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# A BILL FOR AN ACT

RELATING TO HOUSING.

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

1           SECTION 1. Act 39, Session Laws of Hawaii 2024, enacted  
2 section 46-4.8, Hawaii Revised Statutes, and mandated that the  
3 counties adopt or amend an ordinance to allow at least two  
4 additional accessory dwelling units, commonly known as ADUs, on  
5 residential-zoned lots across the State. The legislature finds  
6 that the new statewide mandate would make residential  
7 neighborhoods overly dense and impede the counties' ability to  
8 take a thoughtful, island-by-island approach to affordable  
9 housing.

10           The legislature further finds that, rather than the  
11 aggressive mandate, financial incentives for the construction of  
12 low-cost accessory dwelling units would provide a better remedy  
13 for Hawaii's extensive housing supply shortage. Incentivizing  
14 the construction of low-cost accessory dwelling units is a  
15 greatly underutilized solution to spur affordable housing  
16 development.

17           The purpose of this Act is to:



1           (1) Repeal statutory requirements imposed on the counties  
 2           to allow for the construction of at least two  
 3           accessory dwellings on all residentially zoned lots;  
 4           and

5           (2) Establish a program to encourage the construction of  
 6           accessory dwelling units by providing a subsidy for  
 7           the construction costs plus a general excise tax  
 8           exemption for the first three years of renting the  
 9           accessory dwelling unit.

10           SECTION 2. Section 46-4.8, Hawaii Revised Statutes, is  
 11 repealed.

12           ~~["§46-4.8] Accessory dwelling units on residentially~~  
 13 ~~zoned lots. (a) Each county shall adopt or amend accessory~~  
 14 ~~dwelling unit ordinances pursuant to this section to help~~  
 15 ~~address deficits in their housing inventory based on Hawaii~~  
 16 ~~housing planning studies published by the Hawaii housing finance~~  
 17 ~~and development corporation.~~

18           ~~(b) Except as provided in subsections (c) and (d), each~~  
 19 ~~county shall adopt or amend ordinances defining reasonable~~  
 20 ~~standards that allow for the construction of at least two~~



1 ~~accessory dwelling units, or the reasonable equivalent, for~~  
2 ~~residential use on all residentially zoned lots.~~

3 ~~(c) A county that does not adopt or amend an ordinance~~  
4 ~~pursuant to subsection (b) shall adopt or amend ordinances~~  
5 ~~pursuant to this subsection and subsection (d), if applicable,~~  
6 ~~defining:~~

7 ~~(1) Districts that authorize at least two accessory~~  
8 ~~dwelling units, or the reasonable equivalent, for~~  
9 ~~residential use per each permitted existing single-~~  
10 ~~family dwelling on a residentially zoned lot; provided~~  
11 ~~that these districts shall be:~~

12 ~~(A) Consistent with the county's comprehensive~~  
13 ~~general plan;~~

14 ~~(B) Reasonably distributed throughout the county's~~  
15 ~~various regional planning areas; and~~

16 ~~(C) Estimated to add development potential equivalent~~  
17 ~~to half of the county's projected five-year~~  
18 ~~demand of needed housing units for ownership or~~  
19 ~~rental as stated in the 2019 Hawaii housing~~  
20 ~~planning study; and~~



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1       ~~(2) Districts that authorize at least two accessory~~  
2       ~~dwelling units or the reasonable equivalent for~~  
3       ~~residential use per each permitted existing single-~~  
4       ~~family dwelling on a residentially zoned lot within a~~  
5       ~~reasonable walking distance to and from:~~

6       ~~(A) Stations of a locally preferred alternative for a~~  
7       ~~mass transit project; and~~

8       ~~(B) Urban principal arterials as classified by the~~  
9       ~~Federal Highway Administration for purposes of~~  
10       ~~federal-aid highways projects and situated within~~  
11       ~~a primary urban area, urban core, or county~~  
12       ~~equivalent identified by a county comprehensive~~  
13       ~~general plan.~~

14       ~~(d) In addition to the requirements under subsection (c),~~  
15       ~~a county with a population of five hundred thousand or more~~  
16       ~~shall adopt or amend an ordinance defining reasonable standards~~  
17       ~~to add development potential in existing apartment districts or~~  
18       ~~apartment mixed-use districts equivalent to the county's~~  
19       ~~projected five-year demand of needed housing units for ownership~~  
20       ~~or rental in the 2019 Hawaii housing planning study.~~



1       ~~(e) Accessory dwelling units developed pursuant to this~~  
2 ~~section shall be subject to all development standards adopted by~~  
3 ~~the respective county, including but not limited to those~~  
4 ~~adopted pursuant to this chapter.~~

5       ~~(f) Nothing in this section shall preclude a county from~~  
6 ~~denying applications for permits if there is insufficient~~  
7 ~~utility infrastructure to service the additional demand caused~~  
8 ~~by the development of accessory dwelling units pursuant to this~~  
9 ~~section.~~

10       ~~(g) If a county does not adopt or amend zoning ordinances~~  
11 ~~pursuant to this section by December 31, 2026, the county shall~~  
12 ~~not deny any permit application on the basis of exceeding the~~  
13 ~~maximum number of housing units allowed if any owner, or their~~  
14 ~~designated representative, of a single-family dwelling in a~~  
15 ~~residentially zoned lot applies for construction of up to two~~  
16 ~~accessory dwelling units, or the reasonable equivalent, until~~  
17 ~~the county adopts or amends an ordinance pursuant to this~~  
18 ~~section; provided that a county may deny a permit application on~~  
19 ~~the basis of infrastructure, design, or development standards.~~



1       ~~(h) No county shall adopt prohibitions on using any~~  
2 ~~dwelling unit on a residentially zoned lot as separately leased~~  
3 ~~long-term rentals, as defined by each county.~~

4       ~~(i) This section shall not apply to:~~

5       ~~(1) Any area outside of the urban district established by~~  
6       ~~chapter 205;~~

7       ~~(2) County powers within special management areas~~  
8       ~~delineated pursuant to chapter 205A; and~~

9       ~~(3) Any area within an urban district that a county deems~~  
10       ~~to be at high risk of a natural hazard such as~~  
11       ~~flooding, lava, or fire, as determined by the most~~  
12       ~~current data and maps issued by a federal or state~~  
13       ~~department or agency.~~

14       ~~(j) Neither this section, any permit issued in accordance~~  
15 ~~with this section, or structures developed pursuant to this~~  
16 ~~section shall create any vested rights for any applicant, permit~~  
17 ~~holder, or land owner. This section shall not preempt a~~  
18 ~~county's ability to accept, review, approve, and deny permit~~  
19 ~~applications.~~

20       ~~(k) For purposes of this section, "residentially zoned~~  
21 ~~lot" means a zoning lot in a county zoning district that is~~



1 principally reserved for single-family and two-family detached  
2 dwellings. "Residentially zoned lot" does not include a lot in  
3 a county zoning district that is intended for rural, low density  
4 residential development, and open space preservation."]

5 SECTION 3. Section 205-20, Hawaii Revised Statutes, is  
6 amended to read as follows:

7 "[§205-20] **Private covenants; residentially zoned lots;**  
8 **urban district.** (a) No private covenant for a residentially  
9 zoned lot within an urban district recorded after May 28, 2024,  
10 shall limit the[+

11 ~~(1) Number of accessory dwelling units on that~~  
12 ~~residentially zoned lot below the amount allowed~~  
13 ~~pursuant to section 46-4.8; or~~

14 ~~(2) Long-term] long-term rental of residential units on~~  
15 ~~that residentially zoned lot.~~

16 (b) This section shall not apply to any private covenants  
17 recorded before May 28, 2024.

18 (c) For purposes of this section, "residentially zoned  
19 lot" means a zoning lot in a county zoning district that is  
20 principally reserved for single-family and two-family detached  
21 dwellings. "Residentially zoned lot" does not include a lot in



1 a county zoning district that is intended for rural, low density  
2 residential development, and open space preservation."

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

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

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



1 land consonant with good zoning practices. The zoning power  
2 granted in this section shall be exercised by ordinance, which  
3 may relate to:

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



- 1       (10) The percentage of a lot that may be occupied, size of
- 2               yards, courts, and other open spaces;
- 3       (11) Minimum and maximum lot sizes;
- 4       (12) The time, place, manner, and duration in which uses of
- 5               land and structures may take place; and
- 6       (13) Other regulations the boards or council of any county
- 7               find necessary and proper to permit and encourage the
- 8               orderly development of land resources within their
- 9               jurisdictions.

10       The council of any county shall prescribe rules,

11 regulations, and administrative procedures and provide personnel

12 it finds necessary to enforce this section and any ordinance

13 enacted in accordance with this section. The ordinances may be

14 enforced by appropriate fines and penalties, civil or criminal,

15 or by court order at the suit of the county or the owner or

16 owners of real estate directly affected by the ordinances.

17       Any civil fine or penalty provided by ordinance under this

18 section may be imposed by the district court, or by the zoning

19 agency after an opportunity for a hearing pursuant to chapter

20 91. The proceeding shall not be a prerequisite for any

21 injunctive relief ordered by the circuit court.



1           Nothing in this section shall invalidate any zoning  
2 ordinance or regulation adopted by any county or other agency of  
3 government pursuant to the statutes in effect before July 1,  
4 1957.

5           The powers granted in this section shall be liberally  
6 construed in favor of the county exercising them, and in a  
7 manner that promotes the orderly development of each county or  
8 city and county in accordance with a long-range, comprehensive  
9 general plan to ensure the greatest benefit for the State as a  
10 whole. This section shall not be construed to limit or repeal  
11 any powers of any county to achieve these ends through zoning  
12 and building regulations, except insofar as forest and water  
13 reserve zones are concerned and as provided in subsections (c),  
14 (d), and (g) [~~and section 46-4.8~~].

15           Neither this section nor any ordinance enacted pursuant to  
16 this section shall prohibit the continued lawful use of any  
17 building or premises for any trade, industrial, residential,  
18 agricultural, or other purpose for which the building or  
19 premises is used at the time this section or the ordinance takes  
20 effect; provided that a zoning ordinance may provide for  
21 elimination of nonconforming uses as the uses are discontinued,



1 or for the amortization or phasing out of nonconforming uses or  
2 signs over a reasonable period of time in commercial,  
3 industrial, resort, and apartment zoned areas only. In no event  
4 shall the amortization or phasing out of nonconforming uses  
5 apply to any existing building or premises used for residential  
6 (single-family or duplex) or agricultural uses; provided that  
7 uses that include the furnishing or offering of transient  
8 accommodations shall not be considered residential or  
9 agricultural uses and may be phased out or amortized in any  
10 zoning district by county zoning regulations; provided further  
11 that a zoning ordinance may provide that transient  
12 accommodations may be furnished to a transient for a period of  
13 less than one hundred eighty consecutive days. Nothing in this  
14 section shall affect or impair the powers and duties of the  
15 director of transportation as set forth in chapter 262.

16 For purposes of this subsection, "transient accommodations"  
17 has the same meaning as defined in section 237D-1. "Transient  
18 accommodations" includes uses that require the payment of  
19 transient accommodations taxes.

20 (b) Any final order of a zoning agency established under  
21 this section may be appealed to the circuit court of the circuit



1 in which the land in question is found. The appeal shall be in  
2 accordance with the Hawaii rules of civil procedure.

3 (c) [~~Except as provided in section 46-4.8, each~~] Each  
4 county may adopt reasonable standards to allow the construction  
5 of two single-family dwelling units on any lot where a  
6 residential dwelling unit is permitted.

7 (d) Neither this section nor any other law, county  
8 ordinance, or rule shall prohibit group living in facilities  
9 with eight or fewer residents for purposes or functions that are  
10 licensed, certified, registered, or monitored by the State;  
11 provided that a resident manager or a resident supervisor and  
12 the resident manager's or resident supervisor's family shall not  
13 be included in this resident count. These group living  
14 facilities shall meet all applicable county requirements not  
15 inconsistent with the intent of this subsection, including but  
16 not limited to building height, setback, maximum lot coverage,  
17 parking, and floor area requirements.

18 (e) Neither this section nor any other law, county  
19 ordinance, or rule shall prohibit the use of land for employee  
20 housing and community buildings in plantation community  
21 subdivisions as defined in section 205-4.5(a)(12); in addition,



1 no zoning ordinance shall provide for the elimination,  
2 amortization, or phasing out of plantation community  
3 subdivisions as a nonconforming use.

4 (f) Neither this section nor any other law, county  
5 ordinance, or rule shall prohibit the use of land for medical  
6 cannabis production centers or medical cannabis dispensaries  
7 established and licensed pursuant to chapter 329D; provided that  
8 the land is otherwise zoned for agriculture, manufacturing, or  
9 retail purposes.

10 (g) Notwithstanding any other law, county charter, county  
11 ordinance, or rule, any administrative authority to accept,  
12 reject, and approve or deny any application for subdivision,  
13 consolidation, or resubdivision of a parcel of land that has  
14 been fully zoned for residential use within the state urban  
15 district designated pursuant to section 205-2 shall be vested  
16 with the director of the county agency responsible for land use  
17 or a single county officer designated by ordinance; provided  
18 that:

19 (1) The parcel of land being subdivided is not located on  
20 a site that is:



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- 1 (A) Designated as important agricultural land
- 2 pursuant to part III of chapter 205;
- 3 (B) On wetlands, as defined in the United States Fish
- 4 and Wildlife Service Manual, Part 660 FW2;
- 5 (C) Within a floodplain as determined by maps adopted
- 6 by the Federal Emergency Management Agency;
- 7 (D) A habitat for protected or endangered species;
- 8 (E) Within a state historic district:
  - 9 (i) Listed on the Hawaii register of historic
  - 10 places or national register of historic
  - 11 places;
  - 12 (ii) Listed as a historic property on the Hawaii
  - 13 register of historic places or the national
  - 14 register of historic places; or
  - 15 (iii) During the period after a nomination for
  - 16 listing on the Hawaii register of historic
  - 17 places or national register of historic
  - 18 places is submitted to the department of
  - 19 land and natural resources' state historic
  - 20 preservation division and before the Hawaii



1 historic places review board has rendered a  
2 decision; or

3 (F) Within lava zone 1 or lava zone 2, as designated  
4 by the United States Geological Survey;

5 (2) Any approval under this subsection shall be consistent  
6 with all county zoning, development standards, and  
7 requirements pursuant to part II of chapter 205A; and

8 (3) This subsection shall not apply to county powers  
9 within special management areas delineated pursuant to  
10 part II of chapter 205A.

11 Neither this subsection, any permit issued in accordance  
12 with this subsection, or structures developed pursuant to this  
13 subsection shall create any vested rights for any applicant,  
14 permit holder, or land owner."

15 SECTION 5. Chapter 206E, Hawaii Revised Statutes, is  
16 amended by adding a new part to be appropriately designated and  
17 to read as follows:

18 **"PART . ACCESSORY DWELLING UNIT HOUSING DEVELOPMENT PROGRAM**  
19 **206E-A Accessory dwelling unit housing development**

20 **program.** (a) There is established the accessory dwelling unit  
21 housing development program to provide matching funds to promote



1 the construction of accessory dwelling units throughout the  
2 State.

3 (b) Notwithstanding any other law to the contrary, the  
4 authority shall promote and administer the accessory dwelling  
5 unit housing development program.

6 (c) The authority shall adopt rules without regard to  
7 chapter 91 to implement the accessory dwelling unit housing  
8 development program; provided that pursuant to the rules, the  
9 program shall award:

10 (1) Matching funds for homeowners who construct or  
11 contract to construct an accessory dwelling unit in  
12 conformity with applicable county accessory dwelling  
13 unit requirements; and

14 (2) Matching funds on a one-to-one basis, up to a maximum  
15 of \$ per accessory dwelling unit.

16 **§206E-B Accessory dwelling unit housing development**

17 **program special fund.** (a) There shall be established the  
18 accessory dwelling unit housing development special fund into  
19 which shall be deposited:

20 (1) Appropriations made by the legislature to the fund;

21 (2) All contributions from public or private partners;



1 (3) All interest earned on or accrued to moneys deposited  
2 in the special fund; and

3 (4) Any other moneys made available to the special fund  
4 from other sources.

5 (b) Moneys in the fund shall be expended by the authority  
6 to award matching funds for the accessory dwelling unit housing  
7 development program."

8 SECTION 6. Chapter 237, Hawaii Revised Statutes, is  
9 amended by adding a new section to be appropriately designated  
10 and to read as follows:

11 "§237- Accessory dwelling unit exemption. (a)  
12 Notwithstanding any law to the contrary, taxes under this  
13 chapter shall not be due on income generated by rental sales of  
14 any accessory dwelling unit funded pursuant to section 206E-A  
15 for the first three years that the accessory dwelling unit is  
16 rented by the owner of the accessory dwelling unit; provided  
17 that:

18 (1) This section shall not apply more than four years  
19 after the construction of the accessory dwelling unit;  
20 and



1       (2) The tax liability savings generated by this section  
 2       shall be passed on by the owner of the accessory  
 3       dwelling unit to the renter without any increase in  
 4       rent price.

5       (b) The owner of the accessory dwelling unit shall not be  
 6       required to obtain a special license, a permit, or other  
 7       documentation of sales during the exemption period; provided  
 8       that the owner's records shall clearly identify the address of  
 9       the accessory dwelling unit, the date the construction is  
 10       completed, the dates of rents owed and paid, and the amount of  
 11       taxes exempted by this section."

12       SECTION 7. There is appropriated out of the general  
 13 revenues of the State of Hawaii the sum of \$                    or so much  
 14 thereof as may be necessary for fiscal year 2025-2026 and the  
 15 same sum or so much thereof as may be necessary for fiscal year  
 16 2026-2027 for deposit into the accessory dwelling unit special  
 17 fund.

18       SECTION 8. There is appropriated out of the general  
 19 revenues of the State of Hawaii the sum of \$                    or so much  
 20 thereof as may be necessary for fiscal year 2025-2026 and the  
 21 same sum or so much thereof as may be necessary for fiscal year



1 2026-2027 to provide matching funds for the accessory dwelling  
2 unit housing development program.

3 The sums appropriated shall be expended by the Hawaii  
4 community development authority for the purposes of this Act.

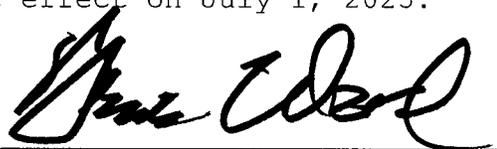
5 SECTION 9. In codifying the new sections added by sections  
6 5 and 6 of this Act, the revisor of statutes shall substitute  
7 appropriate section numbers for the letters used in designating  
8 the new sections in this Act.

9 SECTION 10. Statutory material to be repealed is bracketed  
10 and stricken. New statutory material is underscored.

11 SECTION 11. This Act shall take effect on July 1, 2025.

12

INTRODUCED BY:



JAN 17 2025



# H.B. NO. 516

**Report Title:**

Housing; Counties; Accessory Dwelling Unit; HCDA; Appropriation

**Description:**

Repeals the requirement imposed on the counties to allow for the construction of at least two accessory dwelling units on all residentially zoned lots. Establishes the accessory dwelling unit housing development program with the Hawaii Community Development Authority to award subsidies to individuals who build accessory dwelling units. Exempts those accessory dwelling units from general excise tax for the first 3 years of rental.

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

