
A BILL FOR AN ACT

RELATING TO ZONING.

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

1 SECTION 1. The legislature finds that the statewide
2 proliferation of single-family transient vacation rentals has
3 posed enforcement challenges for counties due to the statutory
4 zoning authority of the counties. Ambiguity in the counties'
5 zoning authority has left counties defending against vacation
6 rental operators who assert their use is not commercial in
7 nature, but rather residential.

8 The legislature further finds that single-family transient
9 vacation rentals are more similar to a resort use than a
10 residential use, given the rapid turnover of renters in a
11 single-family transient vacation rental and the imposition of
12 the transient accommodations tax on the rental proceeds.

13 The purpose of this Act is to clarify the counties' zoning
14 authority by distinguishing single-family residential use from
15 single-family vacation rental use and allowing amortization by
16 ordinance for single-family transient vacation rentals over a
17 reasonable period of time. Further, this Act strengthens the



1 home-rule of counties by not imposing mandatory amortization at
2 the state level.

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

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

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



- 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 ~~(-)~~; and



1 provided further that a zoning ordinance may provide for the
2 amortization or phasing out of nonconforming single-family
3 transient vacation rental units or nonconforming single-family
4 transient vacation units over a reasonable period of time in an
5 area of any zoning classification. In no event shall such
6 amortization or phasing out of nonconforming uses apply to any
7 existing building or premises used for residential (single-
8 family or duplex) or agricultural uses. Nothing in this section
9 shall affect or impair the powers and duties of the director of
10 transportation as set forth in chapter 262."

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

13 SECTION 4. This Act shall take effect on July 1, 2020.



Report Title:

County Zoning; Nonconforming Use; Single-Family Transient Rental

Description:

Authorizes the counties to permit the amortization or phasing out of nonconforming single-family transient vacation rental units or nonconforming single-family transient vacation units over a reasonable period of time in an area of any zoning classification. (HB1452 HD1)

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