
A BILL FOR AN ACT

RELATING TO GROUP HOMES.

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

1 PART I

2 SECTION 1. The legislature finds that the clean and sober
3 homes and halfway houses task force was formed in response to
4 legislation introduced in the regular session of 2012. Clean
5 and sober homes and halfway houses, which are located in
6 communities throughout the State, provide housing for
7 individuals suffering from substance abuse, including people who
8 may have co-occurring mental health issues, as they transition
9 from the treatment setting to life in the community. The clean
10 and sober homes and halfway houses task force explored ways to
11 develop a plan to ensure that these homes are properly monitored
12 and accountable to meet occupancy, zoning, and permitting
13 requirements, as well as quality standards.

14 Clean and sober homes and halfway houses allow individuals
15 to return to the community through support in an alcohol- and
16 drug-free, home-like environment, without the rigid structure of
17 a therapeutic living program, which requires being licensed by
18 the State. Notwithstanding the needs of those who benefit from



1 these homes, neighboring residents have expressed concerns over
2 the legality of the operation of clean and sober homes in their
3 immediate vicinity and the poor conduct and lack of neighborly
4 behavior of some residents of the clean and sober homes. While
5 the State's only halfway house is monitored by the agencies that
6 contract for its services, the level of oversight for clean and
7 sober homes varies, depending on the referral source.

8 Currently, various types of group homes are defined in
9 section 46-4(f), Hawaii Revised Statutes, relating to county
10 zoning. Section 46-4(f), Hawaii Revised Statutes, defines terms
11 that are either no longer needed or are defined elsewhere in the
12 Hawaii Revised Statutes. In addition, in violation of the
13 federal Fair Housing Amendments Act, section 46-4(e), Hawaii
14 Revised Statutes, requires that a public informational meeting
15 be held before a halfway house, a clean and sober home, or a
16 drug rehabilitation home is located in a community.

17 As recommended by the clean and sober homes and halfway
18 houses task force, this Act will balance the needs of those
19 requiring the support of the group homes and the concerns of
20 community members.

21 The purpose of this Act is to help residents and
22 prospective residents of clean and sober group homes to access a



1 stable, alcohol- and drug-free, home-like living environment in
2 residences that are in compliance with federal, state, and
3 county requirements as well as minimum quality standards. This
4 Act:

- 5 (1) Establishes a registry for clean and sober homes
6 within the department of health;
- 7 (2) Amends the county zoning statute to better align
8 functions of state and county jurisdictions to comply
9 with federal law; and
- 10 (3) Excludes clean and sober homes from the residential
11 landlord-tenant code.

12 PART II

13 SECTION 2. The legislature finds that the primary goals of
14 rehabilitation and recovery are to restore social, family,
15 lifestyle, vocational, and economic supports by stabilizing an
16 individual's physical and psychological functioning. Alcohol-
17 and drug-free environments that are safe, sanitary, and secure
18 promote recovery and assist individuals in becoming self-
19 supporting. The legislature further finds that these
20 environments support those in recovery from substance abuse to
21 live in the community at-large.



1 The clean and sober homes and halfway houses task force
2 recognized that there is a need to improve the operation of
3 group homes if they are to achieve their intended purposes.
4 While some homes are well-run, others are overcrowded and not
5 well-managed. To increase the number of homes that maintain
6 appropriate living conditions, a voluntary registry that sets
7 minimum standards, but also gives special advantages to homes on
8 the registry, such as technical support and preferred referral
9 status, will be established. The voluntary registry will
10 include specific requirements that homes on the registry will
11 have to meet and will also provide a framework to monitor the
12 homes. A key function of the voluntary registry is to enable
13 agencies referring clients to monitor residences that provide
14 the necessary support for recovery efforts.

15 The purpose of this part is to establish a registry of
16 clean and sober homes.

17 SECTION 3. Section 321-191, Hawaii Revised Statutes, is
18 amended by adding a new definition to be appropriately inserted
19 and to read as follows:

20 "Clean and sober home" means a dwelling unit that is
21 intended to provide a stable, independent environment of
22 alcohol- and drug-free living conditions to sustain recovery and



1 that is shared by unrelated adult persons who are attempting to
2 maintain a life of sobriety."

3 SECTION 4. Chapter 321, Hawaii Revised Statutes, is
4 amended by adding a new section to part XVI to be appropriately
5 designated and to read as follows:

6 "§321- Clean and sober homes registry. (a) The
7 department shall establish a voluntary clean and sober homes
8 registry to assist persons recovering from substance abuse to
9 have a safe, clean, and sober environment that supports their
10 recovery. The department shall establish procedures and
11 standards by which homes will be allowed to be listed on the
12 registry, including but not limited to:

- 13 (1) Organizational and administrative standards;
- 14 (2) Fiscal management standards;
- 15 (3) Operation standards;
- 16 (4) Recovery support standards;
- 17 (5) Property standards; and
- 18 (6) Good neighbor standards.

19 (b) Upon review and approval of a home operator's
20 application, the department shall issue a certificate of
21 registration that shall specify:

- 22 (1) The name of the holder of the registration;



- 1 (2) The address to which the registration applies;
2 (3) The maximum number of persons to reside in the home;
3 and
4 (4) The period for which the registration shall be valid.

5 An owner, operator, or landlord may not hold the property out to
6 be or advertise to be a "registered clean and sober home" unless
7 the home is registered with the clean and sober homes registry
8 and remains in good standing.

9 (c) The certificate of registration shall be publicly
10 displayed at the home.

11 (d) The certificate of registration shall be non-
12 transferable to a new owner or operator, or to an address other
13 than as specified on the certificate of registration.

14 (e) Nothing in this section shall relieve a certificate
15 holder from compliance with other pertinent statutory
16 provisions, nor shall a certificate holder be relieved from
17 compliance with other applicable provisions of federal, state,
18 or county laws, ordinances, or rules; provided that clean and
19 sober homes shall be excluded from residential landlord-tenant
20 code provisions in chapter 521.

21 (f) The department may revoke the certificate of
22 registration if a home ceases to meet established standards or



1 the provisions of any other applicable federal, state, or county
2 law, ordinance, or rule.

3 (g) The department may immediately revoke a certificate of
4 registration if there are reasonable grounds to believe that the
5 continued operation of the home presents an immediate danger to
6 residents of the home or the general public. The revocation
7 shall be made in writing to the certificate holder.

8 (h) The department shall maintain a listing of all
9 registered clean and sober homes on its website.

10 (i) The department shall establish a toll-free telephone
11 line to receive and respond to complaints regarding clean and
12 sober homes.

13 (j) This section shall not be construed to abrogate an
14 individual's right to privacy. Unless otherwise provided by
15 law, the department shall implement sufficient protections to
16 ensure that the identity of a clean and sober home resident
17 remains strictly confidential and that information collected
18 pursuant to this section is used solely for the purposes of this
19 section.

20 (k) The department shall adopt rules under chapter 91 as
21 necessary to carry out the purposes of this section."



1 SECTION 5. There is appropriated out of the general
 2 revenues of the State of Hawaii the sum of \$ or so much
 3 thereof as may be necessary for fiscal year 2014-2015 for
 4 staffing and operating costs to plan, establish, and operate the
 5 registry of clean and sober homes.

6 The sum appropriated shall be expended by the department of
 7 health for the purposes of this part.

8 PART III

9 SECTION 6. The legislature finds that amendments to
 10 section 46-4, Hawaii Revised Statutes, relating to county
 11 zoning, that were agreed upon by the clean and sober homes and
 12 halfway houses task force in December 2012, are necessary to
 13 better align the functions of state and county jurisdictions.

14 The purpose of this part is to amend section 46-4, Hawaii
 15 Revised Statutes, to:

- 16 (1) Clarify the conditions under which the counties shall
 17 not prohibit group homes that have up to eight
 18 unrelated persons in a dwelling unit;
- 19 (2) Eliminate any conflict with the federal Fair Housing
 20 Amendments Act by deleting the requirement for a
 21 public informational meeting; and



1 (3) Eliminate definitions for terms that are defined
2 elsewhere in the Hawaii Revised Statutes or are no
3 longer needed.

4 SECTION 7. Section 46-4, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "§46-4 County zoning. (a) This section and any
7 ordinance, rule, or regulation adopted in accordance with this
8 section shall apply to lands not contained within the forest
9 reserve boundaries as established on January 31, 1957, or as
10 subsequently amended.

11 Zoning in all counties shall be accomplished within the
12 framework of a long-range, comprehensive general plan prepared
13 or being prepared to guide the overall future development of the
14 county. Zoning shall be one of the tools available to the
15 county to put the general plan into effect in an orderly manner.

16 Zoning in the counties of Hawaii, Maui, and Kauai means the
17 establishment of districts of such number, shape, and area, and
18 the adoption of regulations for each district to carry out the
19 purposes of this section. In establishing or regulating the
20 districts, full consideration shall be given to all available
21 data as to soil classification and physical use capabilities of
22 the land to allow and encourage the most beneficial use of the



1 land consonant with good zoning practices. The zoning power
2 granted herein shall be exercised by ordinance which may relate
3 to:

- 4 (1) The areas within which agriculture, forestry,
5 industry, trade, and business may be conducted;
- 6 (2) The areas in which residential uses may be regulated
7 or prohibited;
- 8 (3) The areas bordering natural watercourses, channels,
9 and streams, in which trades or industries, filling or
10 dumping, erection of structures, and the location of
11 buildings may be prohibited or restricted;
- 12 (4) The areas in which particular uses may be subjected to
13 special restrictions;
- 14 (5) The location of buildings and structures designed for
15 specific uses and designation of uses for which
16 buildings and structures may not be used or altered;
- 17 (6) The location, height, bulk, number of stories, and
18 size of buildings and other structures;
- 19 (7) The location of roads, schools, and recreation areas;
- 20 (8) Building setback lines and future street lines;
- 21 (9) The density and distribution of population;



- 1 (10) The percentage of a lot that may be occupied, size of
2 yards, courts, and other open spaces;
- 3 (11) Minimum and maximum lot sizes; and
- 4 (12) Other regulations the boards or city council find
5 necessary and proper to permit and encourage the
6 orderly development of land resources within their
7 jurisdictions.

8 The council of any county shall prescribe rules,
9 regulations, and administrative procedures and provide personnel
10 it finds necessary to enforce this section and any ordinance
11 enacted in accordance with this section. The ordinances may be
12 enforced by appropriate fines and penalties, civil or criminal,
13 or by court order at the suit of the county or the owner or
14 owners of real estate directly affected by the ordinances.

15 Any civil fine or penalty provided by ordinance under this
16 section may be imposed by the district court, or by the zoning
17 agency after an opportunity for a hearing pursuant to chapter
18 91. The proceeding shall not be a prerequisite for any
19 injunctive relief ordered by the circuit court.

20 Nothing in this section shall invalidate any zoning
21 ordinance or regulation adopted by any county or other agency of



1 government pursuant to the statutes in effect prior to July 1,
2 1957.

3 The powers granted herein shall be liberally construed in
4 favor of the county exercising them, and in such a manner as to
5 promote the orderly development of each county or city and
6 county in accordance with a long-range, comprehensive general
7 plan to ensure the greatest benefit for the State as a whole.
8 This section shall not be construed to limit or repeal any
9 powers of any county to achieve these ends through zoning and
10 building regulations, except insofar as forest and water reserve
11 zones are concerned and as provided in subsections (c) and (d).

12 Neither this section nor any ordinance enacted pursuant to
13 this section shall prohibit the continued lawful use of any
14 building or premises for any trade, industrial, residential,
15 agricultural, or other purpose for which the building or
16 premises is used at the time this section or the ordinance takes
17 effect; provided that a zoning ordinance may provide for
18 elimination of nonconforming uses as the uses are discontinued,
19 or for the amortization or phasing out of nonconforming uses or
20 signs over a reasonable period of time in commercial,
21 industrial, resort, and apartment zoned areas only. In no event
22 shall such amortization or phasing out of nonconforming uses



1 apply to any existing building or premises used for residential
2 (single-family or duplex) or agricultural uses. Nothing in this
3 section shall affect or impair the powers and duties of the
4 director of transportation as set forth in chapter 262.

5 (b) Any final order of a zoning agency established under
6 this section may be appealed to the circuit court of the circuit
7 in which the land in question is found. The appeal shall be in
8 accordance with the Hawaii rules of civil procedure.

9 (c) Each county may adopt reasonable standards to allow
10 the construction of two single-family dwelling units on any lot
11 where a residential dwelling unit is permitted.

12 (d) Neither this section nor any other law, county
13 ordinance, or rule shall prohibit group living in facilities
14 with eight or fewer residents [~~and~~] for purposes or functions
15 that are licensed, certified, registered, or monitored by the
16 State [~~as provided for under section 321 15.6, or in an~~
17 ~~intermediate care facility for individuals with intellectual~~
18 ~~disabilities in the community for persons, including mentally~~
19 ~~ill, elder, disabled, developmentally disabled, or totally~~
20 ~~disabled persons, who are not related to the home operator or~~
21 ~~facility staff; provided that these~~]. A resident manager or a
22 resident supervisor and his or her family shall not be included



1 in this resident count. These group living facilities shall
2 meet all applicable county requirements not inconsistent with
3 the intent of this subsection and including but not limited to
4 building height, setback, maximum lot coverage, parking, and
5 floor area requirements.

6 ~~[(e) No permit shall be issued by a county agency for the~~
7 ~~operation of a halfway house, a clean and sober home, or a drug~~
8 ~~rehabilitation home unless a public informational meeting is~~
9 ~~first held in the affected community. The State shall provide~~
10 ~~notification and access to relevant information, as required,~~
11 ~~under chapter 846E.~~

12 ~~A clean and sober home shall be considered a residential~~
13 ~~use of property and shall be a permitted or conditional use in~~
14 ~~residentially designated zones, including but not limited to~~
15 ~~zones for single family dwellings.~~

16 ~~(f) For purposes of this section:~~

17 ~~"Clean and sober home" means a house that is operated~~
18 ~~pursuant to a program designed to provide a stable environment~~
19 ~~of clean and sober living conditions to sustain recovery and~~
20 ~~that is shared by unrelated adult persons who:~~

21 ~~(1) Are recovering from substance abuse,~~

22 ~~(2) Share household expenses, and~~



1 ~~(3) Do not require twenty four hour supervision,~~
2 ~~rehabilitation, or therapeutic services or care in the~~
3 ~~home or on the premises,~~
4 ~~provided that the home shall meet all applicable laws, codes,~~
5 ~~and rules of the counties and State.~~

6 ~~"Developmentally disabled person" means a person suffering~~
7 ~~from developmental disabilities as defined under section 333F 1.~~

8 ~~"Disabled person" means a person with a disability as~~
9 ~~defined under section 515 2.~~

10 ~~"Drug rehabilitation home" means:~~

11 ~~(1) A residential treatment facility that provides a~~
12 ~~therapeutic residential program for care, diagnosis,~~
13 ~~treatment, or rehabilitation for socially or~~
14 ~~emotionally distressed persons, mentally ill persons,~~
15 ~~persons suffering from substance abuse, and~~
16 ~~developmentally disabled persons; or~~

17 ~~(2) A supervised living arrangement that provides mental~~
18 ~~health services, substance abuse services, or~~
19 ~~supportive services for individuals or families who do~~
20 ~~not need the structure of a special treatment facility~~
21 ~~and are transitioning to independent living;~~



1 ~~provided that drug rehabilitation homes shall not include~~
2 ~~halfway houses or clean and sober homes.~~

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

4 ~~"Halfway house" means a group living facility for people~~
5 ~~who:~~

6 ~~(1) Have been released or are under supervised release~~
7 ~~from a correctional facility;~~

8 ~~(2) Have been released from a mental health treatment~~
9 ~~facility; or~~

10 ~~(3) Are receiving substance abuse or sex offender~~
11 ~~treatment; and~~

12 ~~are housed to participate in programs that help them readjust to~~
13 ~~living in the community.~~

14 ~~"Intermediate care facility for individuals with~~
15 ~~intellectual disabilities in the community" means an~~
16 ~~identifiable unit providing residence and care for eight or~~
17 ~~fewer individuals with intellectual disabilities. Its primary~~
18 ~~purpose is the provision of health, social, and rehabilitation~~
19 ~~services to the individuals with intellectual disabilities~~
20 ~~through an individually designed active treatment program for~~
21 ~~each resident. No person who is predominantly confined to bed~~
22 ~~shall be admitted as a resident of such a facility.~~



1 ~~"Mental health treatment facility" means a psychiatric~~
2 ~~facility or special treatment facility as defined under section~~
3 ~~334-1.~~

4 ~~"Mentally ill person" has the same meaning as defined under~~
5 ~~section 334-1.~~

6 ~~"Totally disabled person" means a "person totally disabled"~~
7 ~~as defined under section 235-1.~~

8 ~~"Treatment program" means a "substance abuse program" or~~
9 ~~"treatment program", as those terms are defined under section~~
10 ~~353G-2.~~

11 ~~(g)]~~ (e) Neither this section nor any other law, county
12 ordinance, or rule shall prohibit the use of land for employee
13 housing and community buildings in plantation community
14 subdivisions as defined in section 205-4.5(a)(12); in addition,
15 no zoning ordinance shall provide for elimination, amortization,
16 or phasing out of plantation community subdivisions as a
17 nonconforming use."

18 PART IV

19 SECTION 8. The legislature finds that excluding clean and
20 sober homes from the application of the residential landlord-
21 tenant code is essential to maintaining the alcohol- and drug-



1 free, home-like environment that supports sobriety and continued
2 recovery of substance abusers.

3 The purpose of this part is to exclude clean and sober
4 homes from residential landlord-tenant code provisions in
5 chapter 521, Hawaii Revised Statutes.

6 SECTION 9. Section 521-7, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "**§521-7 Exclusions from application of chapter.** Unless
9 created solely to avoid the application of this chapter, this
10 chapter shall not apply to:

11 (1) Residence at an institution, whether public or
12 private, where residence is merely incidental to
13 detention or the provision of medical, geriatric,
14 educational, religious, or similar services;

15 (2) Residence in a structure directly controlled and
16 managed by:

17 (A) The University of Hawaii or any other university
18 or college in the State for housing its own
19 students or faculty or residence in a structure
20 erected on land leased from the university or
21 college by a nonprofit corporation for the



1 exclusive purpose of housing students or faculty
2 of the college or university; or

3 (B) A private dorm management company that offers a
4 minimum of fifty beds to students of any college,
5 university, or other institution of higher
6 education in the State;

7 (3) Occupancy under a bona fide contract of sale of the
8 dwelling unit or the property of which it is a part
9 where the tenant is, or succeeds to the interest of,
10 the purchaser;

11 (4) Residence by a member of a fraternal organization in a
12 structure operated without profit for the benefit of
13 the organization;

14 (5) Transient occupancy on a day-to-day basis in a hotel
15 or motel;

16 (6) Occupancy by an employee of the owner or landlord
17 whose right to occupancy is conditional upon that
18 employment or by a pensioner of the owner or landlord
19 or occupancy for a period of up to four years
20 subsequent thereto, pursuant to a plan for the
21 transfer of the dwelling unit or the property of which
22 it is a part to the occupant;



- 1 (7) A lease of improved residential land for a term of
- 2 fifteen years or more, measured from the date of the
- 3 commencement of the lease;
- 4 (8) Occupancy by the prospective purchaser after an
- 5 accepted offer to purchase and prior to the actual
- 6 transfer of the owner's rights;
- 7 (9) Occupancy in a homeless facility or any other program
- 8 for the homeless authorized under part XVII of chapter
- 9 346;
- 10 (10) Residence or occupancy in a public housing project or
- 11 complex directly controlled, owned, or managed by the
- 12 Hawaii public housing authority pursuant to the
- 13 federal low rent public housing program; [~~or~~]
- 14 (11) Residence or occupancy in a transitional facility for
- 15 abused family or household members[-]; or
- 16 (12) Residence or occupancy in a registered clean and sober
- 17 home for persons in recovery from alcohol or drug
- 18 abuse under chapter 321, part XVI."

PART V

20 SECTION 10. The department of health shall submit a

21 progress report to the legislature concerning the status of the

22 plan for establishing and operating the registry of clean and



1 sober homes, no later than twenty days prior to the convening of
2 the regular session of 2015.

3 SECTION 11. This Act does not affect rights and duties
4 that matured, penalties that were incurred, and proceedings that
5 were begun before its effective date.

6 SECTION 12. If any provision of this Act, or the
7 application thereof to any person or circumstance, is held
8 invalid, the invalidity does not affect other provisions or
9 applications of the Act that can be given effect without the
10 invalid provision or application, and to this end the provisions
11 of this Act are severable.

12 SECTION 13. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 14. This Act shall take effect on July 1, 2050.



Report Title:

Registry of Clean and Sober Homes; Appropriation; County Zoning

Description:

Establishes a registry for clean and sober homes within the Department of Health. Appropriates funds. Amends the county zoning statute to better align functions of state and county jurisdictions to comply with federal law. Excludes clean and sober homes from the Residential Landlord-Tenant Code. Effective July 1, 2050. (HB2224 HD1)

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

