affect or impair the powers and  
4 duties of the director of transportation as set forth in chapter  
5 262.

6 For purposes of this subsection, "transient vacation rental  
7 unit" means "short-term rental home", "short-term vacation  
8 rental", "transient vacation rental", "transient vacation unit",  
9 or "transient vacation use", as those terms are defined by  
10 county ordinance."

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

14 ""Transient accommodations" means the furnishing of a room,  
15 apartment, suite, single family dwelling, shelter, vehicle, or  
16 the like to a transient for less than one hundred eighty  
17 consecutive days for each letting in a hotel, apartment hotel,  
18 motel, condominium or unit as defined in chapter 514B,  
19 cooperative apartment, dwelling unit, [~~o~~] rooming house that  
20 provides living quarters, sleeping, or housekeeping  
21 accommodations[~~r~~]; or vehicles with, or advertised as including,



1 sleeping accommodations; or other place in which lodgings are  
2 regularly furnished to transients."

3 SECTION 4. 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 5. Statutory material to be repealed is bracketed  
7 and stricken. New statutory material is underscored.

8 SECTION 6. This Act shall take effect on July 1, 3000;  
9 provided that section 3 shall take effect on January 1, 2025.



**Report Title:**

Transient Vacation Rental Units; County Zoning; County Authority; Amortization; Transient Accommodations Tax

**Description:**

Clarifies the counties' authority to regulate the time, place, manner, and duration in which uses of land and structures may take place. Allow counties to enact a zoning ordinance to amortize or phase out transient vacation rental units. Expands the scope of the transient accommodations tax law to include certain shelters and, beginning 1/1/2025, vehicles with sleeping accommodations. Effective 7/1/3000. (HD2)

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

