
A BILL FOR AN ACT

RELATING TO PLANNING AND ECONOMIC DEVELOPMENT.

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

1 SECTION 1. Chapter 201, Hawaii Revised Statutes, is
2 amended by adding a new part to be appropriately designated and
3 to read as follows:

4 **"PART . CREATIVE RURAL OR URBAN AREAS**

5 **§201-A Definitions.** The following terms, whenever used in
6 this part, shall have the following respective meanings, unless
7 a different meaning clearly appears in the context:

8 "Coordinator" means the coordinator of the office of
9 creative rural or urban areas.

10 "Creative rural or urban area" means a land area designated
11 by a county, in accordance with section 46-1.5(28), that
12 contains: a hub of cultural facilities; creative industries;
13 arts-related businesses; or multiple vacant properties in close
14 proximity that would be suitable for redevelopment as a creative
15 rural or urban area.

16 "Office" means the office of creative rural or urban areas.



1 "State-certified creative rural or urban area" means a
2 creative rural or urban area whose application for certification
3 has been approved by the office pursuant to section 201-C.

4 **§201-B Office of creative rural or urban areas;**
5 **establishment.** (a) There is established an office of creative
6 rural or urban areas in the department of business, economic
7 development, and tourism which shall be headed by the
8 coordinator.

9 (b) The coordinator shall be nominated and appointed by
10 the governor without regard to chapter 76.

11 (c) The coordinator shall hire staff necessary to carry
12 out the purposes of this part.

13 (d) The coordinator and employees of the office shall be
14 included in any benefit program generally applicable to the
15 officers and employees of the State.

16 **§201-C Certification of creative rural or urban areas.**

17 (a) Not later than January 1, 2013, the office shall establish
18 a process for the review of applications submitted by counties
19 for certification of a creative rural or urban area. The
20 application shall be submitted on a standard form developed and
21 approved by the office.



1 (b) To be certified as a creative rural or urban area
2 under this section, a creative rural or urban area shall:

3 (1) Comprise a geographically contiguous area;

4 (2) Be distinguished by physical, artistic, or cultural
5 resources that play a vital role in the quality and
6 life of a community, including its economic and
7 cultural development;

8 (3) Be the site of a concentration of artistic or cultural
9 activity, a major arts or cultural institution or
10 facility, arts and entertainment businesses, an area
11 with arts and cultural activities, or artistic or
12 cultural production; and

13 (4) Be the locale for promotional, preservation, and
14 educational aspects of the arts and culture of the
15 community that contribute to the public through
16 interpretive, educational, or recreational uses.

17 (c) Notwithstanding the requirements of subsection (b), in
18 special circumstances, a creative rural or urban area may obtain
19 certification if the land area proposed for certification
20 contains multiple vacant properties in close proximity that
21 would be suitable for redevelopment as a creative rural or urban
22 area. It shall not be a requirement for certification that the



1 proposed creative rural or urban area contain any precise mix of
2 for-profit or nonprofit industries or organizations.

3 (d) After reviewing an application for certification, the
4 office shall approve or reject the application or return it to
5 the applicant with a request for changes or additional
6 information. Rejection of an application shall be without
7 prejudice to submission of an amended application.

8 (e) Certification shall be based upon the criteria
9 specified in subsection (b) or pursuant to subsection (c), as
10 well as any additional criteria required by the office that in
11 its discretion will further the purposes of this section. The
12 office may request that an applicant provide additional relevant
13 information supporting an application.

14 (f) If the office approves an application for
15 certification, it shall notify the applicant in writing and
16 shall specify the terms and conditions of the office's approval,
17 including the terms and conditions set forth in the application
18 and as modified by written agreement between the applicant and
19 the office.

20 (g) Upon approval of an application for certification, a
21 creative rural or urban area shall become a state-certified



1 creative rural or urban area with all of the attendant benefits
2 under this part.

3 (h) The office may remove a certification previously
4 granted under this section for failure by a county to comply
5 with the requirements of this section or any agreement executed
6 thereunder.

7 (i) The establishment of a state-certified creative rural
8 or urban area under this section may not be used to prohibit any
9 business or the development of residential real property within
10 the boundaries of the state-certified creative rural or urban
11 area or to impose a burden on the operation or use of any
12 business or parcel of residential real property located within
13 the boundaries of the state-certified creative rural or urban
14 area.

15 **§201-D Powers and duties of the coordinator.** (a) The
16 coordinator shall:

- 17 (1) Review applications for certification;
- 18 (2) Administer and promote an application process for the
19 certification of creative rural or urban areas;
- 20 (3) Develop standards and policies for the certification
21 of state-certified creative rural or urban areas in
22 accordance with section 201-C(b), (c), and (e);



1 (4) Require periodic written reports from any creative
2 rural or urban area that has received certification to
3 review the activities of the creative rural or urban
4 area, including the compliance of the creative rural
5 or urban area with the policies and standards
6 developed under this section and with the conditions
7 of an approved application for certification;

8 (5) Identify available public and private resources,
9 including any applicable economic development
10 incentives and other tools, that support and enhance
11 the development and maintenance of creative rural or
12 urban areas and ensure that the programs and services
13 are accessible to the creative rural or urban areas;
14 and

15 (6) Do all other things necessary or proper to carry out
16 the purposes of this part.

17 (b) The director may adopt rules under chapter 91
18 necessary to carry out this part."

19 SECTION 2. Section 46-1.5, Hawaii Revised Statutes, is
20 amended to read as follows:

21 "**§46-1.5 General powers and limitation of the counties.**

22 Subject to general law, each county shall have the following



1 powers and shall be subject to the following liabilities and
2 limitations:

3 (1) Each county shall have the power to frame and adopt a
4 charter for its own self-government that shall
5 establish the county executive, administrative, and
6 legislative structure and organization, including but
7 not limited to the method of appointment or election
8 of officials, their duties, responsibilities, and
9 compensation, and the terms of their office;

10 (2) Each county shall have the power to provide for and
11 regulate the marking and lighting of all buildings and
12 other structures that may be obstructions or hazards
13 to aerial navigation, so far as may be necessary or
14 proper for the protection and safeguarding of life,
15 health, and property;

16 (3) Each county shall have the power to enforce all claims
17 on behalf of the county and approve all lawful claims
18 against the county, but shall be prohibited from
19 entering into, granting, or making in any manner any
20 contract, authorization, allowance payment, or
21 liability contrary to the provisions of any county
22 charter or general law;



1 (4) Each county shall have the power to make contracts and
2 to do all things necessary and proper to carry into
3 execution all powers vested in the county or any
4 county officer;

5 (5) Each county shall have the power to:

6 (A) Maintain channels, whether natural or artificial,
7 including their exits to the ocean, in suitable
8 condition to carry off storm waters;

9 (B) Remove from the channels, and from the shores and
10 beaches, any debris that is likely to create an
11 unsanitary condition or become a public nuisance;
12 provided that, to the extent any of the foregoing
13 work is a private responsibility, the
14 responsibility may be enforced by the county in
15 lieu of the work being done at public expense;

16 (C) Construct, acquire by gift, purchase, or by the
17 exercise of eminent domain, reconstruct, improve,
18 better, extend, and maintain projects or
19 undertakings for the control of and protection
20 against floods and flood waters, including the
21 power to drain and rehabilitate lands already
22 flooded; and

1 (D) Enact zoning ordinances providing that lands
2 deemed subject to seasonable, periodic, or
3 occasional flooding shall not be used for
4 residence or other purposes in a manner as to
5 endanger the health or safety of the occupants
6 thereof, as required by the Federal Flood
7 Insurance Act of 1956 (chapter 1025, Public Law
8 1016);

9 (6) Each county shall have the power to exercise the power
10 of condemnation by eminent domain when it is in the
11 public interest to do so;

12 (7) Each county shall have the power to exercise
13 regulatory powers over business activity as are
14 assigned to them by chapter 445 or other general law;

15 (8) Each county shall have the power to fix the fees and
16 charges for all official services not otherwise
17 provided for;

18 (9) Each county shall have the power to provide by
19 ordinance assessments for the improvement or
20 maintenance of districts within the county;

21 (10) Except as otherwise provided, no county shall have the
22 power to give or loan credit to, or in aid of, any



1 person or corporation, directly or indirectly, except
2 for a public purpose;

3 (11) Where not within the jurisdiction of the public
4 utilities commission, each county shall have the power
5 to regulate by ordinance the operation of motor
6 vehicle common carriers transporting passengers within
7 the county and adopt and amend rules the county deems
8 necessary for the public convenience and necessity;

9 (12) Each county shall have the power to enact and enforce
10 ordinances necessary to prevent or summarily remove
11 public nuisances and to compel the clearing or removal
12 of any public nuisance, refuse, and uncultivated
13 undergrowth from streets, sidewalks, public places,
14 and unoccupied lots. In connection with these powers,
15 each county may impose and enforce liens upon the
16 property for the cost to the county of removing and
17 completing the necessary work where the property
18 owners fail, after reasonable notice, to comply with
19 the ordinances. The authority provided by this
20 paragraph shall not be self-executing, but shall
21 become fully effective within a county only upon the
22 enactment or adoption by the county of appropriate and



1 particular laws, ordinances, or rules defining "public
2 nuisances" with respect to each county's respective
3 circumstances. The counties shall provide the
4 property owner with the opportunity to contest the
5 summary action and to recover the owner's property;

6 (13) Each county shall have the power to enact ordinances
7 deemed necessary to protect health, life, and
8 property, and to preserve the order and security of
9 the county and its inhabitants on any subject or
10 matter not inconsistent with, or tending to defeat,
11 the intent of any state statute where the statute does
12 not disclose an express or implied intent that the
13 statute shall be exclusive or uniform throughout the
14 State;

15 (14) Each county shall have the power to:

16 (A) Make and enforce within the limits of the county
17 all necessary ordinances covering all:

18 (i) Local police matters;

19 (ii) Matters of sanitation;

20 (iii) Matters of inspection of buildings;



- 1 (iv) Matters of condemnation of unsafe
2 structures, plumbing, sewers, dairies, milk,
3 fish, and morgues; and
4 (v) Matters of the collection and disposition of
5 rubbish and garbage;
6 (B) Provide exemptions for homeless facilities and
7 any other program for the homeless authorized by
8 part XVII of chapter 346, for all matters under
9 this paragraph;
10 (C) Appoint county physicians and sanitary and other
11 inspectors as necessary to carry into effect
12 ordinances made under this paragraph, who shall
13 have the same power as given by law to agents of
14 the department of health, subject only to
15 limitations placed on them by the terms and
16 conditions of their appointments; and
17 (D) Fix a penalty for the violation of any ordinance,
18 which penalty may be a misdemeanor, petty
19 misdemeanor, or violation as defined by general
20 law;
21 (15) Each county shall have the power to provide public
22 pounds; to regulate the impounding of stray animals



1 and fowl, and their disposition; and to provide for
2 the appointment, powers, duties, and fees of animal
3 control officers;

4 (16) Each county shall have the power to purchase and
5 otherwise acquire, lease, and hold real and personal
6 property within the defined boundaries of the county
7 and to dispose of the real and personal property as
8 the interests of the inhabitants of the county may
9 require, except that:

10 (A) Any property held for school purposes may not be
11 disposed of without the consent of the
12 superintendent of education;

13 (B) No property bordering the ocean shall be sold or
14 otherwise disposed of; and

15 (C) All proceeds from the sale of park lands shall be
16 expended only for the acquisition of property for
17 park or recreational purposes;

18 (17) Each county shall have the power to provide by charter
19 for the prosecution of all offenses and to prosecute
20 for offenses against the laws of the State under the
21 authority of the attorney general of the State;



- 1 (18) Each county shall have the power to make
2 appropriations in amounts deemed appropriate from any
3 moneys in the treasury, for the purpose of:
- 4 (A) Community promotion and public celebrations;
 - 5 (B) The entertainment of distinguished persons as may
6 from time to time visit the county;
 - 7 (C) The entertainment of other distinguished persons,
8 as well as, public officials when deemed to be in
9 the best interest of the community; and
 - 10 (D) The rendering of civic tribute to individuals
11 who, by virtue of their accomplishments and
12 community service, merit civic commendations,
13 recognition, or remembrance;
- 14 (19) Each county shall have the power to:
- 15 (A) Construct, purchase, take on lease, lease,
16 sublease, or in any other manner acquire, manage,
17 maintain, or dispose of buildings for county
18 purposes, sewers, sewer systems, pumping
19 stations, waterworks, including reservoirs,
20 wells, pipelines, and other conduits for
21 distributing water to the public, lighting
22 plants, and apparatus and appliances for lighting



1 streets and public buildings, and manage,
2 regulate, and control the same;

3 (B) Regulate and control the location and quality of
4 all appliances necessary to the furnishing of
5 water, heat, light, power, telephone, and
6 telecommunications service to the county;

7 (C) Acquire, regulate, and control any and all
8 appliances for the sprinkling and cleaning of the
9 streets and the public ways, and for flushing the
10 sewers; and

11 (D) Open, close, construct, or maintain county
12 highways or charge toll on county highways;
13 provided that all revenues received from a toll
14 charge shall be used for the construction or
15 maintenance of county highways;

16 (20) Each county shall have the power to regulate the
17 renting, subletting, and rental conditions of property
18 for places of abode by ordinance;

19 (21) Unless otherwise provided by law, each county shall
20 have the power to establish by ordinance the order of
21 succession of county officials in the event of a
22 military or civil disaster;



- 1 (22) Each county shall have the power to sue and be sued in
2 its corporate name;
- 3 (23) Each county shall have the power to establish and
4 maintain waterworks and sewer works; to collect rates
5 for water supplied to consumers and for the use of
6 sewers; to install water meters whenever deemed
7 expedient; provided that owners of premises having
8 vested water rights under existing laws appurtenant to
9 the premises shall not be charged for the installation
10 or use of the water meters on the premises; to take
11 over from the State existing waterworks systems,
12 including water rights, pipelines, and other
13 appurtenances belonging thereto, and sewer systems,
14 and to enlarge, develop, and improve the same;
- 15 (24) (A) Each county may impose civil fines, in addition
16 to criminal penalties, for any violation of
17 county ordinances or rules after reasonable
18 notice and requests to correct or cease the
19 violation have been made upon the violator. Any
20 administratively imposed civil fine shall not be
21 collected until after an opportunity for a
22 hearing under chapter 91. Any appeal shall be



1 filed within thirty days from the date of the
2 final written decision. These proceedings shall
3 not be a prerequisite for any civil fine or
4 injunctive relief ordered by the circuit court;

(B) 5 Each county by ordinance may provide for the
6 addition of any unpaid civil fines, ordered by
7 any court of competent jurisdiction, to any
8 taxes, fees, or charges, with the exception of
9 fees or charges for water for residential use and
10 sewer charges, collected by the county. Each
11 county by ordinance may also provide for the
12 addition of any unpaid administratively imposed
13 civil fines, which remain due after all judicial
14 review rights under section 91-14 are exhausted,
15 to any taxes, fees, or charges, with the
16 exception of water for residential use and sewer
17 charges, collected by the county. The ordinance
18 shall specify the administrative procedures for
19 the addition of the unpaid civil fines to the
20 eligible taxes, fees, or charges and may require
21 hearings or other proceedings. After addition of
22 the unpaid civil fines to the taxes, fees, or



1 charges, the unpaid civil fines shall not become
2 a part of any taxes, fees, or charges. The
3 county by ordinance may condition the issuance or
4 renewal of a license, approval, or permit for
5 which a fee or charge is assessed, except for
6 water for residential use and sewer charges, on
7 payment of the unpaid civil fines. Upon
8 recordation of a notice of unpaid civil fines in
9 the bureau of conveyances, the amount of the
10 civil fines, including any increase in the amount
11 of the fine which the county may assess, shall
12 constitute a lien upon all real property or
13 rights to real property belonging to any person
14 liable for the unpaid civil fines. The lien in
15 favor of the county shall be subordinate to any
16 lien in favor of any person recorded or
17 registered prior to the recordation of the notice
18 of unpaid civil fines and senior to any lien
19 recorded or registered after the recordation of
20 the notice. The lien shall continue until the
21 unpaid civil fines are paid in full or until a
22 certificate of release or partial release of the



1 lien, prepared by the county at the owner's
2 expense, is recorded. The notice of unpaid civil
3 fines shall state the amount of the fine as of
4 the date of the notice and maximum permissible
5 daily increase of the fine. The county shall not
6 be required to include a social security number,
7 state general excise taxpayer identification
8 number, or federal employer identification number
9 on the notice. Recordation of the notice in the
10 bureau of conveyances shall be deemed, at such
11 time, for all purposes and without any further
12 action, to procure a lien on land registered in
13 land court under chapter 501. After the unpaid
14 civil fines are added to the taxes, fees, or
15 charges as specified by county ordinance, the
16 unpaid civil fines shall be deemed immediately
17 due, owing, and delinquent and may be collected
18 in any lawful manner. The procedure for
19 collection of unpaid civil fines authorized in
20 this paragraph shall be in addition to any other
21 procedures for collection available to the State
22 and county by law or rules of the courts;



1 (C) Each county may impose civil fines upon any
2 person who places graffiti on any real or
3 personal property owned, managed, or maintained
4 by the county. The fine may be up to \$1,000 or
5 may be equal to the actual cost of having the
6 damaged property repaired or replaced. The
7 parent or guardian having custody of a minor who
8 places graffiti on any real or personal property
9 owned, managed, or maintained by the county shall
10 be jointly and severally liable with the minor
11 for any civil fines imposed hereunder. Any such
12 fine may be administratively imposed after an
13 opportunity for a hearing under chapter 91, but
14 such a proceeding shall not be a prerequisite for
15 any civil fine ordered by any court. As used in
16 this subparagraph, "graffiti" means any
17 unauthorized drawing, inscription, figure, or
18 mark of any type intentionally created by paint,
19 ink, chalk, dye, or similar substances;

20 (D) At the completion of an appeal in which the
21 county's enforcement action is affirmed and upon
22 correction of the violation if requested by the



1 violator, the case shall be reviewed by the
2 county agency that imposed the civil fines to
3 determine the appropriateness of the amount of
4 the civil fines that accrued while the appeal
5 proceedings were pending. In its review of the
6 amount of the accrued fines, the county agency
7 may consider:

- 8 (i) The nature and egregiousness of the
9 violation;
- 10 (ii) The duration of the violation;
- 11 (iii) The number of recurring and other similar
12 violations;
- 13 (iv) Any effort taken by the violator to correct
14 the violation;
- 15 (v) The degree of involvement in causing or
16 continuing the violation;
- 17 (vi) Reasons for any delay in the completion of
18 the appeal; and
- 19 (vii) Other extenuating circumstances.

20 The civil fine that is imposed by administrative
21 order after this review is completed and the
22 violation is corrected shall be subject to



1 judicial review, notwithstanding any provisions
2 for administrative review in county charters;

3 (E) After completion of a review of the amount of
4 accrued civil fine by the county agency that
5 imposed the fine, the amount of the civil fine
6 determined appropriate, including both the
7 initial civil fine and any accrued daily civil
8 fine, shall immediately become due and
9 collectible following reasonable notice to the
10 violator. If no review of the accrued civil fine
11 is requested, the amount of the civil fine, not
12 to exceed the total accrual of civil fine prior
13 to correcting the violation, shall immediately
14 become due and collectible following reasonable
15 notice to the violator, at the completion of all
16 appeal proceedings;

17 (F) If no county agency exists to conduct appeal
18 proceedings for a particular civil fine action
19 taken by the county, then one shall be
20 established by ordinance before the county shall
21 impose the civil fine;



- 1 (25) Any law to the contrary notwithstanding, any county
2 mayor, by executive order, may exempt donors, provider
3 agencies, homeless facilities, and any other program
4 for the homeless under part XVII of chapter 346 from
5 real property taxes, water and sewer development fees,
6 rates collected for water supplied to consumers and
7 for use of sewers, and any other county taxes,
8 charges, or fees; provided that any county may enact
9 ordinances to regulate and grant the exemptions
10 granted by this paragraph;
- 11 (26) Any county may establish a captive insurance company
12 pursuant to article 19, chapter 431; ~~and~~
- 13 (27) Each county shall have the power to enact and enforce
14 ordinances regulating towing operations~~[-]~~; and
- 15 (28) Designate a creative rural or urban area, as defined
16 in section 201-A, within its territorial boundaries
17 subject to certification as a state-certified creative
18 rural or urban area by the office of creative or urban
19 areas of the department of business, economic
20 development, and tourism, pursuant to section 201-C."

21 SECTION 3. In codifying the new sections added by section
22 1 of this Act, the revisor of statutes shall substitute



1 appropriate section numbers for the letters used in designating
2 the new sections in this Act.

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

5 SECTION 5. This Act shall take effect on July 1, 2012.

6

INTRODUCED BY:

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AD
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JAN 18 2012



H.B. NO. 2066

Report Title:

Creative Rural or Urban Areas

Description:

Authorizes counties to designate areas within their boundaries as creative rural or urban area, subject to certification by DBEDT. Establishes an office of creative rural or urban areas within DBEDT to assess applications for certification by the counties.

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

