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## A BILL FOR AN ACT

RELATING TO URBAN DEVELOPMENT.

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

1           SECTION 1. Section 46-4, Hawaii Revised Statutes, is  
2 amended by amending subsection (g) to read as follows:

3           "(g) Notwithstanding any other law, county charter, county  
4 ordinance, or rule, for a county with a population of less than  
5 five hundred thousand, any administrative authority to accept,  
6 reject, and approve or deny any application for subdivision,  
7 consolidation, or resubdivision of a parcel of land that has  
8 been fully zoned for residential use within the state urban  
9 district designated pursuant to section 205-2 shall be vested  
10 with the director of the county agency responsible for land use  
11 or a single county officer designated by ordinance; provided  
12 that:

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

15           (A) Designated as important agricultural land  
16 pursuant to part III of chapter 205;



# H.B. NO. 541

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



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

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

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

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

13 SECTION 2. Section 46-4.8, Hawaii Revised Statutes, is  
14 amended to read as follows:

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



1 (b) Except as provided in [~~subsections~~] subsection (c)  
2 [~~and (d)~~], each county shall adopt or amend ordinances defining  
3 reasonable standards that allow for the construction of at least  
4 two accessory dwelling units, or the reasonable equivalent, for  
5 residential use on all residentially zoned lots.

6 (c) A county that does not adopt or amend an ordinance  
7 pursuant to subsection (b) shall adopt or amend ordinances  
8 pursuant to this subsection [~~and subsection (d), if applicable,~~]  
9 defining:

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

15 (A) Consistent with the county's comprehensive  
16 general plan;

17 (B) Reasonably distributed throughout the county's  
18 various regional planning areas; and

19 (C) Estimated to add development potential equivalent  
20 to half of the county's projected five-year  
21 demand of needed housing units for ownership or



1 rental as stated in the 2019 Hawaii housing  
2 planning study; and

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

8 (A) Stations of a locally preferred alternative for a  
9 mass transit project; and

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

16 ~~[(d) In addition to the requirements under subsection (c),~~  
17 ~~a county with a population of five hundred thousand or more~~  
18 ~~shall adopt or amend an ordinance defining reasonable standards~~  
19 ~~to add development potential in existing apartment districts or~~  
20 ~~apartment mixed-use districts equivalent to the county's~~



1 ~~projected five-year demand of needed housing units for ownership~~  
2 ~~or rental in the 2019 Hawaii housing planning study.~~

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

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

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



1 permit application on the basis of infrastructure, design, or  
2 development standards.

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

6 ~~[(i)]~~ (h) This section shall not apply to:

7 (1) Any area outside of the urban district established by  
8 chapter 205;

9 (2) County powers within special management areas  
10 delineated pursuant to chapter 205A; and

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

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



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2        [~~(k)~~] (j) For purposes of this section [~~,"residentially"]:~~

3        "County" means a county of the State with a population of  
4 less than five hundred thousand.

5        "Residentially zoned lot" means a zoning lot in a county  
6 zoning district that is principally reserved for single-family  
7 and two-family detached dwellings. "Residentially zoned lot"  
8 does not include a lot in a county zoning district that is  
9 intended for rural, low density residential development, and  
10 open space preservation."

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

13        "(d) An impact fee shall be substantially related to the  
14 needs arising from the development and shall not exceed a  
15 proportionate share of the costs incurred or to be incurred in  
16 accommodating the development. The following factors, as  
17 applicable, shall be considered in determining a proportionate  
18 share of public facility capital improvement costs:

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



- 1 (A) Deficiencies in existing public facilities;
- 2 (B) The means, other than impact fees, by which
- 3 existing deficiencies will be eliminated within a
- 4 reasonable period of time; and
- 5 (C) Additional demands anticipated to be placed on
- 6 specified public facilities by a development;
- 7 (2) The availability of other funding for public facility
- 8 capital improvements, including but not limited to
- 9 user charges, taxes, bonds, intergovernmental
- 10 transfers, and special taxation or assessments;
- 11 (3) The cost of existing public facility capital
- 12 improvements;
- 13 (4) The methods by which existing public facility capital
- 14 improvements were financed;
- 15 (5) The extent to which a developer required to pay impact
- 16 fees has contributed in the previous five years to the
- 17 cost of existing public facility capital improvements
- 18 and received no reasonable benefit therefrom, and any
- 19 credits that may be due to a development because of
- 20 the contributions;



1           (6) The extent to which a developer required to pay impact  
2           fees over the next twenty years may reasonably be  
3           anticipated to contribute to the cost of existing  
4           public facility capital improvements through user  
5           fees, debt service payments, or other payments, and  
6           any credits that may accrue to a development because  
7           of future payments;

8           (7) The extent to which a developer is required to pay  
9           impact fees as a condition precedent to the  
10          development of non-site related public facility  
11          capital improvements, and any offsets payable to a  
12          developer because of this provision; and

13          (8) [~~The~~] For a county with a population of less than five  
14          hundred thousand, the square footage of the  
15          development; provided that:

16                (A) In cases where the developer is converting an  
17                existing structure, the square footage of the  
18                existing structure shall be deducted from the  
19                total square footage of the development when  
20                calculating impact fees; and



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

6 SECTION 4. Section 205-20, Hawaii Revised Statutes, is  
7 amended by amending subsection (a) to read as follows:

8 "(a) No private covenant for a residentially zoned lot  
9 within an urban district in a county with a population less than  
10 five hundred thousand recorded after May 28, 2024, shall limit  
11 the:

- 12 (1) Number of accessory dwelling units on that  
13 residentially zoned lot below the amount allowed  
14 pursuant to section 46-4.8; or  
15 (2) Long-term rental of residential units on that  
16 residentially zoned lot."

17 SECTION 5. Statutory material to be repealed is bracketed  
18 and stricken. New statutory material is underscored.

19 SECTION 6. This Act shall take effect upon its approval.



# H.B. NO. 541

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INTRODUCED BY:

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JAN 17 2025



# H.B. NO. 541

**Report Title:**

Counties; Zoning; Land Use; Subdivision; Consolidation; Resubdivision; Accessory Dwelling Units; Residentially Zoned Lots; Impact Fees Assessment; Private Covenants; Urban District

**Description:**

Makes certain urban development and land use requirements applicable only to counties with a population of less than five hundred thousand, including: vesting the director of the county land use agency with the administrative authority to act on any application for subdivision, consolidation, or resubdivision; the required adoption or amendment of an ordinance to allow at least two accessory dwelling units, subject to certain conditions, on all residentially zoned lots; the calculation of certain school impact fees; and a prohibition on private covenants that include certain limitations or restrictions for residentially zoned lots within an urban district.

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

