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# 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 the holding in  
2     *Hawaii Legal Short-Term Rental Alliance v. City and County of*  
3     *Honolulu*, No. 22-cv-247-DKW-RT (D. Haw., 2022), denied the city  
4     and county of Honolulu from implementing Ordinance No. 22-7,  
5     insofar as it prohibited thirty- to eighty-nine-day home  
6     rentals, or the advertisement of such rentals, in any district  
7     on Oahu. Notwithstanding, it is the legislature's intent to  
8     honor and wholeheartedly support the home rule authority  
9     provided to the counties relating to zoning, to ensure that the  
10    counties are able to "guide the overall future development" of  
11    their local jurisdictions in a manner they deem fit, using the  
12    "tools available to the county to put [their] general plan into  
13    effect in an orderly manner", as stated in section 46-4(a),  
14    Hawaii Revised Statutes.

15           Accordingly, the purpose of this Act is to amend existing  
16    law governing the zoning authority granted to counties to allow  
17    the counties to:



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

4 (2) Amortize or phase out transient accommodations uses in  
5 residential or agricultural zoned areas.

6 Separately, this Act also expands the scope of the  
7 transient accommodations tax law to include certain shelters and  
8 vehicles with sleeping accommodations.

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

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

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

20 Zoning in the counties of Hawaii, Maui, and Kauai means the  
21 establishment of districts of such number, shape, and area, and



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

- 9 (1) The areas within which agriculture, forestry,  
10 industry, trade, and business may be conducted;
- 11 (2) The areas in which residential uses may be regulated  
12 or prohibited;
- 13 (3) The areas bordering natural watercourses, channels,  
14 and streams, in which trades or industries, filling or  
15 dumping, erection of structures, and the location of  
16 buildings may be prohibited or restricted;
- 17 (4) The areas in which particular uses may be subjected to  
18 special restrictions;
- 19 (5) The location of buildings and structures designed for  
20 specific uses and designation of uses for which  
21 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; provided that
- 11 zoning regulations that restrict the time, place,
- 12 manner, or duration of a use of property shall not be
- 13 deemed to create different types of land uses or
- 14 structures based on time, place, manner, or duration
- 15 restrictions established by the counties; and
- 16 [~~(12)~~] (13) Other regulations the boards or city council
- 17 find 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  
9 chapter 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  
17 to 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. In no event  
13 shall ~~such~~ the amortization or phasing out of nonconforming  
14 uses apply to any existing building or premises used for  
15 residential (single-family or duplex) or agricultural uses[-];  
16 provided that transient accommodations uses may be amortized or  
17 phased out in residential or agricultural zoned areas; provided  
18 further that residential uses do not include transient  
19 accommodations uses. Nothing in this section shall affect or  
20 impair the powers and duties of the director of transportation  
21 as set forth in chapter 262.



1        For the purposes of this section, "transient  
2 accommodations" has the same meaning as defined in section  
3 237D-1. "Transient accommodations" includes uses that require  
4 the payment of 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 dwelling unit, or rooming house that provides living quarters,  
14 sleeping, or housekeeping accommodations, vehicles with, or  
15 advertised as including, sleeping accommodations, or other place  
16 in which lodgings are regularly furnished to transients."

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

20        SECTION 5. Statutory material to be repealed is bracketed  
21 and stricken. New statutory material is underscored.



1 SECTION 6. This Act shall take effect on July 1, 2040;  
2 provided that section 3 shall take effect on January 1, 2025.





**Report Title:**

Short-Term Rentals; County Zoning; TAT

**Description:**

Expands the zoning powers of counties. Expands the scope of the transient accommodations tax law to include certain shelters and vehicles with sleeping accommodations. Takes effect 7/1/2040.

(SD1)

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

