

JAN 24 2024

---

---

# A BILL FOR AN ACT

RELATING TO URBAN DEVELOPMENT.

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

1

PART I

2

SECTION 1. The legislature finds that Hawaii has the

3

highest housing costs in the nation. Adjusted for inflation,

4

the price of existing homes in Hawaii has increased by one

5

hundred fifty-five per cent since 1984. Meanwhile, the median

6

household income in Hawaii, adjusted for inflation, has only

7

gone up by twenty-four per cent over the same time period. Less

8

than one-third of households in Hawaii can afford a median-

9

priced single-family home, and less than one-half can afford a

10

median-priced condominium. Due to these factors, Hawaii has the

11

highest percentage of homeowners paying more than thirty per

12

cent of their income on their mortgage, making these households

13

more vulnerable to increased stress, mental health problems, and

14

an increased risk of disease. High housing costs also impact

15

the economy in negative ways as many residents are less likely

16

to spend money on consumer goods and services and invest in

17

business startups. High housing prices are the primary



1 contributor to high rates of homelessness nationwide, and, as  
2 would be expected given the dire housing market, Hawaii's rate  
3 of homelessness is more than double the national average.

4       The legislature further finds that Hawaii needs to build  
5 fifty thousand new homes between 2020 and 2025 to meet the  
6 demand for housing. However, over the last five years, Hawaii  
7 has only added twenty-seven thousand homes to the housing stock,  
8 a little more than one-half of the housing necessary to support  
9 the State's population. The legislature notes that Hawaii has  
10 the most regulated housing market in the country. Various  
11 studies have also concluded that housing regulations slow the  
12 rate of construction and lead to higher prices.

13       The legislature additionally finds that, in 1961, Act 187,  
14 Session Laws of Hawaii 1961 (Act 187), was enacted as Hawaii's  
15 land use law, with the intent to preserve, protect, and  
16 encourage the development of the lands in the State for those  
17 uses to which they are best suited for the public welfare. This  
18 law is unique in the United States in that both the State and  
19 the counties regulate land use. In furtherance of Act 187, the  
20 State enacted the Hawaii State Planning Act, codified as chapter  
21 226, Hawaii Revised Statutes, which states that urban growth



1 should be encouraged primarily to existing urban areas where  
2 adequate public facilities are already available or can be  
3 provided with reasonable public expenditures and away from areas  
4 where other important benefits are present, such as protection  
5 of important agricultural land or preservation of lifestyles.

6 The legislature also finds that the dual principles of  
7 making urbanization efficient and preserving agricultural and  
8 conservation land are being undermined by overly stringent  
9 development restrictions within the urban state land use  
10 district. The legislature believes that chapter 46, Hawaii  
11 Revised Statutes, must be amended to achieve the goals of the  
12 Hawaii land use law and Hawaii state plan by encouraging the  
13 development of multi-family homes in the urban state land use  
14 district, which will reduce the cost of housing, urban sprawl,  
15 infrastructure costs, traffic congestion, and carbon emissions.

16 Accordingly, the purpose of this Act is to:

- 17 (1) Allow for the development of a minimum of four homes  
18 per lot in the state urban land use district;
- 19 (2) Allow for approval for subdivisions of parcels with a  
20 minimum lot size of one thousand two hundred square  
21 feet in the state urban land use district; and



1 (3) Amend the calculation of impact fees for certain  
2 developments.

3 PART II

4 SECTION 2. Chapter 46, Hawaii Revised Statutes, is amended  
5 by adding a new section to be appropriately designated and to  
6 read as follows:

7 "§46- Residential lots in urban districts. (a)  
8 Notwithstanding any law, ordinance, or building code or standard  
9 to the contrary, a residential lot within an urban district  
10 established by chapter 205 shall be allowed at least four  
11 residential units.

12 (b) For residential lots within an urban district  
13 established by chapter 205, each county:

14 (1) Shall allow for attached and detached additional units  
15 or accessory dwelling units, as defined by each  
16 county;

17 (2) May:

18 (A) Impose land use regulations; provided that these  
19 standards shall not preclude the development of  
20 four or more residential units on each  
21 residential lot;



1           (B) Restrict short-term rentals, as defined by each  
2           county, including by imposition of mandatory  
3           owner-occupancy requirements for short-term  
4           rentals; and

5           (C) Reject a permit application for development on  
6           the residential lot if the county determines  
7           there is insufficient infrastructure for the  
8           development; and

9           (3) Shall not adopt:

10           (A) Accessory or additional dwelling unit  
11           owner-occupancy requirements;

12           (B) Bans on long-term rentals; or

13           (C) Setback and design requirements more restrictive  
14           than the principal unit. For purposes of this  
15           subparagraph, "principal unit" means the single-  
16           family housing unit, duplex, triplex, townhouse,  
17           or other housing unit located on the same lot as  
18           an accessory or additional dwelling unit.

19           (c) This section shall not apply to:

20           (1) County powers within special management areas  
21           delineated pursuant to chapter 205A; and



# S.B. NO. 3202

1        (2) Any area within an urban district that a county deems  
2        to be at high risk of a natural hazard such as  
3        flooding, lava, or fire, as determined by the most  
4        current data and maps issued by a state or federal  
5        department or agency."

6        SECTION 3. Chapter 205, Hawaii Revised Statutes, is  
7        amended by adding a new section to be appropriately designated  
8        and to read as follows:

9        "§205-        Private covenants; residential lots; urban  
10       district. No private covenant for a residential lot within an  
11       urban district adopted after the effective date of Act        ,  
12       Session Laws of Hawaii 2024, shall:

- 13        (1) Limit the number of residential units on that lot  
14        below the amount allowed pursuant to section 46-        ;  
15        or  
16        (2) Restrict the long-term rental of residential units on  
17        that lot."

## PART III

18        SECTION 4. Section 46-4, Hawaii Revised Statutes, is  
19        amended to read as follows:  
20



1           **"§46-4 County zoning.** (a) This section and any  
2 ordinance, rule, or regulation adopted in accordance with this  
3 section shall apply to lands not contained within the forest  
4 reserve boundaries as established on January 31, 1957, or as  
5 subsequently amended.

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



- 1 (1) The areas within which agriculture, forestry,  
2 industry, trade, and business may be conducted;
- 3 (2) The areas in which residential uses may be regulated  
4 or prohibited;
- 5 (3) The areas bordering natural watercourses, channels,  
6 and streams, in which trades or industries, filling or  
7 dumping, erection of structures, and the location of  
8 buildings may be prohibited or restricted;
- 9 (4) The areas in which particular uses may be subjected to  
10 special restrictions;
- 11 (5) The location of buildings and structures designed for  
12 specific uses and designation of uses for which  
13 buildings and structures may not be used or altered;
- 14 (6) The location, height, bulk, number of stories, and  
15 size of buildings and other structures;
- 16 (7) The location of roads, schools, and recreation areas;
- 17 (8) Building setback lines and future street lines;
- 18 (9) The density and distribution of population;
- 19 (10) The percentage of a lot that may be occupied, size of  
20 yards, courts, and other open spaces;
- 21 (11) Minimum and maximum lot sizes; and





1           (12) Other regulations the boards or city council find  
2                    necessary and proper to permit and encourage the  
3                    orderly development of land resources within their  
4                    jurisdictions.

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

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

17           Nothing in this section shall invalidate any zoning  
18 ordinance or regulation adopted by any county or other agency of  
19 government pursuant to the statutes in effect prior to July 1,  
20 1957.



1           The powers granted herein shall be liberally construed in  
2 favor of the county exercising them, and in [~~such~~] a manner [~~as~~  
3 ~~to promote~~] that promotes the orderly development of each county  
4 or city and county in accordance with a long-range,  
5 comprehensive general plan to ensure the greatest benefit for  
6 the State as a whole. This section shall not be construed to  
7 limit or repeal any powers of any county to achieve these ends  
8 through zoning and building regulations, except insofar as  
9 forest and water reserve zones are concerned and as provided in  
10 subsections (c) [~~and~~], (d) [~~-~~], (g), and section 46- .

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



1 uses apply to any existing building or premises 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 (b) Any final order of a zoning agency established under  
7 this section may be appealed to the circuit court of the circuit  
8 in which the land in question is found. The appeal shall be in  
9 accordance with the Hawaii rules of civil procedure.

10 (c) ~~Each~~ Except as provided in section 46- , each  
11 county may adopt reasonable standards to allow the construction  
12 of two single-family dwelling units on any lot where a  
13 residential dwelling unit is permitted.

14 (d) Neither this section nor any other law, county  
15 ordinance, or rule shall prohibit group living in facilities  
16 with eight or fewer residents for purposes or functions that are  
17 licensed, certified, registered, or monitored by the State;  
18 provided that a resident manager or a resident supervisor and  
19 the resident manager's or resident supervisor's family shall not  
20 be included in this resident count. These group living  
21 facilities shall meet all applicable county requirements not



1 inconsistent with the intent of this subsection, including but  
2 not limited to building height, setback, maximum lot coverage,  
3 parking, and floor area requirements.

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

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

17 (g) Notwithstanding any other law, county ordinance, or  
18 rule, any application for subdivision, consolidation, or  
19 resubdivision of parcels within the state urban land use  
20 district reviewed pursuant to county ordinances relating to  
21 subdivision, consolidation, or resubdivision that are enacted by



1 a county council as authorized by this section shall receive  
2 final approval from the director of the county agency  
3 responsible for land use; provided that:

4 (1) All resulting parcels are residentially zoned and at  
5 least one thousand two hundred square feet in area;

6 (2) The parcel being subdivided is not located on a site  
7 that is:

8 (A) Designated as important agricultural land;

9 (B) On wetlands, as defined in the United States Fish  
10 and Wildlife Service Manual, Part 660 FW2;

11 (C) Within a floodplain as determined by maps  
12 promulgated by the Federal Emergency Management  
13 Agency;

14 (D) A habitat for protected or endangered species;

15 (E) Within a state historic district or designated as  
16 a historic property on the Hawaii register of  
17 historic places or the national register of  
18 historic places;

19 (F) Within lava zone one or lava zone two, as  
20 designated by the United States Geological  
21 Survey; or



1           (G) Within the special management area, as defined in  
2           section 205A-22;

3       (3) The proposed subdivision would not require the  
4       demolition or alteration of housing that is subject  
5       to:

6           (A) A recorded covenant, ordinance, or law that  
7           restricts rents to levels affordable to  
8           households of moderate, low, or very low income;  
9           or

10          (B) Any form of rent or price control through an  
11          agency's valid exercise of its police power; and

12       (4) The parcel of record was in existence prior to the  
13       effective date of Act       , Session Laws of Hawaii  
14       2024;

15 provided further that the director of the county agency  
16 responsible for land use shall adopt rules pursuant to chapter  
17 91 to define the development standards and related  
18 infrastructure conditions to receive application approval from  
19 the respective director, including prohibitions if the parcel is  
20 located in the special management area, as defined in section  
21 205A-22."



1 PART IV

2 SECTION 5. Section 46-143, Hawaii Revised Statutes, is  
3 amended by amending subsection (d) to read as follows:

4 "(d) An impact fee shall be substantially related to the  
5 needs arising from the development and shall not exceed a  
6 proportionate share of the costs incurred or to be incurred in  
7 accommodating the development. The following [~~seven~~] factors  
8 shall be considered in determining a proportionate share of  
9 public facility capital improvement costs:

10 (1) The level of public facility capital improvements  
11 required to appropriately serve a development, based  
12 on a needs assessment study that identifies:

- 13 (A) Deficiencies in existing public facilities;
- 14 (B) The means, other than impact fees, by which  
15 existing deficiencies will be eliminated within a  
16 reasonable period of time; and
- 17 (C) Additional demands anticipated to be placed on  
18 specified public facilities by a development;

19 (2) The availability of other funding for public facility  
20 capital improvements, including but not limited to



- 1 user charges, taxes, bonds, intergovernmental  
2 transfers, and special taxation or assessments;
- 3 (3) The cost of existing public facility capital  
4 improvements;
- 5 (4) The methods by which existing public facility capital  
6 improvements were financed;
- 7 (5) The extent to which a developer required to pay impact  
8 fees has contributed in the previous five years to the  
9 cost of existing public facility capital improvements  
10 and received no reasonable benefit therefrom, and any  
11 credits that may be due to a development because of  
12 such contributions;
- 13 (6) The extent to which a developer required to pay impact  
14 fees over the next twenty years may reasonably be  
15 anticipated to contribute to the cost of existing  
16 public facility capital improvements through user  
17 fees, debt service payments, or other payments, and  
18 any credits that may accrue to a development because  
19 of future payments; ~~and~~
- 20 (7) The extent to which a developer is required to pay  
21 impact fees as a condition precedent to the





1 development of non-site related public facility  
2 capital improvements, and any offsets payable to a  
3 developer because of this provision[+]; and

4 (8) The square footage of the development; provided that:

5 (A) In cases where the developer is converting an  
6 existing structure, the square footage of the  
7 existing structure shall be deducted from the  
8 total square footage of the development when  
9 calculating impact fees; and

10 (B) In cases where the public facility impacted is a  
11 water or sewage facility, the appropriate board  
12 of water supply may choose to calculate impact  
13 fees based on the total number of fixtures in the  
14 development, rather than by square footage."

15 PART V

16 SECTION 6. This Act does not affect rights and duties that  
17 matured, penalties that were incurred, and proceedings that were  
18 begun before its effective date.

19 SECTION 7. Statutory material to be repealed is bracketed  
20 and stricken. New statutory material is underscored.

21 SECTION 8. This Act shall take effect on January 1, 2026.



S.B. NO. 3202

1

INTRODUCED BY:

A handwritten signature in black ink, consisting of stylized, overlapping letters, is written over a horizontal line.



# S.B. NO. 3262

**Report Title:**

Counties; Zoning; Urban District; Subdivision; Residential Lots; Approval; Impact Fees Assessment; Calculation

**Description:**

Part II: Prohibits county zoning ordinances from not allowing four or more residential units per residential lot within an urban district. Requires the counties to allow for attached and detached additional units or accessory dwelling units but authorizes the counties to impose certain restrictions. Part III: Provides that a parcel zoned for residential use that is in the state urban land use district shall not be prohibited from being subdivided, consolidated, or resubdivided under certain conditions. Part IV: Requires the counties to consider the square footage of a development when determining the development's proportionate share of public facility capital improvement costs. Permits the appropriate board of water supply to calculate impact fees based on total number of fixtures when the public facility impacted is a water or sewage facility. Effective 1/1/2026.

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

