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# A BILL FOR AN ACT

RELATING TO ZONING.

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

1           SECTION 1. The legislature finds that minimum lot sizes  
2 and other requirements or specifications in urban areas  
3 contribute to higher housing costs by restricting the number and  
4 diversity of homes that can be built. The legislature further  
5 finds that many landowners and developers are already responding  
6 to market demand for smaller homes and lots by using the  
7 condominium property regime (CPR) process to create units with  
8 limited common elements in the one thousand two hundred square  
9 foot range. This use of condominium property regimes to "CPR  
10 down" de facto lots demonstrates that there is strong demand for  
11 small homes on small pieces of land and that existing  
12 subdivision standards are being functionally circumvented rather  
13 than serving their intended planning purpose.

14           The legislature also finds that Hawaii has a long history  
15 of modest, walkable neighborhoods built on small lots.  
16 Plantation camps across the islands were commonly made up of  
17 compact cottages in the one thousand two hundred square foot



1 range, on tightly knit streets that housed workers and their  
2 families near jobs and community facilities. In many other  
3 states, attached townhomes and similar entry-level ownership  
4 housing types are frequently built in the one thousand two  
5 hundred square foot range as well, showing that smaller homes on  
6 compact parcels are a normal and effective part of the housing  
7 ladder. These types of homes often function as "starter homes,"  
8 or smaller, more affordable first homes that allow local  
9 families to get a foothold in homeownership, build equity, and  
10 upgrade over time as their needs change.

11 The legislature additionally finds that relying on  
12 condominium property regimes instead of conventional  
13 subdivisions to deliver small-lot housing can create long-term  
14 challenges for homeowners. When multiple dwelling units share  
15 fee ownership of a single parcel under a condominium property  
16 regime, owners are tied together through mandatory associations,  
17 shared maintenance obligations, and joint responsibility for  
18 common infrastructure and insurance. In the current environment  
19 of rapidly increasing property and master policy insurance  
20 premiums and association costs, these shared obligations can  
21 lead to higher and more volatile monthly expenses, special



1 assessments, and even difficulties obtaining or maintaining  
2 mortgage financing if a building is underinsured. By contrast,  
3 allowing properly regulated, small, fee-simple lots to be  
4 created through subdivision would give households clearer, more  
5 traditional ownership interests while still achieving the same  
6 or greater levels of land-use efficiency, helping restore a  
7 pathway to true starter homes in Hawaii.

8 The legislature therefore finds that eliminating certain  
9 minimum lot size and other requirements or specifications within  
10 the State's urban district, while maintaining protections for  
11 areas subject to coastal hazards, flooding, and other  
12 environmental risks, will allow for more efficient use of land,  
13 better align the law with existing market behavior, and support  
14 the State's housing goals.

15 Accordingly, the purpose of this Act is to prohibit  
16 counties from imposing certain lot requirements and dwelling  
17 specifications for lands zoned for residential uses within the  
18 urban district, with certain exemptions.

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



1            "§46-        Lot and dwelling specifications; urban district;  
2 prohibition.   (a) Notwithstanding any law to the contrary, for  
3 purposes of subdivision, development, or the issuance of a  
4 building permit, no county shall, by ordinance, rule, or  
5 regulation, on any parcel of land zoned for residential uses  
6 located within the urban district designated pursuant to section  
7 205-2:

- 8            (1) Require a lot to:
- 9                    (A) Be greater than one thousand two hundred square
  - 10                   feet;
  - 11                   (B) Be wider than thirty feet;
  - 12                   (C) Be deeper than forty feet;
  - 13                   (D) Have a building plane or other setback greater
  - 14                   than:
    - 15                            (i) Ten feet from the front or five feet from
    - 16                            the back of the property; or
    - 17                           (ii) Five feet from the side of the property;
  - 18                   (E) Have covered parking;
  - 19                   (F) Have more than one parking space per unit;
  - 20                   (G) Have off-site parking; or



1           (H) Have more than thirty per cent open space or  
2                           permeable surface; or

3           (2) Prohibit a dwelling from having three stories or less.

4           For the purposes of this subsection, "dwelling" has the  
5 same meaning as in section 46-88.

6           (b) This section shall not apply to:

7           (1) Lands located within special management areas  
8                           delineated pursuant to part II of chapter 205A;

9           (2) Lands located within special flood hazard areas as  
10                           designated on flood maps issued by the National Flood  
11                           Insurance Program of the Federal Emergency Management  
12                           Agency;

13           (3) Lands located within tsunami evacuation zones as  
14                           designated by the counties;

15           (4) Lands subject to other hazard area designations as  
16                           determined by the counties; and

17           (5) Lands located within a shoreline area as defined in  
18                           section 205A-41.

19           (c) A county may establish by ordinance a process by which  
20 a defined neighborhood, subdivision, or other geographically  
21 contiguous area within the urban district may petition the



1 county to establish or retain any requirement or specification  
2 otherwise prohibited pursuant to subsection (a). Any petition  
3 shall:

4 (1) Be initiated and signed by the owners of no less than  
5 seventy-five per cent of parcels within the area;

6 (2) Describe the proposed requirement or specification and  
7 boundaries of the area; and

8 (3) Be subject to notice and public hearing before the  
9 applicable county.

10 A county may impose reasonable limitations on the duration for  
11 which a successful petition is valid, require periodic renewal  
12 by petition, and establish conditions under which a successful  
13 petition may be rescinded.

14 (d) Nothing in this section shall be construed to:

15 (1) Affect requirements related to wastewater systems,  
16 potable water availability, stormwater management, or  
17 other public health and safety standards;

18 (2) Alter or impair the classification of lands pursuant  
19 to section 205-2 or the permissible uses within each  
20 land use district;

21 (3) Prohibit counties from imposing:



- 1           (A) Construction requirements or specifications based
- 2           on fire separation distance. For the purposes of
- 3           this subparagraph, "fire separation distance"
- 4           means the distance measured at a right angle from
- 5           the face of a building's exterior wall to:
- 6           (i) A property line;
- 7           (ii) A centerline of a public street, road, or
- 8           alley; or
- 9           (iii) Another building on the same lot; or
- 10          (B) Wildfire mitigation measures, such as additional
- 11          exterior-fire resistant material requirements,
- 12          ember protection, and defensible space
- 13          requirements; or
- 14          (4) Require counties to approve any subdivision,
- 15          development, or building permit if the applicant
- 16          demonstrates compliance with applicable requirements
- 17          relating to the following or prohibit counties from
- 18          denying or conditionally approving any subdivision,
- 19          development, or building permit unless the applicant
- 20          demonstrates compliance with applicable requirements
- 21          relating to the following:



1           (A) Wastewater systems;  
2           (B) Potable water availability;  
3           (C) Stormwater management; and  
4           (D) Fire and life safety standards, including fire  
5           code requirements, emergency vehicle access,  
6           wildfire mitigation and setback requirements,  
7           ladder or aerial apparatus access requirements,  
8           minimum water supply and fire-flow requirements  
9           for fire suppression, and any other relevant  
10           public health and safety standards;  
11           provided that the requirements in this paragraph shall  
12           not be used to establish a minimum lot size greater  
13           than permitted under this section.  
14           (e) Any ordinance, rule, or county requirement  
15           inconsistent with this section shall be void to the extent of  
16           the inconsistency."

17           SECTION 3. New statutory material is underscored.

18           SECTION 4. This Act shall take effect on July 1, 3000.



**Report Title:**

Counties; Lot Requirements and Dwelling Specifications;  
Prohibition; Residential Uses; Urban District; Counties;  
Petition Process; Exemptions

**Description:**

Prohibits the counties from imposing certain lot requirements and dwelling specifications for parcels of land zoned for residential uses located within the urban district for purposes of subdivision, development, or the issuance of a building permit, with certain exemptions. Allows the counties to establish a petition process for neighborhoods, subdivisions, or other geographically contiguous areas to establish or retain certain requirements or specifications. Effective 7/1/3000.  
(HD1)

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

