

JAN 24 2024

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 there is a severe
2 housing shortage in Hawaii. The legislature further finds that
3 some medical, educational, and religious institutions are
4 willing to convert a portion of their land to provide housing.
5 It is not the intent of the legislature to allow fly-by-night
6 developers to create one of these types of institutions solely
7 to circumvent the normal development process.

8 The purpose of this Act is to allow medical, educational,
9 and religious institutions to build residential units on lands
10 zoned for residential or commercial use within the urban
11 district, under certain conditions.

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

14 "**§46-4 County zoning.** (a) This section and any
15 ordinance, rule, or regulation adopted in accordance with this
16 section shall apply to lands not contained within the forest



1 reserve boundaries as established on January 31, 1957, or as
2 subsequently amended.

3 Zoning in all counties shall be accomplished within the
4 framework of a long-range, comprehensive general plan prepared
5 or being prepared to guide the overall future development of the
6 county. Zoning shall be one of the tools available to the
7 county to put the general plan into effect in an orderly manner.
8 Zoning in the counties of Hawaii, Maui, and Kauai means the
9 establishment of districts of such number, shape, and area, and
10 the adoption of regulations for each district to carry out the
11 purposes of this section. In establishing or regulating the
12 districts, full consideration shall be given to all available
13 data as to soil classification and physical use capabilities of
14 the land to allow and encourage the most beneficial use of the
15 land consonant with good zoning practices. The zoning power
16 granted herein shall be exercised by ordinance which may relate
17 to:

- 18 (1) The areas within which agriculture, forestry,
19 industry, trade, and business may be conducted;
20 (2) The areas in which residential uses may be regulated
21 or prohibited;



- 1 (3) The areas bordering natural watercourses, channels,
2 and streams, in which trades or industries, filling or
3 dumping, erection of structures, and the location of
4 buildings may be prohibited or restricted;
- 5 (4) The areas in which particular uses may be subjected to
6 special restrictions;
- 7 (5) The location of buildings and structures designed for
8 specific uses and designation of uses for which
9 buildings and structures may not be used or altered;
- 10 (6) The location, height, bulk, number of stories, and
11 size of buildings and other structures;
- 12 (7) The location of roads, schools, and recreation areas;
- 13 (8) Building setback lines and future street lines;
- 14 (9) The density and distribution of population;
- 15 (10) The percentage of a lot that may be occupied, size of
16 yards, courts, and other open spaces;
- 17 (11) Minimum and maximum lot sizes; and
- 18 (12) Other regulations the boards or city council find
19 necessary and proper to permit and encourage the
20 orderly development of land resources within their
21 jurisdictions.



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

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

13 Nothing in this section shall invalidate any zoning
14 ordinance or regulation adopted by any county or other agency of
15 government pursuant to the statutes in effect prior to July 1,
16 1957.

17 The powers granted herein shall be liberally construed in
18 favor of the county exercising them, and in [~~such~~] a manner [~~as~~
19 ~~to promote~~] that promotes the orderly development of each county
20 or city and county in accordance with a long-range,
21 comprehensive general plan to ensure the greatest benefit for



1 the State as a whole. This section shall not be construed to
2 limit or repeal any powers of any county to achieve these ends
3 through zoning and building regulations, except insofar as
4 forest and water reserve zones are concerned and as provided in
5 subsections (c) and (d).

6 Neither this section nor any ordinance enacted pursuant to
7 this section shall prohibit the continued lawful use of any
8 building or premises for any trade, industrial, residential,
9 agricultural, or other purpose for which the building or
10 premises is used at the time this section or the ordinance takes
11 effect; provided that a zoning ordinance may provide for
12 elimination of nonconforming uses as the uses are discontinued,
13 or for the amortization or phasing out of nonconforming uses or
14 signs over a reasonable period of time in commercial,
15 industrial, resort, and apartment zoned areas only. In no event
16 shall [~~such~~] the amortization or phasing out of nonconforming
17 uses apply to any existing building or premises used for
18 residential (single-family or duplex) or agricultural uses.
19 Nothing in this section shall affect or impair the powers and
20 duties of the director of transportation as set forth in chapter
21 262.



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

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

8 (d) Notwithstanding any law, ordinance, or standard to the
9 contrary, a religious, educational, or medical institution may
10 build residential units on a parcel of land zoned for
11 residential or commercial use within the urban state land use
12 district; provided that any proposed housing development is less
13 than fifteen acres and no greater than fifty per cent of the
14 parcel area; provided further that any housing units developed
15 on the institution's property pursuant to this subsection shall
16 be retained by the institution so long as the institution
17 remains in existence.

18 As used in this subsection:

19 "Educational institution" means any private educational
20 organization that has been granted tax exempt status under



1 section 501(c)(3) of the Internal Revenue Code of 1986, as
2 amended.

3 "Medical institution" means any organization that has been
4 incorporated in the State as a nonprofit corporation and that
5 has continuously operated and will be operated exclusively to
6 provide, or to contribute to the support of, organizations or
7 institutions organized and operated exclusively to provide
8 hospital, medical, research, or therapeutic services to the
9 public.

10 "Religious institution" means any religious institution or
11 organization that has been granted tax exempt status under
12 section 501(c)(3) of the Internal Revenue Code 1986, as amended,
13 does not restrict membership to persons on the basis of race,
14 color, or ancestry, and has no part of its earnings inured to
15 any private shareholder or individual.

16 [~~d~~] (e) Neither this section nor any other law, county
17 ordinance, or rule shall prohibit group living in facilities
18 with eight or fewer residents for purposes or functions that are
19 licensed, certified, registered, or monitored by the State;
20 provided that a resident manager or a resident supervisor and
21 the resident manager's or resident supervisor's family shall not



1 be included in this resident count. These group living
2 facilities shall meet all applicable county requirements not
3 inconsistent with the intent of this subsection, including but
4 not limited to building height, setback, maximum lot coverage,
5 parking, and floor area requirements.

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

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

19 SECTION 3. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.

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



S.B. NO. 3227

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INTRODUCED BY:

Ho. He



S.B. NO. 3227

Report Title:

Housing; Zoning; Religious Institutions; Educational Institutions; Medical Institutions; Nonprofit Organizations

Description:

Allows religious, educational, and medical institutions to build residential units on lands zoned for residential or commercial use within the urban state land use district, under certain conditions.

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

