
A BILL FOR AN ACT

RELATING TO ZONING.

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

1 SECTION 1. The legislature finds that according to a
2 report published by the University of Hawaii Economic Research
3 Organization, approximately thirty thousand homes, or five per
4 cent of local housing units in the State, operate as short-term
5 vacation rentals. The impact of short-term rentals on
6 communities varies significantly across the State, with up to
7 forty per cent of homes in certain communities operating as
8 short-term vacation rental units. The counties of Maui and
9 Kauai are facing an annual decline in total housing stock as
10 formerly resident-occupied homes are converted to short-term
11 rental units. The loss of these homes contributes to a
12 statewide shortage of homes and to the high cost of housing in
13 Hawaii.

14 The legislature further finds that while nonconforming uses
15 in industrial, commercial, resort, and apartment zones may be
16 eliminated or phased out over a period of time when
17 nonconforming uses are discontinued via county ordinance, no



1 such allowance is given in areas zoned for residential use.
2 Though short-term vacation rentals are resort uses, because they
3 operate in residential areas, the courts have overturned county
4 ordinances to phase out short-term vacation rental uses.
5 Additionally, there is an increased need for housing on the
6 island of Maui in the wake of the 2023 Maui wildfires. The
7 house of representatives shelter working group recommended
8 giving counties the clear authority to phase out vacation rental
9 uses as a key tool for helping Maui residents find adequate
10 rental housing in the wake of the wildfires.

11 The purpose of this Act is to allow counties to enact a
12 zoning ordinance to amortize or phase out nonconforming single-
13 family transient vacation rental units over a reasonable period
14 of time.

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

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



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

- 16 (1) The areas within which agriculture, forestry,
17 industry, trade, and business may be conducted;
- 18 (2) The areas in which residential uses may be regulated
19 or prohibited;
- 20 (3) The areas bordering natural watercourses, channels,
21 and streams, in which trades or industries, filling or



1 dumping, erection of structures, and the location of
2 buildings may be prohibited or restricted;

3 (4) The areas in which particular uses may be subjected to
4 special restrictions;

5 (5) The location of buildings and structures designed for
6 specific uses and designation of uses for which
7 buildings and structures may not be used or altered;

8 (6) The location, height, bulk, number of stories, and
9 size of buildings and other structures;

10 (7) The location of roads, schools, and recreation areas;

11 (8) Building setback lines and future street lines;

12 (9) The density and distribution of population;

13 (10) The percentage of a lot that may be occupied, size of
14 yards, courts, and other open spaces;

15 (11) Minimum and maximum lot sizes; and

16 (12) Other regulations the boards or city council find
17 necessary and proper to permit and encourage the
18 orderly development of land resources within their
19 jurisdictions.

20 The council of any county shall prescribe rules,
21 regulations, and administrative procedures and provide personnel



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

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

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

15 The powers granted herein shall be liberally construed in
16 favor of the county exercising them, and in such a manner as to
17 promote the orderly development of each county or city and
18 county in accordance with a long-range, comprehensive general
19 plan to ensure the greatest benefit for the State as a whole.
20 This section shall not be construed to limit or repeal any
21 powers of any county to achieve these ends through zoning and



1 building regulations, except insofar as forest and water reserve
2 zones are concerned and as provided in subsections (c) and (d).

3 Neither this section nor any ordinance enacted pursuant to
4 this section shall prohibit the continued lawful use of any
5 building or premises for any trade, industrial, residential,
6 agricultural, or other purpose for which the building or
7 premises is used at the time this section or the ordinance takes
8 effect; provided that a zoning ordinance may provide for
9 elimination of nonconforming uses as the uses are discontinued,
10 or for the amortization or phasing out of nonconforming uses or
11 signs over a reasonable period of time in commercial,
12 industrial, resort, and apartment zoned areas only[-]; provided
13 further that a zoning ordinance may provide for the amortization
14 or phasing out of nonconforming single-family transient vacation
15 rental units over a reasonable period of time in an area of any
16 zoning classification. In no event shall such amortization or
17 phasing out of nonconforming uses apply to any existing building
18 or premises used for residential (single-family or duplex) or
19 agricultural uses[-] other than nonconforming transient vacation
20 rental units as provided in this subsection. Nothing in this



1 section shall affect or impair the powers and duties of the
2 director of transportation as set forth in chapter 262."

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

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

6

INTRODUCED BY: _____

Chick Am

JAN 18 2024



H.B. NO. 1838

Report Title:

Zoning; Counties; Single-family Transient Vacation Rental Units;
Nonconforming Uses

Description:

Allows counties to enact a zoning ordinance to amortize or phase out nonconforming single-family transient vacation rental units over a reasonable period of time.

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

