
A BILL FOR AN ACT

RELATING TO GROUP HOMES.

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

PART I

1
2 SECTION 1. The legislature finds that clean and sober
3 homes and halfway houses, which are located in communities
4 throughout the State, provide housing for those suffering from
5 substance abuse, including those who may have mental health
6 issues, as they transition from the treatment setting to life in
7 the community. Clean and sober homes and halfway houses provide
8 a means for a person to return to the community through support
9 in an alcohol- and drug-free, home-like environment, without the
10 rigid structure of a therapeutic living program which requires
11 licensure. The support of a home environment fulfills a need
12 for those who are reintegrating into the community while
13 maintaining sobriety. Notwithstanding the needs of those who
14 benefit from these homes, neighboring residents have expressed
15 concerns over the location and legality of the operation of
16 these homes in their immediate vicinity, and the lack of
17 neighborly behavior of some residents. While the State's only
18 halfway house is monitored by the agencies that contract for its



1 services, the level of oversight for clean and sober homes
2 varies, depending on the referral source.

3 The legislature additionally finds that various types of
4 group homes are defined in section 46-4(f), Hawaii Revised
5 Statutes, relating to county zoning. Section 46-4(f), Hawaii
6 Revised Statutes, includes definitions for terms that are either
7 not used or are defined in other parts of the Hawaii Revised
8 Statutes. In addition, in violation of the federal Fair Housing
9 Amendments Act, section 46-4(e), Hawaii Revised Statutes,
10 requires that a public informational meeting be held before a
11 halfway house, clean and sober home, or a drug rehabilitation
12 home is located in a community.

13 In response to legislation introduced in 2012, the director
14 of health convened a clean and sober homes and halfway houses
15 task force to develop a plan to ensure that these homes are
16 properly monitored and accountable for meeting occupancy, zoning
17 and permitting requirements, and quality standards. This Act
18 implements the recommendations of the task force, balancing the
19 needs of those requiring the support of the group homes and the
20 concerns of community members.

21 Accordingly, the purpose of this Act is to provide
22 individuals with access to an alcohol- and drug-free, home-like



1 living environment in residences that are in compliance with
2 county, state, and federal requirements and minimum quality
3 standards by:

- 4 (1) Establishing a registry for clean and sober homes
5 within the department of health; and
6 (2) Aligning functions of state and county jurisdictions
7 and ensuring compliance with federal law.

8 **PART II**

9 SECTION 2. The legislature finds that the primary goals of
10 rehabilitation and recovery are to restore social, family,
11 lifestyle, vocational, and economic support by stabilizing an
12 individual's physical and psychological functioning. Alcohol-
13 and drug-free environments that are safe, sanitary, and secure
14 promote recovery and assist individuals in becoming
15 self-supporting. These environments prepare a person who is
16 recovering from substance abuse to transition into the
17 community.

18 The legislature further finds that the clean and sober
19 homes and halfway houses task force members recognize that there
20 is a need to improve the operation of group homes. While some
21 homes are well-run, others are overcrowded and not well-managed.
22 To increase the number of homes that maintain appropriate living



1 conditions, a voluntary registry shall be established to set
2 minimum standards and provide special advantages to homes on the
3 registry, including technical support and preferred referral
4 status. The voluntary registry will include criteria by which
5 the meeting of standards will be assessed, and provide a
6 framework for the monitoring of homes. A key function of the
7 voluntary registry is to enable agencies to monitor the
8 residences that provide the necessary recovery support to their
9 referred clients.

10 The purpose of this part is to establish a voluntary
11 registry of clean and sober homes that will provide a framework
12 for monitoring the homes.

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

16 "§321- Clean and sober homes registry. (a) The
17 department shall establish a voluntary clean and sober homes
18 registry to provide persons in substance abuse recovery with a
19 listing of homes that offer a clean, safe, sober, and supportive
20 environment. The department shall establish the procedures and
21 standards that homes shall comply with in order to be
22 registered, including but not limited to:



1 (1) Organizational and administrative standards;

2 (2) Fiscal management standards;

3 (3) Operation standards;

4 (4) Recovery support standards;

5 (5) Property standards; and

6 (6) Good neighbor standards.

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

10 (1) The name of the holder of the registration;

11 (2) The address of the home to which the registration
12 applies;

13 (3) The maximum number of individuals to reside in the
14 home; and

15 (4) The period for which the registration shall be valid.

16 An owner, operator, or landlord shall not represent or
17 advertise the property as a "registered clean and sober home"
18 unless the home is registered pursuant to this section and
19 remains in good standing.

20 (c) The certificate of registration shall be publicly
21 displayed at the home.



1 (d) The certificate of registration shall be
2 non-transferable to a new owner or operator or to an address
3 other than as specified on the certificate of registration.

4 (e) Nothing in this section shall relieve a certificate
5 holder from compliance with other pertinent statutory
6 provisions, nor shall a certificate holder be relieved from
7 compliance with other applicable provisions of federal, state,
8 or county laws, ordinances, or rules.

9 (f) The director may revoke the certificate of
10 registration if a home ceases to meet established standards or
11 does not comply with the provisions of any other applicable
12 federal, state, or county law, ordinance, or rule.

13 (g) The director may immediately revoke a certificate of
14 registration if there are reasonable grounds to believe that the
15 continued operation of the home presents an immediate danger to
16 residents of the home or the general public. The revocation
17 shall be made in writing to the certificate holder.

18 (h) The department shall maintain a publicly accessible
19 online listing of all registered clean and sober homes.

20 (i) The department shall establish a toll-free telephone
21 line to receive and respond to complaints regarding clean and
22 sober homes.



1 (j) This section shall not be construed to abrogate an
 2 individual's right to privacy. Unless otherwise provided by
 3 law, the department shall implement sufficient protections to
 4 ensure that the identity of a clean and sober home resident
 5 remains confidential and that information collected pursuant to
 6 this section is used solely for the purpose of this section.

7 (k) The director shall adopt rules pursuant to chapter 91
 8 as are appropriate to carry out the purposes of this section and
 9 its efficient administration."

10 SECTION 4. Section 321-191, Hawaii Revised Statutes, is
 11 amended by adding two new definitions to be appropriately
 12 inserted and to read as follows:

13 "Clean and sober home" means a dwelling unit that is
 14 intended to provide a stable, independent environment of
 15 alcohol- and drug-free living conditions to sustain recovery and
 16 that is shared by unrelated adult persons who are attempting to
 17 maintain a life of sobriety.

18 "Director" means the director of health."

19 SECTION 5. There is appropriated out of the general
 20 revenues of the State of Hawaii the sum of \$ or so
 21 much thereof as may be necessary for fiscal year 2014-2015 to



1 plan, establish, staff, and operate the registry of clean and
2 sober homes.

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

5 SECTION 6. The department of health shall submit a
6 progress report to the legislature concerning the status of the
7 plan for establishing and operating the registry of clean and
8 sober homes, no later than twenty days prior to the convening of
9 the 2015 regular session.

10 **PART III**

11 SECTION 7. The legislature finds that amendments to
12 section 46-4, Hawaii Revised Statutes, relating to county
13 zoning, that were agreed upon at the conclusion of deliberations
14 by the clean and sober homes and halfway houses task force in
15 December 2012, need to be enacted to better align functions of
16 state and county jurisdictions.

17 The purpose of this part is to clarify the conditions under
18 which the counties shall not prohibit group homes that have up
19 to eight unrelated persons in a dwelling unit; ensure compliance
20 with the federal Fair Housing Amendments Act by repealing the
21 requirement for a public informational meeting; and eliminate
22 definitions for terms that are defined elsewhere in the Hawaii



1 Revised Statutes, are not used, or will be codified elsewhere in
2 the Hawaii Revised Statutes.

3 SECTION 8. Section 46-4, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§46-4 County zoning.** (a) This section and any
6 ordinance, rule, or regulation adopted in accordance with this
7 section shall apply to lands not contained within the forest
8 reserve boundaries as established on January 31, 1957, or as
9 subsequently amended.

10 Zoning in all counties shall be accomplished within the
11 framework of a long-range, comprehensive general plan prepared
12 or being prepared to guide the overall future development of the
13 county. Zoning shall be one of the tools available to the
14 county to put the general plan into effect in an orderly manner.
15 Zoning in the counties of Hawaii, Maui, and Kauai means the
16 establishment of districts of such number, shape, and area, and
17 the adoption of regulations for each district to carry out the
18 purposes of this section. In establishing or regulating the
19 districts, full consideration shall be given to all available
20 data as to soil classification and physical use capabilities of
21 the land to allow and encourage the most beneficial use of the
22 land consonant with good zoning practices. The zoning power



1 granted herein shall be exercised by ordinance which may relate
2 to:

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



- 1 (11) Minimum and maximum lot sizes; and
2 (12) Other regulations the boards or city council find
3 necessary and proper to permit and encourage the
4 orderly development of land resources within their
5 jurisdictions.

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

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

18 Nothing in this section shall invalidate any zoning
19 ordinance or regulation adopted by any county or other agency of
20 government pursuant to the statutes in effect prior to July 1,
21 1957.



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

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



1 Nothing in this section shall affect or impair the powers and
2 duties of the director of transportation as set forth in chapter
3 262.

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

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

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



1 shall meet all applicable county requirements not inconsistent
2 with the intent of this subsection [~~and~~], including but not
3 limited to building height, setback, maximum lot coverage,
4 parking, and floor area requirements.

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

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

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

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

20 ~~(1) Are recovering from substance abuse;~~

21 ~~(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 SECTION 9. Section 518-3, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "**§518-3 Invalidity of certain restrictive covenants.** It
21 is the public policy of the State to establish community
22 residences in residential areas. Therefore, any restrictive



1 covenant or other private legal impediment made by any person,
2 association, firm, or corporation which directly or indirectly
3 prevents or restricts the establishment in an area zoned for
4 residential use of a facility licensed by the State as an adult
5 residential care home as defined under section 321-15.1;
6 intermediate care facility for individuals with intellectual
7 disabilities in the community [~~as defined under section [46-~~
8 ~~4(f)]~~]; or special treatment facility as defined under section
9 334-1 shall be void and unenforceable as to such community
10 residences."

11 **PART IV**

12 SECTION 10. This Act does not affect rights and duties
13 that matured, penalties that were incurred, and proceedings that
14 were begun before its effective date.

15 SECTION 11. If any provision of this Act, or the
16 application thereof to any person or circumstance, is held
17 invalid, the invalidity does not affect other provisions or
18 applications of the Act that can be given effect without the
19 invalid provision or application, and to this end the provisions
20 of this Act are severable.

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



1 SECTION 13. This Act shall take effect on July 1, 2050;
2 provided that section 3 shall take effect on July 1, 2050.



Report Title:

Department of Health; Registry for Clean and Sober Homes; County Zoning; Appropriation

Description:

Establishes and appropriates funds for the establishment of a registry for clean and sober homes within the department of health; amends the county zoning statute to comply with the federal Fair Housing Amendments Act and repeals definitions for terms that are defined elsewhere in the Hawaii Revised Statutes, are not used, or will be codified elsewhere in the Hawaii Revised Statutes. Effective 07/01/2050. (SD1)

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

