

JAN 17 2025

A BILL FOR AN ACT

RELATING TO THE LAND USE COMMISSION.

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

1 SECTION 1. Section 205-4, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§205-4 Amendments to district boundaries involving land**
4 **areas greater than fifteen acres.** (a) Any department or agency
5 of the State, any department or agency of the county in which
6 the land is situated, or any person with a property interest in
7 the land sought to be reclassified, may petition the land use
8 commission for a change in the boundary of a district. This
9 section applies to all petitions for changes in district
10 boundaries of lands within conservation districts, lands
11 designated or sought to be designated as important agricultural
12 lands, and lands greater than fifteen acres in the agricultural,
13 rural, and urban districts, except as provided in section
14 201H-38. The land use commission shall adopt rules pursuant to
15 chapter 91 to implement section 201H-38.

16 (b) District boundary amendments involving land areas
17 greater than fifteen acres, except as provided in subsection



1 (a), shall be determined by the appropriate county land use
2 decision-making authority for the district and shall not require
3 consideration by the land use commission; provided that the
4 amendments conform to the county's adopted general plan or the
5 county's adopted development plan; provided further that the
6 boundary amendments and approved uses are consistent with this
7 chapter. The appropriate county land use decision-making
8 authority may consolidate proceedings to amend state land use
9 district boundaries pursuant to this subsection, with county
10 proceedings to amend the general plan, development plan, zoning
11 of the affected land, or other similar proceedings. The county
12 land use decision-making authority may adopt appropriate
13 ordinances and rules to allow consolidation of these
14 proceedings.

15 ~~[(b)]~~ (c) Upon proper filing of a petition pursuant to
16 subsection (a) the commission shall, within not less than sixty
17 and not more than one hundred and eighty days, conduct a hearing
18 on the appropriate island in accordance with the provisions of
19 sections 91-9, 91-10, 91-11, 91-12, and 91-13, as applicable.

20 ~~[(e)]~~ (d) Any other provision of law to the contrary
21 notwithstanding, notice of the hearing together with a copy of



1 the petition shall be served on the county planning commission
2 and the county planning department of the county in which the
3 land is located and all persons with a property interest in the
4 land as recorded in the county's real property tax records. In
5 addition, notice of the hearing shall be mailed to all persons
6 who have made a timely written request for advance notice of
7 boundary amendment proceedings, and public notice shall be given
8 at least once in the county in which the land sought to be
9 redistricted is situated as well as once statewide at least
10 thirty days in advance of the hearing. The notice shall comply
11 with section 91-9, shall indicate the time and place that maps
12 showing the proposed district boundary may be inspected, and
13 further shall inform all interested persons of their rights
14 under subsection [~~(e)~~] (f).

15 [~~(d)~~] (e) Any other provisions of law to the contrary
16 notwithstanding, prior to hearing of a petition the commission
17 and its staff may view and inspect any land which is the subject
18 of the petition.

19 [~~(e)~~] (f) Any other provisions of law to the contrary
20 notwithstanding, agencies and persons may intervene in the
21 proceedings in accordance with this subsection.



- 1 (1) The petitioner, the office of planning and sustainable
2 development, and the county planning department shall
3 in every case appear as parties and make
4 recommendations relative to the proposed boundary
5 change;
- 6 (2) All departments and agencies of the State and of the
7 county in which the land is situated shall be admitted
8 as parties upon timely application for intervention;
- 9 (3) All persons who have some property interest in the
10 land, who lawfully reside on the land, or who
11 otherwise can demonstrate that they will be so
12 directly and immediately affected by the proposed
13 change that their interest in the proceeding is
14 clearly distinguishable from that of the general
15 public shall be admitted as parties upon timely
16 application for intervention;
- 17 (4) All other persons may apply to the commission for
18 leave to intervene as parties. Leave to intervene
19 shall be freely granted; provided that the commission
20 or its hearing officer, if one is appointed, may deny



1 an application to intervene when in the commission's
2 or hearing officer's sound discretion it appears that:

3 (A) The position of the applicant for intervention
4 concerning the proposed change is substantially
5 the same as the position of a party already
6 admitted to the proceeding; and

7 (B) The admission of additional parties will render
8 the proceedings inefficient and unmanageable.

9 A person whose application to intervene is denied may
10 appeal the denial to the circuit court pursuant to
11 section 91-14; and

12 (5) The commission, pursuant to chapter 91, shall adopt
13 rules governing the intervention of agencies and
14 persons under this subsection. The rules shall
15 without limitation establish:

16 (A) The information to be set forth in any
17 application for intervention;

18 (B) The limits within which applications shall be
19 filed; and

20 (C) Reasonable filing fees to accompany applications.



1 [~~(f)~~] (g) Together with other witnesses that the
2 commission may desire to hear at the hearing, it shall allow a
3 representative of a citizen or a community group to testify who
4 indicates a desire to express the view of [~~such~~] the citizen or
5 community group concerning the proposed boundary change.

6 [~~(g)~~] (h) Within a period of not more than three hundred
7 sixty-five days after the proper filing of a petition, unless
8 otherwise ordered by a court, or unless a time extension, which
9 shall not exceed ninety days, is established by a two-thirds
10 vote of the members of the commission, the commission, by filing
11 findings of fact and conclusions of law, shall act to approve
12 the petition, deny the petition, or to modify the petition by
13 imposing conditions necessary to uphold the intent and spirit of
14 this chapter or the policies and criteria established pursuant
15 to section 205-17 or to assure substantial compliance with
16 representations made by the petitioner in seeking a boundary
17 change. The commission may provide by condition that absent
18 substantial commencement of use of the land in accordance with
19 [~~such~~] the representations, the commission shall issue and serve
20 upon the party bound by the condition an order to show cause why
21 the property should not revert to its former land use



1 classification or be changed to a more appropriate
2 classification. [~~Such~~] The conditions, if any, shall run with
3 the land and be recorded in the bureau of conveyances.

4 [~~(h)~~] (i) No amendment of a land use district boundary
5 shall be approved unless the commission finds upon the clear
6 preponderance of the evidence that the proposed boundary is
7 reasonable, not violative of section 205-2 and part III of this
8 chapter, and consistent with the policies and criteria
9 established pursuant to sections 205-16 and 205-17. Six
10 affirmative votes of the commission shall be necessary for any
11 boundary amendment under this section.

12 [~~(i)~~] (j) Parties to proceedings to amend land use
13 district boundaries may obtain judicial review thereof in the
14 manner set forth in section 91-14, provided that the court may
15 also reverse or modify a finding of the commission if [~~such~~] the
16 finding appears to be contrary to the clear preponderance of the
17 evidence.

18 [~~(j)~~] (k) At the hearing, all parties may enter into
19 appropriate stipulations as to findings of fact, conclusions of
20 law, and conditions of reclassification concerning the proposed



1 boundary change. The commission may but shall not be required
2 to approve [~~such~~] stipulations based on the evidence adduced."

3 SECTION 2. The land use commission is requested to:

4 (1) Update the digital state land use district maps; and

5 (2) Encourage transit-oriented development that preserves
6 the character of the State's rural areas.

7 SECTION 3. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9 SECTION 4. This Act shall take effect upon its approval.

10

INTRODUCED BY:





S.B. NO. 1157

Report Title:

LUC; Counties; State Land Use District; Boundary Amendments;
Transit-Oriented Development

Description:

Allows the counties to amend district boundaries involving land areas greater than fifteen acres without appearing before the Land Use Commission if the affected lands are included in the County General Plan or County Development Plan. Requests the LUC to update the digital state land use district maps and to encourage transit-oriented development that preserves the character of the State's rural areas.

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