

JAN 25 2006

A BILL FOR AN ACT

RELATING TO PLANNING.

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

1 SECTION 1. The legislature finds that there is a need to
2 streamline the land use regulatory process to facilitate the
3 development of affordable housing. At present, counties
4 prepare housing plans and the county housing agencies in
5 coordination with the state housing and community development
6 corporation of Hawaii have planned for and identified areas
7 appropriate for affordable housing. The counties also prepare
8 general and development plans which set forth land use policy
9 and future patterns and types of development. There is a need
10 to establish a formal linkage between county housing plans and
11 general and development plans in order to better coordinate
12 housing policy with land use policy and patterns of
13 development.

14 The legislature finds that under the existing land use
15 system, long-range land use policy is in effect decided on a
16 project-by-project basis as cases come before the state land
17 use commission. The quasi-judicial approach currently utilized
18 by the land use commission is time-consuming. There is a need

1 to take a longer range, more comprehensive and planning
2 oriented view. The existing land use process also treats
3 county government-initiated petitions for large regional areas
4 the same as project-by-project developer initiated petitions,
5 notwithstanding that the county petitions are based on county
6 general and development plans prepared with extensive
7 community input.

8 The legislature further finds that there is a need to
9 prioritize investment in infrastructure improvements,
10 including affordable housing, to serve areas identified for
11 community investment in order to achieve cost savings, utilize
12 funds more efficiently, and improve the quality of life of
13 Hawaii's residents.

14 The purpose of this Act is to streamline the land use
15 regulatory process to facilitate the development of affordable
16 housing and to strengthen and coordinate state and county land
17 use planning and infrastructure improvements.

18 This Act establishes a new quasi-legislative process that
19 simplifies the state land use commission's procedures for
20 county government petitions for boundary amendments that are
21 based on adopted county comprehensive plans prepared pursuant
22 to state criteria. District boundary amendments conducted
23 under this process would be quasi-legislative rather than

1 quasi-judicial in nature. This would streamline the state
2 land use approval process and facilitate the development of
3 affordable housing.

4 This Act establishes greater coordination among state and
5 county plans in support of existing communities and areas
6 planned for growth and/or protection of identified community
7 resources to achieve cost savings and efficiency goals, to
8 increase the supply of affordable housing, and to improve the
9 quality of life for Hawaii's communities.

10 SECTION 2. Chapter 205, Hawaii Revised Statutes, is
11 amended by adding two new parts to be appropriately designated
12 and to read as follows:

13 "PART IV. CERTIFICATION OF COUNTY COMPREHENSIVE PLANS

14 **§205-A Review and certification of county comprehensive**
15 **plans.** (a) The land use commission shall review and certify
16 county plans based upon the substantive and procedural
17 requirements set forth in part A of chapter 226. The review
18 and certification of county comprehensive plans shall be
19 conducted in accordance with the provisions of chapter 92.

20 (b) The county planning department shall submit the
21 county plan and supporting documents to the land use
22 commission, and shall notify the office of planning and other
23 state agencies of the submittal to the land use commission.

1 (c) The office of planning shall coordinate and
2 facilitate state agency review of the adopted county plan and
3 its implementation program plan element, and consolidate state
4 agency comments for transmittal to the land use commission.
5 The office shall consult with state agencies and other
6 interested organizations on the status of state issues,
7 concerns, agreements discussed, and potential measures to
8 address concerns that were not addressed or resolved during
9 the joint planning process may consult with the county as to
10 specific state agency concerns. The office may ask the county
11 planning department to brief the office and other state
12 agencies on how the adopted comprehensive plan addresses
13 identified state issues.

14 (d) The office of planning shall provide written
15 comments on state issues and concerns to the land use
16 commission within forty-five days of receipt of the plan from
17 the land use commission, including an update on any report
18 resulting from a dispute resolution process pursuant to
19 section 226-Y. The office of planning shall be a party in
20 land use commission public hearings conducted pursuant to this
21 section.

22 (e) The land use commission shall conduct at least one
23 public hearing on the island or islands, which the county plan

1 pertains to within sixty days of receipt of the county plan.
2 The commission shall provide timely notice to the general
3 public, county agencies, affected landowners, and other
4 individuals and organizations who have requested notice. The
5 public hearings shall be conducted in accordance with chapter
6 92.

7 (f) The land use commission shall act within ninety days
8 of receipt of the plan to certify the plan or return the plan
9 to the county to address issues raised by the commission. Any
10 decision under this section shall require the affirmative vote
11 of two thirds of the members to which the commission is
12 entitled. The land use commission shall notify the county
13 planning department, the office of planning, and other state
14 agencies that the plan has been certified.

15 (g) If the plan is not certified, the plan shall be
16 returned to the county, and the land use commission shall
17 identify the actions which need to be undertaken to meet
18 certification standards. The county shall respond to the land
19 use commission and resubmit the plan for certification within
20 ninety days.

21 **§205-B Criteria for plan certification.** (a) In its
22 review of any county comprehensive plan for certification

1 pursuant to this part, the commission shall consider whether
2 the plan meets the following criteria:

3 (1) The plan meets the plan content and plan process
4 requirements set forth in part IV of chapter 226, including
5 community-based planning and consultation in all phases of
6 plan development and adoption;

7 (2) The plan provides a set of internally consistent,
8 long-range policies and measures to direct the long-range
9 development of the county or portion of the county thereof;

10 (3) The plan results in a land use pattern of well-
11 defined urban and rural settlements, with adequate
12 consideration and protection of valued natural resources and
13 resource areas;

14 (4) The plan addresses areas of state concern and the
15 county has submitted a supporting report, which documents
16 State agency concerns and priorities that were identified in
17 the plan development process, how these concerns are addressed
18 in the plan and in proposed community investment areas, and
19 the issues that remain unresolved; and

20 (5) The plan conforms to the goals, objectives,
21 policies, and priority guidelines in chapter 226.

22 PART V. COUNTY-INITIATED BOUNDARY AMENDMENTS

1 **§205-C County-initiated district boundary amendments.**

2 (a) The county planning department may apply to the land use
3 commission for a change in the land use district boundary of a
4 land use district to conform to and implement the land use
5 element of a county comprehensive plan; provided that the plan
6 has been certified by the land use commission in accordance
7 with part IV. This section applies only to applications
8 submitted by the county planning agency for changes in
9 district boundaries of lands contained within a certified
10 comprehensive plan. All other petitions for district boundary
11 amendments shall be subject to sections 205-3.1 and 205-4 as
12 applicable.

13 (b) The proposed district boundary amendments shall
14 conform to the land use element of the certified county
15 comprehensive plan. The application must be regional in
16 geographic coverage and involve multiple parcels. The
17 application may include all or a portion of the land use
18 changes identified in the county comprehensive plan. The
19 application may include only those lands included in a
20 particular phase of urban or rural expansion areas identified
21 in the county plan.

22 (c) The county application may be submitted concurrently
23 with the application for county plan certification pursuant to

1 section 205-A. The application must identify the land areas
2 for which land use district boundary amendments are being
3 sought and a brief rationale for the proposed land use
4 district boundary amendment.

5 (d) The land use commission shall conduct at least one
6 public hearing on the island or islands in which the lands are
7 situated within sixty days of acceptance of the county
8 application. The commission shall provide timely notice in
9 newspapers of general circulation statewide and in a newspaper
10 which is printed and issued at least twice weekly in the
11 county affected by the proposed action. The notice shall
12 include:

- 13 (1) A statement of the topic of the public hearing;
- 14 (2) A statement that a copy of the application will be
15 mailed to any interest person who requests a copy, pays the
16 required fees for the copy and the postage, if any, together
17 with a description of where and how the requests may be made;
- 18 (3) A statement of when, where, and during what times
19 the application may be reviewed in person; and
- 20 (4) The date, time, and place where the public hearing
21 will be held and where interested persons may be heard on the
22 proposed application.

1 The notice shall be mailed to all persons who have made a
2 timely written request of the land use commission for advance
3 notice of its public hearing. The public hearings shall be
4 conducted in accordance with the provisions of chapter 92.

5 (e) The office of planning shall provide written
6 comments on the State's position to the land use commission
7 within forty-five days of acceptance of the county
8 application. The office shall include in its report a
9 description of general agreements made between the state and
10 the county over implementation of the comprehensive plan, any
11 disagreements between the state and the county that remain
12 unresolved, potential measures to resolve the disagreement,
13 and recommendations for proposed boundary amendments for lands
14 affected by any outstanding disagreement between the state and
15 the county. The office of planning shall be a party in land
16 use commission hearings conducted pursuant to this section.

17 (f) The land use commission shall act within ninety days
18 of acceptance of the application to approve, approve the
19 application in part, or deny the application. Any decision
20 under this section shall require the affirmative vote of two
21 thirds of the members to which the commission is entitled.
22 The proceedings of the land use commission under this section

1 shall be conducted in accordance with the provisions of
2 chapter 92.

3 (g) The land use commission shall base its decision on
4 conformance to the certified county comprehensive plan,
5 consistency with land use district standards under chapter
6 205, the land use decision-making criteria of section 205-17,
7 and the degree of consensus reached between State and county
8 agencies on implementation provisions and priority funding
9 area requirements.

10 (h) The land use commission shall provide a written
11 report to the county if the application or a portion thereof
12 is not approved. The report shall identify the reasons for
13 the land use commission's decision.

14 (i) The land use commission shall provide notice to
15 state agencies and the county planning department of the
16 changes to land use district boundaries. The land use
17 commission shall be the sole authority responsible for
18 boundary interpretations.

19 (j) A change in land use district classification of a
20 parcel or parcels resulting from a land use commission
21 decision pursuant to this section may be appealed to the
22 circuit court of the circuit in which the land in question is
23 found. The district boundaries and classification of parcels

1 not subject to an appeal shall remain in full force and
2 effect. The appeal shall be filed within sixty days of the
3 date of the commission's decision. The appeal shall be in
4 accord with chapter 91 and the Hawaii rules of civil
5 procedure.

6 (k) The zoning of the affected lands shall remain in
7 full force and effect until such time as the lands are rezoned
8 by the county.

9 (l) All other individual project petitions not
10 incorporated in a county-initiated application for boundary
11 amendment under this section shall be subject to land use
12 commission procedures under sections 205-3.1 and 205-4.

13 **§205-D Review of projects proposed for lands**
14 **reclassified under section 205-C.** (a) The county planning
15 department shall conduct a development project review for new
16 projects proposed for lands reclassified pursuant to this
17 part. The development project review shall examine the
18 proposed uses, site design, and infrastructure and service
19 requirements of the proposed project, including impacts on
20 state agencies. The state agencies shall be provided an
21 opportunity to enter into discussions with the county on
22 actions required in project development to ensure consistency
23 with priority funding area agreements. The county planning
24 department shall establish guidelines and procedures for a

1 development proposal review for these projects by ordinance or
2 rule.

3 (b) Any state or county approval of projects involving a
4 permit, license, certificate, land use change, subdivision, or
5 other entitlement for use on lands which are reclassified by
6 the commission pursuant to this part, shall be subject to
7 sections 6E-2, 6E-8, and 6E-42, pertaining to historic,
8 archaeological, and cultural resource preservation.

9 (c) For any proposed project involving lands
10 reclassified by the commission pursuant to this part, the
11 applicable state or county agency or officer shall advise the
12 department of land and natural resources of any application
13 involving a permit, license, certificate, land use change,
14 subdivision, or other entitlement for use of such lands, which
15 may affect threatened or endangered species and their
16 associated ecosystems. The agency or officer shall allow the
17 department of land and natural resources an opportunity for
18 review and comment on the effect of the proposed project on
19 threatened or endangered species and their associated
20 ecosystems prior to any approval.

21 **§205-E Declaratory ruling for project consistency.** Any
22 interested person may petition the commission for a
23 declaratory ruling regarding the consistency of an application

1 for a land use change or other entitlement, subdivision, or a
2 permit for a project or use proposed for lands reclassified
3 under this part, with the corresponding certified county
4 comprehensive plan and the underlying state land use district
5 classification. Except as provided in this section, the
6 procedure for a declaratory ruling shall be in accordance with
7 rules adopted by the commission. The commission shall conduct
8 a hearing on the petition. The district boundaries and
9 classification of parcels not subject to a petition for
10 declaratory ruling shall remain in full force and effect. The
11 commission's final action on a petition filed under this
12 subsection shall be subject to judicial review pursuant to
13 section 91-14. The appeal shall be filed within sixty days of
14 the date of the commission's decision. Notwithstanding any
15 provision of law to the contrary, declaratory relief may be
16 obtained for the action. Any party aggrieved by the decision
17 of the circuit court may appeal in accordance with part I of
18 chapter 641 and the appeal shall be given priority."

19 SECTION 3. Chapter 226, Hawaii Revised Statutes, is
20 amended by adding two new parts to be appropriately designated
21 and to read as follows:

22 "PART IV. COUNTY COMPREHENSIVE PLANS

1 **§226-A County comprehensive plan.** (a) Each county
2 shall prepare, adopt, and comprehensively review at least
3 every ten years, and revise as necessary, an internally
4 consistent, long-range comprehensive plan or set of plans,
5 hereinafter called the "plan," containing the elements in
6 section 226-C. The comprehensive plan shall establish a
7 vision for long-range development of the county or portion
8 thereof, and establish policies to guide the development,
9 adoption, and administration of land development rules and
10 related ordinances, the scheduling and execution of capital
11 projects, and other land development functions of the county.

12 (b) The county planning department shall be responsible
13 for the preparation and administration of the county
14 comprehensive plan.

15 (c) The comprehensive plan may be organized as a single
16 plan and land use policy map for the entire land area under
17 the jurisdiction of the county, or as a set of plans and land
18 use policy maps for regions consisting of portions of the land
19 area under county jurisdiction; provided that if the plan is
20 comprised of a set of plans, the cumulative effects of planned
21 regional growth patterns and the effects of these growth
22 patterns on other regions within the island or county shall be
23 identified within each plan.

1 (d) The county plans shall specify a planning horizon,
2 provided that the planning horizon shall be no less than
3 twenty years and the same planning horizon shall be used for
4 all components of the plan.

5 (e) The county plans shall conform to the standards set
6 forth in this part for:

7 (1) The content of the plan and required plan elements
8 in this part; and

9 (2) The process requirements for plan preparation,
10 adoption, implementation, and revision in this part.

11 (f) The county plan shall be consistent with the goals,
12 objectives, policies, and priority guidelines in this chapter.

13 (g) For the purposes of this chapter and chapters 46 and
14 205 "county comprehensive plan" means the county general plan
15 or the county general plan and the set of development or
16 community plans for regions within a county that implement the
17 objectives and policies of the county general plan, as defined
18 by county charter or ordinance and adopted by the legislative
19 body of each county. In order to be eligible for county-
20 initiated boundary amendments proceedings pursuant to section
21 205-C, the county comprehensive plan shall be reviewed for
22 consistency with the standards of this part under section 226-
23 U or certified pursuant to section 205-A.

1 **§226-B County comprehensive plan; purpose.** The purpose
2 of the comprehensive plan is to direct the coordinated,
3 efficient, and orderly development of the county or portions
4 thereof that will, based on an analysis of present and future
5 needs, best promote the public health, safety, morals, and
6 general welfare. The comprehensive plan shall:

7 (1) Provide a unified physical design for the county;

8 (2) Promote a range of housing options and encourage a
9 range of quality affordable housing;

10 (3) Identify the need for transportation and community
11 facilities and services, and promote the timely provision of
12 those facilities and services in order to support existing and
13 planned development;

14 (4) Promote agricultural activities and protect
15 agricultural land from encroachment from urban or non-farm
16 uses;

17 (5) Protect and enhance rural areas and rural character;

18 (6) Protect historic, archaeological, cultural, and
19 conservation resources of significance to the community and
20 the State;

21 (7) Protect life and property from the effects of
22 natural hazards, such as flooding, winds, wildfire, unstable
23 lands, volcanic hazards, and tsunami inundation; and

1 **§226-C County comprehensive plan elements.** (a) The
2 county comprehensive plan shall include required elements
3 either as parts within the plan or separate documents that are
4 prepared and adopted as the comprehensive plan. The required
5 elements shall, at a minimum, include:

- 6 (1) A land use element;
- 7 (2) A transportation element;
- 8 (3) An affordable housing element;
- 9 (4) A community facilities and infrastructure element;
- 10 (5) A natural hazards mitigation element;
- 11 (6) An implementation program element; and
- 12 (7) Conceptual land use maps showing:
 - 13 (A) Existing and future land use patterns and planned
14 development for the plan area, in terms of the location,
15 character, and intensity of existing and planned land
16 uses and growth boundaries;
 - 17 (B) The timing and sequencing of planned land uses and
18 development in areas where growth is to occur; and
 - 19 (C) The general location of sites and corridors for
20 major public infrastructure systems and facilities, and
21 the sequencing of improvement programs to provide the
22 level of infrastructure and services planned for
23 designated areas.

1 (b) The comprehensive plan shall also include the
2 following:

3 (1) The community planning processes used and public
4 participation in plan development and review;

5 (2) Concerns raised by state agencies and addressed in
6 plan development; and

7 (3) Provisions stating that county land use and
8 development approvals and capital improvement programs shall
9 be consistent with and implement the plan land use
10 designations and sequencing of development in the plan.

11 (c) A comprehensive plan may include additional elements
12 or studies relating to the physical development of the county.
13 All required and optional elements included in a plan shall be
14 based on the same economic, demographic, and related
15 assumptions and data developed by or for the county.

16 **§226-D Land use element; content.** (a) The county
17 comprehensive plan shall include a land use element which
18 shall be expressed in text and map form. The land use element
19 shall include such urban uses as residential, commercial and
20 industrial uses, agricultural lands and rural areas, and
21 natural resources and open space.

22 (b) The purpose of the land use element is to provide a
23 general pattern for the location, distribution, and character

1 of land use and areas planned for growth within the
2 jurisdiction of the county or portion thereof over the
3 planning horizon.

4 (c) In preparing the land use element, the county shall
5 undertake supporting studies, or may use studies conducted by
6 others, concerning factors affecting existing and future land
7 uses. These supporting studies may include, but shall not be
8 limited to, inventories, analyses, projections of population
9 and the economy, assessments of natural and environmental
10 resources, and evaluations of patterns of existing land uses.

11 (d) The land use element shall contain a future land use
12 map showing general locations of future land uses and urban
13 growth boundaries and rural service area boundaries, if
14 applicable.

15 (e) The land use element shall identify agricultural
16 lands and include strategies and policies for agricultural
17 land and the promotion of agricultural development within the
18 county or portion thereof.

19 (f) The land use element shall include a natural
20 resources and open space component. This component shall
21 identify and map natural and environmental resources and
22 sensitive areas including watersheds, and identify and map a
23 comprehensive system of existing and future sites for open

1 space and include polices for natural resources and open space
2 protection with supporting analysis.

3 (g) The land use element shall set forth the county land
4 use ordinances, land use development rules, and incentives
5 that will be used to implement the land use policies and
6 patterns of the plan, to include any growth or development
7 strategies to be pursued in implementing the plan.

8 **§226-E Transportation element; content.** (a) A
9 transportation element shall be included in the county
10 comprehensive plan, which shall be expressed in map and text
11 form.

12 (b) The purposes of the transportation element are to:

13 (1) Identify the impact of projected population and
14 economic growth on existing highway, road, transit, airport,
15 and harbor facilities and assess the need for additional
16 capacity in the land use element; and

17 (2) Establish the framework for the acquisition,
18 preservation, and protection of existing and future rights-of-
19 way from building encroachment.

20 (c) The transportation element shall include, at a
21 minimum, existing and planned highways, arterial and major
22 collector roads, transit lines, airports, and harbors and
23 shall be in both map and textual form.

1 (d) The transportation element shall contain a general
2 assessment of the existing and committed facilities that
3 support the land use element, a statement of policies
4 regarding transportation, and a description in map and text of
5 the location of planned facilities, services, and major
6 improvements that are necessary to support the land use
7 element and meet projected growth.

8 **§226-F Affordable housing element; content.** (a) An
9 affordable housing element shall be included in the county
10 comprehensive plan.

11 (b) The purposes of the housing element are to:

12 (1) Document the present and future needs for affordable
13 housing for the county, and the extent to which private- and
14 public-sector programs are meeting those needs;

15 (2) Identify barriers to the production of affordable
16 housing; and

17 (3) Develop sound strategies, programs, and other
18 actions to address needs for affordable housing.

19 (c) The housing element shall consist of a statement of
20 county housing policies including numerical goals for the
21 planning period and the next five years for affordable housing
22 units, including low- and moderate-income and special needs
23 housing.

1 (d) The housing element shall contain actions to be
2 incorporated into the long-range program of implementation as
3 required by section 226-I.

4 **§226-F Community facilities and infrastructure element;**

5 **content.** (a) A community facilities and infrastructure
6 element shall be included in the county comprehensive plan.

7 (b) The purpose of the community facilities and
8 infrastructure element is to provide for community facilities
9 and infrastructure that are necessary or desirable to support
10 the future land use pattern proposed in the land use element
11 of the plan and to meet projected needs of each island.

12 (c) For the purposes of this section, community
13 facilities and infrastructure shall include, but not be
14 limited to, the following publicly operated facilities within
15 the jurisdiction of the county:

16 (1) Water, including sources, treatment, storage,
17 pumping, and primary distribution;

18 (2) Wastewater, including primary treatment and
19 collection;

20 (3) Storm water systems, including major drainageways,
21 major trunk lines, streams, ditches, pump stations, retention
22 and detention basins, outfall locations, and alternative
23 treatment systems; and

1 (4) Solid waste, including landfills, other waste
2 disposal facilities, transfer stations, and other primary
3 facilities.

4 (d) The community facilities and infrastructure element
5 shall contain the following:

6 (1) A general assessment of major existing community
7 facilities and infrastructure that support the land use
8 element;

9 (2) A statement of policies regarding the general
10 distribution, location, and characteristics of community
11 facilities and infrastructure within the county's
12 jurisdiction.

13 (3) A description of existing community facilities or
14 proposed capital improvement projects for community facilities
15 or optimization of the use of existing facilities that are
16 necessary or desirable to support the land use element and to
17 meet projected needs; and

18 (4) A summary map that shows the general location of
19 existing or proposed community facilities and infrastructure
20 and service areas.

21 (e) For each category of community facility or
22 infrastructure, the element shall include an analysis of
23 projected cost of any proposed facilities.

1 (f) The community facilities and infrastructure element
2 shall contain actions to be incorporated into the long-range
3 program of implementation required by section 226-I. These
4 actions shall cover a period of at least twenty years.

5 (g) The community facilities and infrastructure element
6 shall also address the sustainable yield of aquifers, and
7 assure consistency between the county comprehensive plan and
8 the county water use and development plans prepared pursuant
9 to chapter 174C.

10 **§226-H Natural hazards mitigation element; content.** (a)

11 A natural hazards mitigation element shall be included in the
12 county comprehensive plan.

13 (b) The natural hazards mitigation element shall
14 describe and map areas prone to natural hazards including but
15 not limited to flooding, tsunamis, storm waves, hurricane,
16 erosion, subsidence, earthquakes, and volcanic hazards.

17 (c) The natural resources element shall include a
18 statement of policies, ordinances, rules, and actions for the
19 prevention and mitigation of damage from natural disasters.

20 **§226-I Implementation program element; content.** (a) In

21 order to achieve the goals and policies established in a
22 county comprehensive plan, the plan shall contain a long-range
23 program of implementation of specific public actions.

1 (b) For each required element, the program of
2 implementation shall include, but not be limited to, the
3 following:

4 (1) A time frame for identified actions, that is, the
5 sequence in which actions should occur. The time frame shall
6 cover a period not less than five and not more than twenty
7 years;

8 (2) An allocation of responsibilities for actions among
9 the various governmental agencies and, where applicable, not-
10 for-profit and for-profit organizations operating in the
11 planning area and having interests in carrying out the
12 program;

13 (3) A list of necessary capital improvements and
14 facilities, and phasing for proposed capital improvements;

15 (4) A description of any land development rules or
16 incentives that have been adopted by the county in order to
17 achieve the goals, policies, and guidelines set forth in the
18 county comprehensive plan and that may be further detailed in
19 the individual plan elements; and

20 (5) A description of procedures that the county shall
21 use in monitoring and evaluating the implementation of the
22 plan.

1 **§226-J Designation of community investment areas.** (a)

2 The plan shall identify community investment areas as
3 referenced in section 226-X, and as may be further defined in
4 state guidelines for community investment areas. The
5 community investment areas shall identify where planned growth
6 and redevelopment are to occur and where public investments
7 for community infrastructure are required to support such
8 growth, and those rural, agriculture or natural heritage areas
9 that are to be protected for their resource value or
10 character. The areas must correspond to the planned growth
11 and water and sewer service areas or resource area boundaries
12 contained in the land use element of the county comprehensive
13 plan.

14 (b) The county shall collaborate and participate in a
15 joint state and county government consultation and planning
16 process for the identification of community investment areas
17 and implementation requirements. The county shall collaborate
18 and participate in state-county discussions to outline general
19 agreements for the community investment areas and the
20 investments required to effectuate community investment area
21 development or protection. Evidence of general agreements on
22 community infrastructure and facilities requirements or
23 attempts to accomplish general agreements and a written report

1 containing a detailed description of the state and county
2 concerns, the areas of agreement, and areas of disagreement
3 shall be required for plan certification.

4 (c) The county shall participate in a conflict
5 resolution process initiated by the office of planning
6 pursuant to section 226-Y when state and county agencies
7 disagree on the identification of community investment areas
8 and implementation responsibilities.

9 **§226-K Optional plan elements.** The county may adopt
10 additional plan elements that define other goals, objectives,
11 policies, and actions to preserve and enhance the quality of
12 life of county residents. All optional plan elements shall be
13 integrated and consistent with the comprehensive plan as a
14 whole.

15 **§226-L County comprehensive plan process; procedural**
16 **requirements.** (a) The county comprehensive planning process
17 shall be conducted in accordance with the minimum procedural
18 requirements defined in this part, to include but not be
19 limited to:

20 (1) Extensive public input and participation;
21 (2) Participation in joint planning with state agencies
22 for the identification of community investment areas and
23 general agreements for these areas;

1 (3) Participation in conflict resolution where county
2 and state agencies are not in agreement about policies,
3 actions, infrastructure, or services required for designated
4 community investment areas;

5 (4) Notice to the State of the county's intent to adopt
6 a plan or plan amendments;

7 (5) Public processes for the county's plan adoption,
8 plan amendments, and plan review;

9 (6) Periodic review and revision of the comprehensive
10 plan.

11 (b) Each county shall adopt ordinances or rules that
12 define the county's comprehensive planning process.

13 **§226-M Public participation.** (a) Each county shall
14 provide a range of opportunities for public participation in
15 the development, adoption, and maintenance of the plan.

16 Participation shall occur at each stage of the process: plan
17 preparation, adoption, implementation, evaluation, and
18 revision. Each county shall make provisions for:

19 (1) Communication with the public and interest groups;

20 (2) Availability of technical information in useable and
21 understandable form; and

22 (3) A variety of participatory and feedback mechanisms.

1 (b) The county shall document public participation in
2 the preparation of the plan. Avenues of participation may
3 include: hearings before legislative bodies, policy boards,
4 and hearing officers; forums; focus groups; interviews;
5 surveys; solicitation of comments; community workshops;
6 collaborating with community groups in the development of
7 community plans, including providing technical assistance;
8 charettes and other participatory design activities;
9 negotiation and mediation; use of electronic media; and post-
10 approval process forums.

11 **§226-N Consultation and joint planning with state**
12 **agencies.** State agencies and the office of planning shall be
13 consulted during the plan drafting process and shall be kept
14 informed of all public participation activities. State
15 agencies shall be provided the opportunity to comment on plan
16 drafts and county functional plan drafts, particularly in
17 those areas impacting their interests. The county planning
18 departments shall ensure that state agency concerns are
19 presented at hearings and other proceedings pertaining to the
20 county comprehensive plan or county functional plans. The
21 county planning department and impacted county agencies shall
22 participate in any dispute resolution proceeding initiated by
23 the office of planning pursuant to section 226-Y to address

1 areas of state concern that have not been resolved in the
2 county comprehensive planning process.

3 **§226-O Notice to State of intent to adopt comprehensive**
4 **plan.** The county council shall inform the land use commission
5 and the office of planning of the intent to adopt the county
6 comprehensive plan thirty days prior to the first hearing to
7 consider action to adopt the plan.

8 **§226-P County comprehensive plan adoption; consistency**
9 **with plan.** (a) The adoption of the plan or any part thereof
10 or any amendment thereto shall be by ordinance. The ordinance
11 shall refer expressly to the document that forms the whole or
12 part of the county plan. The enactment of the ordinance shall
13 be recorded on the plan or any part thereof or any amendment
14 thereto by the county clerk.

15 (b) All county zoning codes, subdivision ordinances,
16 land use change, and development approvals shall be consistent
17 with and implement the plan land use designations and
18 sequencing of development in the adopted plan.

19 **§226-Q County comprehensive plan; availability.** The
20 county planning director shall make the county comprehensive
21 plan or part thereof or amendment thereto available for public
22 inspection at public sites that the director designates. The
23 planning director shall also make the county comprehensive

1 plan or part thereof or amendment thereto available for
2 purchase by the public at actual cost or a lesser amount.

3 **§226-R County comprehensive plan; amendment.** (a) The
4 county council may amend the county comprehensive plan from
5 time to time, but not more than once during any calendar year,
6 except in the case of:

7 (1) An amendment involving the siting, significant
8 expansion, or significant reduction of a state facility; or

9 (2) A natural or other emergency, in which case, the
10 council may amend the county comprehensive plan at any time,
11 provided the council shall state in the ordinance adopting the
12 amendment the nature of the emergency, why the plan amendment
13 is necessary, and how it serves the public interest.

14 (b) Any amendment of a county comprehensive plan that
15 has been certified by the land use commission shall also be
16 certified pursuant to section 205-A in order to be eligible
17 for the quasi-legislative land use district boundary amendment
18 procedure set forth in section 205-C.

19 **§226-S County comprehensive plan; periodic review and**
20 **revision.** (a) Each county shall review the county
21 comprehensive plan at least once every five years and shall
22 adopt such parts or other amendments to the plan in accordance
23 with this part, as the legislative body deems necessary to

1 update the plan. Each county shall conduct a comprehensive
2 review and revision of the county comprehensive plan at least
3 once every ten years. The comprehensive review and revision
4 process shall conform to the content and process requirements
5 of this part.

6 **§226-T Application of this Act to existing county plans.**

7 This Act shall apply to the review and revision of all county
8 general plans, community, or development plans comprising the
9 county's comprehensive plan that were adopted more than five
10 years before the effective date of this Act. County
11 applications for district boundary amendments under section
12 205-C based on a county general plan, community, or
13 development plan that were adopted less than five years before
14 the effective date of this Act or were undergoing an amendment
15 or revision process as of the effective date of this Act shall
16 be subject to the interim guidelines for county plans set
17 forth in section 226-U.

18 **§226-U Interim plan agreements for county plans adopted**
19 **in the five years preceding the effective date of the Act or**
20 **which were undergoing an amendment or revision process as of**
21 **the effective date of this Act.** (a) The county, through its
22 county planning agency, shall enter into a negotiation process
23 with the State to determine what additional information,

1 state-county agency consultations, and agreements shall be
2 required for county plans adopted less than five years prior
3 to the effective date of this Act or initiated as of the
4 effective date of this Act to be eligible for county-initiated
5 district boundary amendments under section 205-C. The county
6 shall be responsible for providing the following information
7 for the negotiation process:

8 (1) A summary assessment of how the existing plan meets
9 the comprehensive plan requirements of this Act;

10 (2) Identification of those areas that are planned for
11 growth, redevelopment, or protection that shall
12 function as community investment areas; and

13 (3) A twenty-year schedule of proposed infrastructure,
14 public facilities, utilities, and services required
15 to support the growth, redevelopment, or protection
16 planned or projected for community investment areas.

17 The schedule shall include:

18 (A) The identification of public and other
19 entities responsible for the proposed
20 facilities, services, or utilities; and

21 (B) The general timeframes that the facility,
22 service, or utility is proposed for
23 construction or installation.

1 (b) The office of planning shall coordinate and
2 facilitate the state-county agency consultations under this
3 section. The office shall facilitate state agency review and
4 comment, and the development of general agreements regarding
5 the timing of projected infrastructure, service, and program
6 needs for community investment areas contained in the plan or
7 portions thereof.

8 (c) The office shall assist in preparing and submitting
9 a report to the land use commission with findings as to the
10 impact of the county plan on state-funded facilities and
11 resources, and agreements made between the county and state
12 agencies to address state concerns regarding implementation of
13 the county plan or portions thereof.

14 (d) The county planning agency may submit an application
15 to the land use commission for district boundary amendments
16 pursuant to section 205-C. The application shall include a
17 report containing the information required in subsection (a),
18 as well as a detailed description of state agency concerns
19 raised in the negotiation process, and the agreements made to
20 address state agency concerns.

21 PART V. STATE SUPPORTS FOR COUNTY PLANNING

22 **§226-V Purpose.** Quality of life for residents and
23 communities can be enhanced by coordination of county, state,

1 and non-governmental efforts to provide the facilities,
2 services, and programs to:

3 (1) Support growth where growth and redevelopment are
4 planned; and

5 (2) Protect the natural amenities and resource areas
6 that residents feel should be protected from growth and
7 development.

8 The county comprehensive plan provides a vehicle for
9 state and county agencies to plan, organize, and implement
10 coordinated strategies for growth, redevelopment, and
11 protection of valued resources and resource areas. The
12 measures established in this part are intended to enable the
13 State to work with and assist the counties in identifying
14 public investment priorities, and implementing projects and
15 programs that implement mutual goals for growth,
16 redevelopment, and conservation.

17 **§226-W Community investment areas.** (a) The county
18 planning department shall propose community investment areas
19 that shall identify where planned growth and redevelopment are
20 to occur and where public investments for community
21 infrastructure are required to support projected growth.
22 Community investment areas may also be used by the county to
23 identify protective areas where natural resources are to be

1 conserved or preserved, and where the programming and
2 financial commitments necessary to achieve protection of these
3 resources will be directed.

4 (b) The community investment areas must correspond to
5 the planned growth and water and sewer service areas' or
6 natural resource area boundaries contained in the land use
7 element of the county comprehensive plan.

8 (c) The process for identifying community investment
9 areas shall involve joint state and county government
10 consultation pursuant to section 226-X.

11 (d) The county, in consultation with the State, shall
12 prepare of a list of public investments and the timing of
13 projects within designated community investment areas.

14 (e) The office of planning may initiate and the county
15 shall participate in a dispute resolution process pursuant to
16 section 226-Y when state and county agencies disagree on the
17 actions, resources, or jurisdictional responsibilities
18 required in support of community investment areas.

19 **§226-X Joint planning process; concurrent state**
20 **referral.** (a) State agencies shall participate in county
21 comprehensive plan development and revision processes and
22 county functional planning processes required to implement the
23 county comprehensive plan. State agencies shall be

1 responsible for coordinating agency planning and programming
2 with county planning processes.

3 (b) The office of planning shall assist the county
4 planning department by facilitating and coordinating, as
5 needed, state and county interagency consultation and joint
6 planning in the county's formulation and revision of the
7 county comprehensive plan. The joint planning process is
8 intended to facilitate state agency participation and input in
9 comprehensive plan development and review processes.

10 (c) The office of planning shall assist the county
11 planning department in organizing and conducting a series of
12 negotiated discussions between state and county agencies for
13 the identification of community investment areas and the
14 potential public investments required to support the community
15 investment areas in the comprehensive plan.

16 (d) The office of planning and the county planning
17 departments shall establish a process for concurrent state
18 referral and comment on consistency as the county plan is
19 being prepared or revised; provided that the director of the
20 office of planning shall inform the county planning director
21 at the earliest possible time if a draft plan is inconsistent
22 with this chapter. The county planning director shall work
23 with the office to resolve the state concern.

1 **§226-Y Dispute resolution process.** (a) If an issue of
2 state concern pertaining to the draft comprehensive plan or
3 proposed community investment areas cannot be resolved during
4 the joint planning process conducted pursuant to section 226-
5 X, the director of the office of planning shall initiate a
6 dispute resolution process that includes the representatives
7 of those agencies with disagreements with the proposed plan
8 provisions. The dispute resolution process shall examine:

9 (1) The interests and positions central to the dispute;

10 (2) The significance of the issue to agreements about
11 community investment areas and effective implementation of the
12 proposed plan; and

13 (3) Alternative ways to address the parties' concerns.

14 (b) The office of planning shall submit to the land use
15 commission a report on the dispute resolution process, which
16 shall include a record of the process, a detailed discussion
17 of substantive issues, a description of the general agreements
18 made, if any, as a result of the dispute resolution process,
19 and a discussion of any outstanding issues that are unresolved
20 at the conclusion of the dispute resolution process. The
21 proceeding may include fact-finding as needed to be able to
22 evaluate information and resolve factual disagreements.

1 (c) The office may employ the services of a third party
2 facilitator, mediator, or negotiator to assist and guide the
3 dispute resolution process to a successful conclusion.

4 **§226-Z. Incentives for plan certification.** (a) Upon
5 certification of the county comprehensive plan or portions
6 thereof by the land use commission pursuant to section 205-A,
7 the county may use the county-initiated, quasi-legislative
8 boundary amendment procedure set forth in section 205-C to
9 amend the district boundaries of lands covered by the plan or
10 portions thereof that have been certified by the land use
11 commission."

12 SECTION 4. Section 46-4, Hawaii Revised Statutes, is
13 amended by amending subsection (a) to read as follows:

14 "(a) This section and any ordinance, rule, or regulation
15 adopted in accordance with this section, shall apply to lands
16 not contained within the forest reserve boundaries as
17 established on January 31, 1957, or as subsequently amended.

18 Zoning in all counties shall be [~~accomplished within the~~
19 ~~framework of~~] consistent with and shall implement a long-range
20 [-] comprehensive [~~general~~] plan prepared or being prepared in
21 accordance with part IV of chapter 226 to guide the overall
22 future development of the county. Zoning shall be one of the
23 tools available to the county to put the [~~general~~]

1 comprehensive plan into effect in an orderly manner. Zoning
2 [~~in the counties of Hawaii, Maui, and Kauai~~] means the
3 establishment of districts of such number, shape, and area,
4 and the adoption of regulations for each district to carry out
5 the purposes of chapters 205, 205A, 226, and this section. In
6 establishing or regulating the districts, full consideration
7 shall be given to all available data as to soil classification
8 and physical use capabilities of the land to allow and
9 encourage the most beneficial use of the land consonant with
10 good zoning practices. The zoning power granted herein shall
11 be exercised by ordinance which may relate to:

- 12 (1) The areas within which agriculture, forestry,
13 industry, trade, and business may be conducted;
- 14 (2) The areas in which residential uses may be regulated
15 or prohibited;
- 16 (3) The areas bordering natural watercourses, channels,
17 and streams, in which trades or industries, filling
18 or dumping, erection of structures, and the location
19 of buildings may be prohibited or restricted;
- 20 (4) The areas in which particular uses may be subjected
21 to special restrictions;

- 1 (5) The location of buildings and structures designed
- 2 for specific uses and designation of uses for which
- 3 buildings and structures may not be used or altered;
- 4 (6) The location, height, bulk, number of stories, and
- 5 size of buildings and other structures;
- 6 (7) The location of roads, schools, and recreation
- 7 areas.
- 8 (8) Building setback lines and future street lines.
- 9 (9) The density and distribution of population.
- 10 (10) The percentage of a lot that may be occupied, size
- 11 of yards, courts, and other open spaces.
- 12 (11) Minimum and maximum lot sizes.
- 13 (12) Other regulations the boards or city council find
- 14 necessary and proper to permit and encourage the
- 15 orderly development of land resources within their
- 16 jurisdictions.

17 The council of any county shall prescribe rules,
18 regulations, and administrative procedures and provide
19 personnel it finds necessary to enforce this section and any
20 ordinance enacted in accordance with this section. The
21 ordinances may be enforced by appropriate fines and penalties,
22 civil or criminal, or by court order at the suit of the county

1 or the owner or owners of real estate directly affected by the
2 ordinances.

3 Any civil fine or penalty provided by ordinance under
4 this section may be imposed by the circuit court, or by the
5 zoning agency after an opportunity for a hearing, pursuant to
6 chapter 91. The proceeding shall not be a prerequisite for any
7 injunctive relief ordered by the circuit court.

8 Nothing in this section shall invalidate any zoning
9 ordinance or regulation adopted by any county or other agency
10 of government pursuant to the statutes in effect prior to July
11 1, 1957.

12 The powers granted herein shall be liberally construed in
13 favor of the county exercising them, and in such a manner as
14 to promote the orderly development of each county or city and
15 county in accordance with a long range, comprehensive, general
16 plan to insure the greatest benefit for the State as a whole.
17 This section shall not be construed to limit or repeal any
18 powers of any county to achieve these ends through zoning and
19 building regulations, except insofar as forest and water
20 reserve zones are concerned and as provided in subsections (c)
21 and (d).

22 Neither this section nor any ordinance enacted pursuant
23 to this section shall prohibit the continued lawful use of any

1 building or premises for any trade, industrial, residential,
2 agricultural, or other purpose for which the building or
3 premise is used at the time this section or the ordinance
4 takes effect; provided that a zoning ordinance may provide for
5 elimination of nonconforming uses as the uses are discontinued
6 or for the amortization or phasing out of nonconforming uses
7 or signs over a reasonable period of time in commercial,
8 industrial, resort, and apartment zoned areas only. In no
9 event shall such amortization or phasing out of nonconforming
10 uses apply to any existing building or premises used for
11 residential (single family or duplex) or agricultural uses.
12 Nothing in this section shall affect or impair the powers and
13 duties of the director of transportation as set forth in
14 chapter 262."

15 SECTION 5. Section 205-3.1, Hawaii Revised Statutes, is
16 amended by amending subsections (a) and (b) to read as
17 follows:

18 "(a) District boundary amendments involving lands in the
19 conservation district, land areas greater than fifteen acres,
20 or lands delineated as important agricultural lands shall be
21 processed by the land use commission pursuant to section 205-
22 4. A land use district boundary amendment shall be permitted
23 under this section only if the subject land is situated in a

1 geographic area covered by a county general, community, or
2 development plan that was adopted by a county council more
3 than five years prior to the filing date. Boundary amendments
4 for lands situated within the geographic area covered by a
5 county general, community, or development plan that has been
6 adopted less than five years prior to the filing date of the
7 petition shall only be permitted as part of a county
8 application for land use district boundary amendments pursuant
9 to section 205-C, with the exception of petitions filed during
10 the interim transition period, as described in section 7 of
11 this Act.

12 (b) ~~Any~~ Except as provided herein, any department or
13 agency of the State, and department or agency of the county in
14 which the land is situated, or any person with a property
15 interest in the land sought to be reclassified may petition
16 the appropriate county land use decision-making authority of
17 the county in which the land is situated for a change in the
18 boundary of a district involving lands less than fifteen acres
19 presently in the rural and urban districts and lands less than
20 fifteen acres in the agricultural district that are not
21 designated as important agricultural lands."

22 SECTION 6. Section 205-4, Hawaii Revised Statutes, is
23 amended to read as follows:

1 "(a) Any department or agency of the State, any
2 department or agency of the county in which the land is
3 situated, or any person with a property interest in the land
4 sought to be reclassified, may petition the land use
5 commission for a change in the boundary of a district[-],
6 provided that a land use district boundary amendment shall be
7 permitted under this section only if the subject land is
8 situated in a geographic area covered by a county general,
9 community, or development plan that was adopted by a county
10 council more than five years prior to the filing date.
11 Boundary amendments for lands situated within the geographic
12 area covered by a county general, community, or development
13 plan that has been adopted less than five years prior to the
14 filing date of the petition shall only be permitted as part of
15 a county application for land use district boundary amendments
16 pursuant to section 205-C, with the exception of petitions
17 filed during the interim transition period as described in
18 section 7 of this Act. This section applies to all petitions
19 for changes in district boundaries of lands within
20 conservation districts, lands designated or sought to be
21 designated as important agricultural lands, and all petitions
22 for changes in district boundaries involving lands greater
23 than fifteen acres in the agricultural, rural, and urban

1 districts, except as provided in section 201G-118. The land
2 use commission shall adopt rules pursuant to chapter 91 to
3 implement section 201G-118."

4 (b) Upon proper filing of a petition pursuant to
5 subsection (a) the commission shall, within not less than
6 sixty and not more than one hundred and eighty days, conduct a
7 hearing on the appropriate island in accordance with the
8 provisions of sections 91-9, 91-10, 91-11, 91-12, and 91-13,
9 as applicable.

10 (c) Any other provision of law to the contrary
11 notwithstanding, notice of the hearing together with a copy of
12 the petition shall be served on the county planning commission
13 and the county planning department of the county in which the
14 land is located and all persons with a property interest in
15 the land as recorded in the county's real property tax
16 records. In addition, notice of the hearing shall be mailed to
17 all persons who have made a timely written request for advance
18 notice of boundary amendment proceedings, and public notice
19 shall be given at least once in the county in which the land
20 sought to be redistricted is situated as well as once
21 statewide at least thirty days in advance of the hearing. The
22 notice shall comply with section 91-9, shall indicate the time
23 and place that maps showing the proposed district boundary may

1 be inspected, and further shall inform all interested persons
2 of their rights under subsection (e).

3 (d) Any other provisions of law to the contrary
4 notwithstanding, prior to hearing of a petition the commission
5 and its staff may view and inspect any land which is the
6 subject of the petition.

7 (e) Any other provisions of law to the contrary
8 notwithstanding, agencies and persons may intervene in the
9 proceedings in accordance with this subsection.

10 (1) The petitioner, the office of planning, and the
11 county planning department shall in every case appear as
12 parties and make recommendations relative to the proposed
13 boundary change.

14 (2) All departments and agencies of the State and of the
15 county in which the land is situated shall be admitted as
16 parties upon timely application for intervention.

17 (3) All persons who have some property interest in the
18 land, who lawfully reside on the land, or who otherwise
19 can demonstrate that they will be so directly and
20 immediately affected by the proposed change that their
21 interest in the proceeding is clearly distinguishable
22 from that of the general public shall be admitted as
23 parties upon timely application for intervention.

1 (4) All other persons may apply to the commission for
2 leave to intervene as parties. Leave to intervene shall
3 be freely granted, provided that the commission or its
4 hearing officer if one is appointed may deny an
5 application to intervene when in the commission's or
6 hearing officer's sound discretion it appears that: (A)
7 the position of the applicant for intervention concerning
8 the proposed change is substantially the same as the
9 position of a party already admitted to the proceeding;
10 and (B) the admission of additional parties will render
11 the proceedings inefficient and unmanageable. A person
12 whose application to intervene is denied may appeal such
13 denial to the circuit court pursuant to section 91-14.

14 (5) The commission shall pursuant to chapter 91 adopt
15 rules governing the intervention of agencies and persons
16 under this subsection. Such rules shall without
17 limitation establish: (A) the information to be set forth
18 in any application for intervention; (B) time limits
19 within which such applications shall be filed; and (C)
20 reasonable filing fees to accompany such applications.

21 (f) Together with other witnesses that the commission may
22 desire to hear at the hearing, it shall allow a representative
23 of a citizen or a community group to testify who indicates a

1 desire to express the view of such citizen or community group
2 concerning the proposed boundary change.

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

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

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

15 (j) At the hearing, all parties may enter into
16 appropriate stipulations as to findings of fact, conclusions
17 of law, and conditions of reclassification concerning the
18 proposed boundary change. The commission may but shall not be
19 required to approve such stipulations based on the evidence
20 adduced.

21 (k) Any department or agency of the State, any department
22 or agency of the county in which the land is situated, or any
23 person with a property interest in the land sought to be

1 reclassified, may petition the land use commission for a
2 change in the boundary of a district regardless of the date of
3 adoption of the county general, community or development plan
4 for up to three years after the effective date of this Act."

5 SECTION 7. Section 226-2, Hawaii Revised Statutes, is
6 amended by adding a new definition to be appropriately
7 inserted and to read as follows:

8 "County comprehensive plan" means the county general
9 plan or the county general plan and the set of development or
10 community plans for regions within a county that implement the
11 objectives and policies of the county general plan, as defined
12 by county charter or ordinance and adopted by the legislative
13 body of each county."

14 SECTION 8. Section 226-52, Hawaii Revised Statutes, is
15 amended by amending subsection (a) to read as follows:

16 "(a) The statewide planning system shall consist of the
17 following policies, plans, and programs:

18 (1) The overall theme, goals, objectives, and policies
19 established in this chapter that shall provide the broad
20 guidelines for the State;

21 (2) The priority guidelines established in this chapter
22 that shall provide guidelines for decisionmaking by the State
23 and the counties for the immediate future and set priorities

1 for the allocation of resources. The formulation and revision
2 of state functional plans shall be in conformance with the
3 priority guidelines;

4 (3) State functional plans that shall be prepared to
5 address, but not be limited to, the areas of agriculture,
6 conservation lands, education, energy, higher education,
7 health, historic preservation, housing, recreation, tourism,
8 and transportation. The preparing agency for each state
9 functional plan shall also consider applicable federal laws,
10 policies, or programs that impact upon the functional plan
11 area. State functional plans shall define, implement, and be
12 in conformance with the overall theme, goals, objectives,
13 policies, and priority guidelines contained within this
14 chapter. County general plans and development plans shall be
15 taken into consideration in the formulation and revision of
16 state functional plans;

17 (4) County [~~general~~] comprehensive plans that have been
18 formulated and adopted by the county in accordance with the
19 standards for plan content and process contained in part A of
20 this chapter. County comprehensive plans shall indicate
21 desired population and physical development patterns for each
22 county and regions within each county. In addition, county
23 [~~general~~] comprehensive plans [~~or development plans~~] shall

1 address the unique problems and needs of each county and
2 regions within each county. County [~~general~~] comprehensive
3 plans [~~or development plans~~] shall further define the overall
4 theme, goals, objectives, policies, and priority guidelines
5 contained within this chapter. State functional plans shall
6 be taken into consideration in amending the county [~~general~~]
7 comprehensive plans; and

8 (5) State programs that shall include but not be limited
9 to programs involving coordination and review; research and
10 support; design, construction, and maintenance; services; and
11 regulatory powers. State programs that exercise coordination
12 and review functions shall include but not be limited to the
13 state clearinghouse process, the capital improvements program,
14 and the coastal zone management program. State programs that
15 exercise regulatory powers in resource allocation shall
16 include but not be limited to the land use and management
17 programs administered by the land use commission and the board
18 of land and natural resources. State programs shall further
19 define, implement, and be in conformance with the overall
20 theme, goals, objectives, and policies, and shall utilize as
21 guidelines the priority guidelines contained within this
22 chapter, and the state functional plans approved pursuant to
23 this chapter."

1 SECTION 9. Section 226-58, Hawaii Revised Statutes, is
2 repealed.

3 [~~"§226-58 County general plans. (a) The county general~~
4 ~~plans and development plans shall be formulated with input~~
5 ~~from the state and county agencies as well as the general~~
6 ~~public.~~

7 ~~County general plans or development plans shall indicate~~
8 ~~desired population and physical development patterns for each~~
9 ~~county and regions within each county. In addition, county~~
10 ~~general plans or development plans shall address the unique~~
11 ~~problems and needs of each county and regions within each~~
12 ~~county. The county general plans or development plans shall~~
13 ~~further define applicable provisions of this chapter, provided~~
14 ~~that any amendment to the county general plan of each county~~
15 ~~shall not be contrary to the county charter. The formulation,~~
16 ~~amendment, and implementation of county general plans or~~
17 ~~development plans shall take into consideration statewide~~
18 ~~objectives, policies, and programs stipulated in state~~
19 ~~functional plans approved in consonance with this chapter.~~

20 ~~(b) County general plans shall be formulated on the~~
21 ~~basis of sound rationale, data, analyses, and input from state~~
22 ~~and county agencies and the general public, and contain~~

1 ~~objectives and policies as required by the charter of each~~
2 ~~county. Further, the county general plans should:~~

3 ~~(1) Contain objectives to be achieved and policies to be~~
4 ~~pursued with respect to population density, land use,~~
5 ~~transportation system location, public and community facility~~
6 ~~locations, water and sewage system locations, visitor~~
7 ~~destinations, urban design, and all other matters necessary~~
8 ~~for the coordinated development of the county and regions~~
9 ~~within the county; and~~

10 ~~(2) Contain implementation priorities and actions to~~
11 ~~carry out policies to include but not be limited to land use~~
12 ~~maps, programs, projects, regulatory measures, standards and~~
13 ~~principles, and interagency coordination provisions."]~~

14 SECTION 10. The office of planning, in consultation with
15 the land use commission and county planning departments, shall
16 prepare and implement a one-year work program to formulate
17 guidelines, standards, rules, and additional transitional
18 programs necessary to effectuate the provisions of this Act by
19 June 30, 2007. The land use commission shall prepare rules as
20 needed for section 2 of this Act by June 30, 2007.

21 SECTION 11. If any provision of this chapter or its
22 application to any person or circumstance is held invalid, the
23 invalidity does not affect other provisions or applications of

1 this chapter which can be given effect without the invalid
2 provision or application, and to this end, the provisions of
3 this chapter are severable.

4 SECTION 12. Sections 46, 205-, 205A-, 226-, and 343-,
5 Hawaii Revised Statutes, are amended by substituting the words
6 "county comprehensive plan", or like term, wherever the words
7 "county general plan", "county development plan", or "county
8 community plan", or like term, appears, as the context
9 requires.

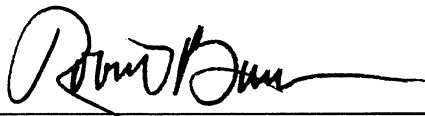
10 SECTION 13. In codifying the new sections added to
11 chapters 205 and 226, Hawaii Revised Statutes the revisor of
12 statutes shall substitute appropriate part numbers and section
13 numbers for the letters used in the new parts and sections
14 designated in the Act.

15 SECTION 14. Statutory material to be repealed is
16 bracketed. New statutory material is underscored.

17 SECTION 15. This Act shall take effect upon its
18 approval.

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INTRODUCED BY:



BY REQUEST

Justification Sheet

SB. NO 2316

DEPARTMENT: Office of the Governor

TITLE: A BILL FOR AN ACT RELATING TO PLANNING

PURPOSE: To streamline the land use regulatory process to facilitate the development of affordable housing. Counties that prepare general and development plans which contain a housing element and meet other state standards become eligible for an expedited process for State land use district boundary amendments. These measures will promote the development of affordable housing particularly in infill areas identified by the county for urban growth.

MEANS: Amend Chapters 46, 226, 205, and 343 Hawaii Revised Statutes.

JUSTIFICATION: At present, counties prepare housing plans and the county housing agencies in coordination with the State Housing and Community Development Corporation of Hawaii have planned for and identified areas appropriate for affordable housing. The counties also prepare general/development plans which set forth land use policy and future patterns and types of development. There is no formal linkage between the two plans. This bill establishes a formal linkage between county housing plans and general and development plans in order to better coordinate housing policy with land use policy and patterns of development. Counties which include a housing element in their county general and development plans as well as meet other state standards become eligible for state certification and an expedited land use district boundary amendment process. Land use district boundary amendments conducted under this process would be quasi-legislative rather than quasi-judicial in nature.

A change is needed because under the existing land use system, long-range land use policy is

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in effect decided on a project-by-project basis as cases come before the State Land Use Commission. The quasi-judicial approach currently utilized by the Land Use Commission is time-consuming and in many aspects duplicates the county-level review process. This repetitive review slows down or even inhibits the development of affordable housing and "infill development" in areas identified by the counties for urban growth. There is a need for the State Land Use Commission to take a longer range, more comprehensive and planning oriented view. County general and development/community plans have been prepared with extensive community input and have been prepared at the level closest to those affected. This bill establishes state requirements for county plans and provides for certification of county plans by the State Land Use Commission. It also establishes a new process for land use district boundary amendments initiated by county governments to implement county plans. The Land Use Commission (LUC) reviews adopted county plans and certifies plans that have been prepared in accordance with the requirements of this bill. Certification would make the counties eligible for a quasi-legislative process for LUC district boundary amendments based on the county plan, which could be conducted concurrent with or subsequent to plan certification. This would streamline the state land use approval process and facilitate the development of affordable housing.

GENERAL FUND:

None.

OTHER FUNDS:

None.

PPB PROGRAM

DESTINATION:

None.

OTHER AFFECTED

AGENCIES:

Land Use Commission, County Planning Departments, County Housing Agencies, Office of Planning, Housing and Community Development Corporation of Hawaii and other state agencies

EFFECTIVE DATE:

Upon approval.