

JAN 21 2026

A BILL FOR AN ACT

RELATING TO PROPERTY.

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

1 SECTION 1. The legislature finds that restrictive
2 covenants, sometimes referred to as private covenants, are
3 contractual conditions attached to the deed or title of real
4 property that regulate the use, design, or occupancy of the
5 land. These covenants can "run with the land" if they so
6 provide, meaning that they bind successive owners regardless of
7 personal consent. Restrictive covenants are lawful and
8 enforceable under state law when they are recorded, unambiguous,
9 and not contrary to public policy. The Hawaii Supreme Court has
10 long held that where a deed makes specific reference to a
11 restrictive covenant, the grantee is on notice that their
12 interest is subject to the terms of the restrictive covenant.
13 *Lee V. Puamana Community Ass'n*, 109 Haw. 561, 568 (Hawaii 2006).
14 However, enforcement cannot extend to covenants that violate
15 constitutional statutory protections against discrimination.
16 The legislature further finds that private covenants in the
17 State remain valid and enforceable instruments of land-use



1 control, provided they conform to both state and federal law.
2 The State recognizes these covenants as an essential component
3 of private land governance but retains oversight to ensure that
4 they align with the broader public interest in fairness,
5 equality, and sustainable development.

6 The legislature also finds that currently, individual
7 homeowners must enforce their private covenants if county
8 permitting departments issue building permits that violate
9 certain covenants that create a general plan of development.
10 This results in unnecessary litigation, avoidable legal costs,
11 and an undue burden on homeowners from unreasonable permitting.

12 Accordingly, the purpose of this Act is to prohibit a
13 county from issuing building permits that infringe on certain
14 private or restrictive covenants.

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

18 "**§46- Building permits; prohibition; private covenants;**
19 **restrictive covenants.** No county shall issue a building permit
20 **for a project that violates any existing private covenant or**



1 restrictive covenant that has been registered with the bureau of
2 conveyances or the land court."

3 SECTION 3. New statutory material is underscored.

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

5

INTRODUCED BY:

Stevens



S.B. NO. 2233

Report Title:

Counties; Building Permits; Prohibition; Private Covenants; Restrictive Covenants

Description:

Prohibits a county from issuing a building permit for a project that violates any private covenant or restrictive covenant that has been registered with the Bureau of Conveyances or Land Court.

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

