



GOV. MSG. NO. 1345

July 12, 2011

The Honorable Shan Tsutsui, President
and Members of the Senate
Twenty-Sixth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

The Honorable Calvin Say, Speaker
and Members of the House
Twenty-Sixth State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Tsutsui, Speaker Say and Members of the Legislature:

I am transmitting herewith HB1654 HD1 SD1 CD1, without my approval, and with the statement of objections relating to the measure.

HB1654 HD1 SD1 CD1

RELATING TO GROUP LIVING FACILITIES.

Aloha
Sincerely,
Neil Abercrombie

NEIL ABERCROMBIE
Governor, State of Hawaii

EXECUTIVE CHAMBERS

HONOLULU

July 12, 2011

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 1654

Honorable Members
Twenty-Sixth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 1654, entitled "A Bill for an Act Relating to Group Living Facilities."

The purpose of this bill is to provide for the automatic termination or expiration of conditional use permits, issued by the counties, for group living facilities that cease operations for a one-year period or fail to commence operations before the end of a one-year period from the date of issuance.

While the goals of this bill are laudable, several difficulties need to be addressed. This bill amends section 46-4(d), Hawaii Revised Statutes. Section 46-4 provides broad requirements for the counties to implement their zoning plans. Subsection (d) specifically applies to "group living in facilities with eight or fewer residents and that are licensed by the State." The purpose of this subsection is to prohibit the counties from enacting permitting requirements for these types of group living facilities that are different from or more burdensome than permitting requirements for residential family dwellings. The prohibition exists to ensure compliance with the federal Fair Housing Act Amendments, which prohibit discrimination against the disabled or elderly in community settings. This bill would amend this subsection to require the counties' conditional use permits to expire within one year if the group living facility has ceased operations for one year, or

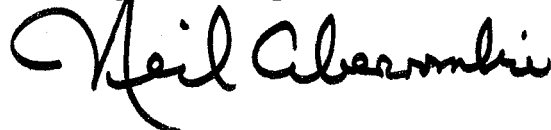
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has failed to commence operations for one year. However, the subsection being amended prohibits counties from requiring "conditional use permits" or any other regulatory requirements for these specific group living facilities. Therefore, this amendment is inapplicable to the facilities that are the subject of this subsection. The bill does not effectuate its stated purpose because there are no "unused permits" that can be made available to other organizations who wish to provide these "critical group home services."

Furthermore, if there were any unused permits or ordinances that prohibit others from providing group living facilities, these county zoning and permitting issues should be left to the jurisdiction of the counties, rather than the State.

For the foregoing reasons, I am returning House Bill No. 1654 without my approval.

Respectfully,

A handwritten signature in black ink that reads "Neil Abercrombie". The signature is written in a cursive, flowing style.

NEIL ABERCROMBIE
Governor of Hawaii

A BILL FOR AN ACT

RELATING TO GROUP LIVING FACILITIES.

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

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

3 "(d) Neither this section nor any other law, county
4 ordinance, or rule shall prohibit group living in facilities
5 with eight or fewer residents and that are licensed by the State
6 as provided for under section 321-15.6, or in an intermediate
7 care facility/mental retardation-community for persons,
8 including mentally ill, elder, disabled, developmentally
9 disabled, or totally disabled persons, who are not related to
10 the home operator or facility staff; provided that those group
11 living facilities meet all applicable county requirements not
12 inconsistent with the intent of this subsection and including
13 building height, setback, maximum lot coverage, parking, and
14 floor area requirements[-]; provided further that a conditional
15 use permit issued by a county agency for the operation of a
16 group living facility shall automatically:

17 (1) Terminate if the group living facility ceases
18 operations for a period of one year; or



1 (2) Expire one year from the date of the issuance of the
2 permit if the group living facility fails to commence
3 operations before the end of that one-year period."

4 SECTION 2. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 3. This Act shall take effect upon its approval.

APPROVED this day of , 2011

GOVERNOR OF THE STATE OF HAWAII

