S.B. NO. <sup>2919</sup> S.D. 2 H.D. 2

C.D. 1

### 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 deem fit, using the tools available to the counties to put their 12 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;

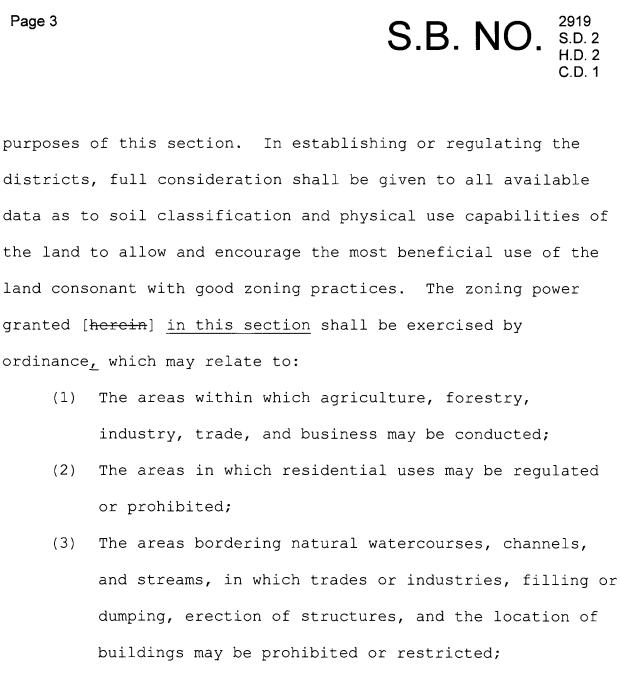


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1	(2)	Clarify that uses that include the provision of
2		transient accommodations are not considered
3		residential uses and may be phased out or amortized by
4		the counties; and
5	(3)	Expand the scope of the transient accommodations tax
6		law to include certain shelters and vehicles with
7		sleeping accommodations.
8	SECT	ION 2. Section 46-4, Hawaii Revised Statutes, is
9	amended by	y amending subsection (a) to read as follows:
10	"(a)	This section and any ordinance, rule, or regulation
11	adopted in	n accordance with this section shall apply to lands not
12	contained	within the forest reserve boundaries as established on
13	January 3	1, 1957, or as subsequently amended.
14	Zonii	ng in all counties shall be accomplished within the
15	framework	of a long-range, comprehensive general plan prepared
16	or being p	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	establish	ment of districts of such number, shape, and area, and
21	the adopt:	ion of regulations for each district, to carry out the

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- (4) The areas in which particular uses may be subjected to special restrictions;
- (5) The location of buildings and structures designed for specific uses and designation of uses for which buildings and structures may not be used or altered;

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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; [ <del>and</del> ]
9	(12)	The time, place, manner, and duration in which uses of
10		land and structures may take place; and
11	[ <del>(12)</del> ]	(13) Other regulations the boards or [ <del>city</del> ] 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	regulatio	ns, and administrative procedures and provide personnel
17	it finds :	necessary to enforce this section and any ordinance
18	enacted i	n accordance with this section. The ordinances may be
19	enforced	by appropriate fines and penalties, civil or criminal,
20	or by cou	rt order at the suit of the county or the owner or
21	owners of	real estate directly affected by the ordinances.





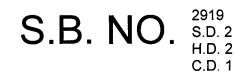
Any civil fine or penalty provided by ordinance under this
 section may be imposed by the district court, or by the zoning
 agency after an opportunity for a hearing pursuant to
 chapter 91. The proceeding shall not be a prerequisite for any
 injunctive relief ordered by the circuit court.

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

10 The powers granted [herein] in this section shall be liberally construed in favor of the county exercising them, and 11 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 benefit for the State as a whole. This section shall not be 15 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 to21 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[ $\pm$ ];
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.

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For purposes of this subsection, "transient accommodations"				
has the same meaning as defined in section 237D-1. "Transient				
accommodations" includes uses that require the payment of				
transient accommodations taxes."				
SECTION 3. Section 237D-1, Hawaii Revised Statutes, is				
amended by amending the definition of "transient accommodations"				
to read as follows:				
""Transient accommodations" means the furnishing of a room,				
apartment, suite, single family dwelling, <u>shelter,</u> or the like				
to a transient for less than one hundred eighty consecutive days				
for each letting in a hotel, apartment hotel, motel, condominium				
or unit as defined in chapter 514B, cooperative apartment,				
vehicle equipped with or advertised as including sleeping				
accommodations, dwelling unit, or rooming house that provides				
living quarters, sleeping, or housekeeping accommodations, or				
other place in which lodgings are regularly furnished to				
transients."				
SECTION 4. This Act does not affect rights and duties that				
matured, penalties that were incurred, and proceedings that were				
begun before its effective date.				

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SECTION 5. Statutory material to be repealed is bracketed
 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.

