

JAN 27 2016

A BILL FOR AN ACT

RELATING TO AFFORDABLE HOUSING.

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

1 SECTION 1. The legislature finds that the State is
2 experiencing a dire statewide housing shortage, particularly for
3 the lower and middle income levels. The State and counties are
4 currently many thousands of units behind demand, and the deficit
5 is expected to grow in the foreseeable future.

6 The consequences of little to no housing inventory are well
7 known in the State's communities: most housing is priced well
8 beyond the means of the average resident, Hawaii's homeless
9 population continues to grow, rental housing is difficult to
10 find, multiple generations and multiple families live under the
11 same roof, single family homes are converted into multifamily
12 homes, and more. The hardship on the community is tremendous
13 and it is incumbent upon the State to aid in providing housing
14 as a fundamental human need.

15 Many factors have contributed to the State's housing
16 crisis. Among them is the difficult, expensive, and time
17 consuming process to gain the required land use entitlements



1 needed to start housing construction. In the *State Land Use*
2 *System Review, Draft Report*, dated May 2015, the office of
3 planning found that the approval process from the beginning of
4 the environmental assessment or environmental impact statement
5 process to the start of construction takes approximately seven
6 years. This is approximately the length of an entire real
7 estate cycle. The state process alone, even for moderately
8 sized projects, may take over two years. Legal challenges along
9 any of the steps may add years to the process.

10 The report also notes that a primary concern is that the
11 environmental impact statement law, state district boundary
12 amendment procedures, county entitlement processes, and
13 shoreline management area where applicable, are often redundant,
14 with the same issues being examined multiple times. Issues,
15 such as traffic impacts to state and county transportation
16 facilities, schools, water, agriculture, archaeology, natural
17 hazards, wastewater, runoff, and other concerns, are addressed
18 at each level of review.

19 The long, multi-tiered process adds to the price of housing
20 due to holding costs, and because it requires the services of
21 attorneys, expert witnesses, consultants, and others. Most of



1 these services are repeatedly required at each level of the
2 entitlement process, adding significant costs to each unit that
3 are ultimately passed on to a buyer.

4 Approximately thirty years ago, through Act 230, Session
5 Laws of Hawaii 1985, the counties were granted authority over
6 district boundary amendments for fifteen acres or less. At that
7 time, the counties had limited capacity to do long-range
8 planning. Since then, however, the capacity and sophistication
9 of the counties' planning functions have grown significantly and
10 the counties are now competent to make significant land use
11 decisions. Each county has a full staff of professional
12 planners and has adopted laws and methodologies to develop and
13 approve long-range land use plans that are consistent with state
14 law and best planning practices. The counties now use state-of-
15 the-art planning tools, such as geographical information
16 systems, and are fully capable of assessing their own housing
17 and economic needs, as well as analyzing environmental impacts.

18 It has been discussed that the greater than fifteen-acre
19 threshold is necessary because the land use commission process
20 is necessary to protect and account for state interests. Such
21 interests would include but not be limited to state



1 transportation facilities, school facilities, water
2 availability, agricultural impacts, and historic and cultural
3 resources and prevention.

4 The counties now, by their local laws and by practice,
5 address state interests as a matter of course during their
6 respective entitlement processes. Both individual applications
7 and county-initiated entitlement processes are routinely
8 circulated to state agencies for their review and comment.
9 Similar to land use commission orders, state agency review is
10 most often addressed on a local level through conditions of
11 zoning or as conditions permits.

12 Because the counties engage in sophisticated planning
13 processes, and their local processes can and do account for
14 state interests, the counties should have the authority to make
15 district boundary amendments to up to one hundred acres. For
16 many smaller projects, this will shorten the entitlement process
17 by approximately two and a half years. The intent is not to
18 replace the land use commission function as most petitions for
19 district boundary amendments are greater than one hundred acres.
20 The state land use commission should continue to process



1 district boundary amendments where there is the greatest
2 potential for impacts on state interests.

3 The purpose of this Act is to shorten the time needed to
4 entitle housing projects by giving the counties authority to
5 make district boundary amendments for lands with an area of one
6 hundred acres or less.

7 SECTION 2. Section 205-3.1, Hawaii Revised Statutes, is
8 amended by amending subsections (a), (b), and (c) to read as
9 follows:

10 "(a) District boundary amendments involving lands in the
11 conservation district, land areas greater than [~~fifteen~~] one
12 hundred acres, or lands delineated as important agricultural
13 lands shall be processed by the land use commission pursuant to
14 section 205-4.

15 (b) Any department or agency of the State, and department
16 or agency of the county in which the land is situated, or any
17 person with a property interest in the land sought to be
18 reclassified may petition the appropriate county land use
19 decision-making authority of the county in which the land is
20 situated for a change in the boundary of a district involving
21 lands [~~less than fifteen~~] of one hundred acres or less presently



1 in the rural and urban districts and lands [~~less than fifteen~~]
2 of one hundred acres or less in the agricultural district that
3 are not designated as important agricultural lands.

4 (c) District boundary amendments involving land areas of
5 [~~fifteen~~] one hundred acres or less, except as provided in
6 subsection (b), shall be determined by the appropriate county
7 land use decision-making authority for the district and shall
8 not require consideration by the land use commission pursuant to
9 section 205-4; provided that such boundary amendments and
10 approved uses are consistent with this chapter[-] and that state
11 interests are addressed in the district boundary amendment. The
12 appropriate county land use decision-making authority may
13 consolidate proceedings to amend state land use district
14 boundaries pursuant to this subsection, with county proceedings
15 to amend the general plan, development plan, zoning of the
16 affected land, or such other proceedings. Appropriate
17 ordinances and rules to allow consolidation of such proceedings
18 may be developed by the county land use decision-making
19 authority."

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



S.B. NO. 3079

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

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S.B. NO. 3079

Report Title:

District Boundaries; Counties

Description:

Grants authority to counties to make district boundary amendments for lands with an area of one hundred acres or less.

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