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# A BILL FOR AN ACT

RELATING TO LAND USE.

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

1           SECTION 1. The legislature finds that affordable housing  
2 continues to be one of the State's most significant and  
3 challenging social problems. As the cost of housing increases,  
4 the State must continue to assist residents in obtaining  
5 affordable housing while balancing fiscal considerations.

6           In 2011, the home for life task force, established pursuant  
7 to S.C.R. No. 7, S.D. 1 (2009) and amended by H.C.R. No. 13  
8 (2010), found that accessory dwelling units hold enormous  
9 potential to support affordable housing in addition to  
10 supporting multigenerational living, aging in place, smart  
11 growth, and the revitalization of the construction industry.

12           An accessory dwelling unit is a separate additional living  
13 unit either attached or detached from the primary residential  
14 unit. Accessory dwelling units provide a legal alternative to  
15 illegal rental units and are similar to ohana dwelling units,  
16 but with fewer restrictions, particularly the absence of the  
17 requirement that the unit be rented to a family member only.  
18 This flexibility allows families to pool their resources while



1 living together, yet provides them the ability to rent their  
2 accessory dwelling unit to anyone if a family member vacates it.

3 In addition, existing government policies and personnel may  
4 readily be adapted to oversee accessory dwelling units with  
5 minimal changes. Ohana zones have been mapped to identify where  
6 accessory dwelling units may be added. Newly-created accessory  
7 dwelling units may use existing utility and roadway  
8 infrastructure without requiring government subsidies. At the  
9 same time, the new construction may increase property tax  
10 revenue, permit fees, and sewer fees.

11 The legislature further finds that accessory dwelling units  
12 support the elderly by providing a supplemental source of rental  
13 income or the option of a companion living arrangement where  
14 reduced rent is exchanged for assistance.

15 The legislature finds that requiring the counties to allow  
16 for the construction of accessory dwelling units will reduce the  
17 market for illegal dwelling units, increase the supply of  
18 affordable housing, provide families with additional housing  
19 flexibility, provide opportunities to revitalize the  
20 construction industry, and increase tax revenues.

21 The purpose of this Act is to require the counties to allow  
22 the construction of accessory dwelling units on lots on which a



1 residential dwelling unit is permitted, except for lots situated  
2 on state agricultural lands in counties with populations of five  
3 hundred thousand or fewer persons.

4 SECTION 2. Section 46-4, Hawaii Revised Statutes, is  
5 amended as follows:

6 1. By amending subsection (c) to read:

7 "(c) Each county may adopt reasonable standards to allow  
8 the construction of two single-family dwelling units on any lot  
9 ~~[where]~~ on which a residential dwelling unit is permitted. Each  
10 county shall adopt reasonable standards to allow the  
11 construction of a single-family dwelling unit and an accessory  
12 dwelling unit on any lot on which a residential dwelling unit is  
13 permitted, except for any lot located on state agricultural  
14 lands in counties with populations of five hundred thousand or  
15 fewer persons."

16 2. By amending subsection (f) to read:

17 "(f) For purposes of this section:

18 "Accessory dwelling unit" means a separate additional  
19 dwelling unit, including separate kitchen, bedroom, and bathroom  
20 facilities, attached or detached from the primary residential  
21 dwelling unit.



1 "Clean and sober home" means a house that is operated  
2 pursuant to a program designed to provide a stable environment  
3 of clean and sober living conditions to sustain recovery and  
4 that is shared by unrelated adult persons who:

- 5 (1) Are recovering from substance abuse;
- 6 (2) Share household expenses; and
- 7 (3) Do not require twenty-four-hour supervision,  
8 rehabilitation, or therapeutic services or care in the  
9 home or on the premises;

10 provided that the home shall meet all applicable laws, codes,  
11 and rules of the counties and State.

12 "Developmentally disabled person" means a person suffering  
13 from developmental disabilities as defined under section 333F-1.

14 "Disabled person" means a person with a disability as  
15 defined under section 515-2.

16 "Drug rehabilitation home" means:

- 17 (1) A residential treatment facility that provides a  
18 therapeutic residential program for care, diagnosis,  
19 treatment, or rehabilitation for socially or  
20 emotionally distressed persons, mentally ill persons,  
21 persons suffering from substance abuse, and  
22 developmentally disabled persons; or



1           (2) A supervised living arrangement that provides mental  
2           health services, substance abuse services, or  
3           supportive services for individuals or families who do  
4           not need the structure of a special treatment facility  
5           and are transitioning to independent living;  
6 provided that drug rehabilitation homes shall not include  
7 halfway houses or clean and sober homes.

8           "Elder" means an elder as defined under section 356D-1.

9           "Halfway house" means a group living facility for people  
10 who:

11           (1) Have been released or are under supervised release  
12           from a correctional facility;

13           (2) Have been released from a mental health treatment  
14           facility; or

15           (3) Are receiving substance abuse or sex offender  
16           treatment; and

17 are housed to participate in programs that help them readjust to  
18 living in the community.

19           "Intermediate care facility for individuals with  
20 intellectual disabilities in the community" means an  
21 identifiable unit providing residence and care for eight or  
22 fewer individuals with intellectual disabilities. Its primary



1 purpose is the provision of health, social; and rehabilitation  
2 services to the individuals with intellectual disabilities  
3 through an individually designed active treatment program for  
4 each resident. No person who is predominantly confined to bed  
5 shall be admitted as a resident of such a facility.

6 "Mental health treatment facility" means a psychiatric  
7 facility or special treatment facility as defined under section  
8 334-1.

9 "Mentally ill person" has the same meaning as defined under  
10 section 334-1.

11 "Totally disabled person" means a "person totally disabled"  
12 as defined under section 235-1.

13 "Treatment program" means a "substance abuse program" or  
14 "treatment program", as those terms are defined under section  
15 353G-2."

16 SECTION 3. New statutory material is underscored.

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



**Report Title:**

Counties; Land Use; Accessory Dwelling Units

**Description:**

Requires the counties to allow the construction of accessory dwelling units on lots on which a residential dwelling unit is permitted, except for lots situated on state agricultural lands in any county with a population of five hundred thousand or fewer persons. (HB738 HD1)

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

