

1 total projected demand is for households earning less than 80%
2 of area median income (AMI), or \$76,650 for a family of four."

3 While state government's own studies show the projected
4 lack of supply of housing over the next ten years, none of the
5 counties have formulated and proposed any possible solutions to
6 increase the production of housing in Hawaii to meet the
7 projected demand through reforming entitlement processes, as
8 well as long-range planning for infrastructure investment.

9 Hawaii's comprehensive land use system and policies,
10 coupled with an overlapping county entitlement process, are the
11 dominant reasons for the severe housing shortage in the State.
12 The aggregate land area for all islands is about four million
13 acres with roughly half designated as agriculture and the other
14 half allocated to conservation. About two hundred thousand
15 acres or five per cent of island lands are designated as urban
16 and available for development.

17 In order to address this crisis, the legislature finds that
18 it is in the State's best interest to "streamline" the process
19 of delivering more housing by aligning state and county
20 processes to ensure that there is sufficient developable land
21 and infrastructure to support the required additional housing



1 units, and establish housing production goals for each county
2 with a streamlined approval process when production goals are
3 not met.

4 The purpose of this measure is to address Hawaii's housing
5 crisis by:

6 (1) Providing a process for approval of land use boundary
7 amendments consistent with county plans to permit
8 housing development;

9 (2) Requiring the prioritization of infrastructure funding
10 to support planned growth; and

11 (3) Establishing a streamlined approval process for
12 housing developments that include below market-rate
13 units.

14 PART II

15 SECTION 2. Section 205-4, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§205-4 Amendments to district boundaries involving land**
18 **areas greater than fifteen acres.** (a) Any department or agency
19 of the State, any department or agency of the county in which
20 the land is situated, or any person with a property interest in



1 the land sought to be reclassified, may petition the land use
2 commission for a change in the boundary of a district. This
3 section applies to all petitions for changes in district
4 boundaries of lands within conservation districts, lands
5 designated or sought to be designated as important agricultural
6 lands, and lands greater than fifteen acres in the agricultural,
7 rural, and urban districts, except as provided in section 201H-
8 38. The land use commission shall adopt rules pursuant to
9 chapter 91 to implement section 201H-38.

10 (b) Upon proper filing of a petition pursuant to
11 subsection (a) the commission shall, within not less than sixty
12 and not more than one hundred and eighty days, conduct a hearing
13 on the appropriate island in accordance with the provisions of
14 sections 91-9, 91-10, 91-11, 91-12, and 91-13, as applicable.

15 (c) Any other provision of law to the contrary
16 notwithstanding, notice of the hearing together with a copy of
17 the petition shall be served on the county planning commission
18 and the county planning department of the county in which the
19 land is located and all persons with a property interest in the
20 land as recorded in the county's real property tax records. In
21 addition, notice of the hearing shall be mailed to all persons



1 who have made a timely written request for advance notice of
2 boundary amendment proceedings, and public notice shall be given
3 at least once in the county in which the land sought to be
4 redistricted is situated as well as once statewide at least
5 thirty days in advance of the hearing. The notice shall comply
6 with section 91-9, shall indicate the time and place that maps
7 showing the proposed district boundary may be inspected, and
8 further shall inform all interested persons of their rights
9 under subsection [~~e~~] (g).

10 (d) Notwithstanding any other law to the contrary, upon
11 approval by the appropriate county land use decision-making
12 authority by ordinance, and with concurrence from the land use
13 commission, boundary amendments reflected in the general plan,
14 development plan, community plan, or sustainable community plan,
15 shall be adopted in accordance with the approved plans; provided
16 that the quantitative annual housing production goals are agreed
17 upon by the State for each of the following income categories:

- 18 (1) Market: One hundred forty per cent or more of the area
19 median income;
20 (2) Workforce: Eighty per cent to less than one hundred
21 forty percent of the area median income;



1 (3) Moderate Income: Sixty per cent to less than eighty
2 per cent of the area median income; and

3 (4) Low Income: Less than sixty per cent of the area
4 median income.

5 No further action from the commission will be necessary.

6 (e) Notwithstanding any other law to the contrary, all
7 agencies responsible for providing public infrastructure to land
8 areas with boundary amendments adopted pursuant to subsection
9 (d) shall, within one year of the effective date of the boundary
10 amendment, prepare a budget to prioritize funding for all
11 infrastructure required to support the planned growth reflected
12 in the adopted general plan, development plan, community plan,
13 or sustainable community plan.

14 (f) Any other provisions of law to the contrary
15 notwithstanding, prior to hearing of a petition the commission
16 and its staff may view and inspect any land which is the subject
17 of the petition.

18 ~~(e)~~ (g) Any other provisions of law to the contrary
19 notwithstanding, agencies and persons may intervene in the
20 proceedings in accordance with this subsection.



- 1 (1) The petitioner, the office of planning, and the county
2 planning department shall in every case appear as
3 parties and make recommendations relative to the
4 proposed boundary change;
- 5 (2) All departments and agencies of the State and of the
6 county in which the land is situated shall be admitted
7 as parties upon timely application for intervention;
- 8 (3) All persons who have some property interest in the
9 land, who lawfully reside on the land, or who
10 otherwise can demonstrate that they will be so
11 directly and immediately affected by the proposed
12 change that their interest in the proceeding is
13 clearly distinguishable from that of the general
14 public shall be admitted as parties upon timely
15 application for intervention;
- 16 (4) All other persons may apply to the commission for
17 leave to intervene as parties. Leave to intervene
18 shall be freely granted; provided that the commission
19 or its hearing officer, if one is appointed, may deny
20 an application to intervene when in the commission's
21 or hearing officer's sound discretion it appears that:



1 (A) The position of the applicant for intervention
2 concerning the proposed change is substantially
3 the same as the position of a party already
4 admitted to the proceeding; and

5 (B) The admission of additional parties will render
6 the proceedings inefficient and unmanageable.

7 A person whose application to intervene is denied may
8 appeal the denial to the circuit court pursuant to
9 section 91-14; and

10 (5) The commission, pursuant to chapter 91, shall adopt
11 rules governing the intervention of agencies and
12 persons under this subsection. The rules shall
13 without limitation establish:

14 (A) The information to be set forth in any
15 application for intervention;

16 (B) The limits within which applications shall be
17 filed; and

18 (C) Reasonable filing fees to accompany applications.

19 [~~f~~] (h) Together with other witnesses that the
20 commission may desire to hear at the hearing, it shall allow a
21 representative of a citizen or a community group to testify who



1 indicates a desire to express the view of such citizen or
2 community group concerning the proposed boundary change.

3 ~~(g)~~ (i) Within a period of not more than three hundred
4 sixty-five days after the proper filing of a petition, unless
5 otherwise ordered by a court, or unless a time extension, which
6 shall not exceed ninety days, is established by a two-thirds
7 vote of the members of the commission, the commission, by filing
8 findings of fact and conclusions of law, shall act to approve
9 the petition, deny the petition, or to modify the petition by
10 imposing conditions necessary to uphold the intent and spirit of
11 this chapter or the policies and criteria established pursuant
12 to section 205-17 or to assure substantial compliance with
13 representations made by the petitioner in seeking a boundary
14 change. The commission may provide by condition that absent
15 substantial commencement of use of the land in accordance with
16 such representations, the commission shall issue and serve upon
17 the party bound by the condition an order to show cause why the
18 property should not revert to its former land use classification
19 or be changed to a more appropriate classification. Such
20 conditions, if any, shall run with the land and be recorded in
21 the bureau of conveyances.



1 ~~(h)~~ (j) No amendment of a land use district boundary
2 shall be approved unless the commission finds upon the clear
3 preponderance of the evidence that the proposed boundary is
4 reasonable, not violative of section 205-2 and part III of this
5 chapter, and consistent with the policies and criteria
6 established pursuant to sections 205-16 and 205-17. Six
7 affirmative votes of the commission shall be necessary for any
8 boundary amendment under this section.

9 ~~(i)~~ (k) Parties to proceedings to amend land use
10 district boundaries may obtain judicial review thereof in the
11 manner set forth in section 91-14, provided that the court may
12 also reverse or modify a finding of the commission if such
13 finding appears to be contrary to the clear preponderance of the
14 evidence.

15 ~~(j)~~ (l) At the hearing, all parties may enter into
16 appropriate stipulations as to findings of fact, conclusions of
17 law, and conditions of reclassification concerning the proposed
18 boundary change. The commission may but shall not be required
19 to approve such stipulations based on the evidence adduced."



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PART III

SECTION 3. Chapter 46, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

"§46- Amendments to district boundaries; annual production report. (a) By April 1 of each year, each county shall provide to the Hawaii housing finance and development corporation an annual production report for boundary amendments authorized pursuant to section 205-4. The annual production report shall include:

- (1) The number of net rental housing and for-sale housing units that have been issued a completed entitlement, a building permit, or a certificate of occupancy thus far in the housing element cycle;
- (2) The income category defined in section 205-4 that each net rental housing and for-sale housing units satisfies;
- (3) The number total of rental housing units and for-sale housing units in each income category defined in section 205-4; and



1 (4) The tax map key number and any other site identifier
2 for each entitlement, building permit, or certificate
3 of occupancy.

4 (b) If a county fails to meet its annual housing
5 production goals for two consecutive years for any or all of the
6 income categories defined in section 205-4, the county shall be
7 subject to the streamlined housing approval process established
8 pursuant to section 46- for each income category that did not
9 meet the production goal; provided that the State shall decide
10 whether the county will be subject to the streamlined housing
11 approval process if the county's production of housing or the
12 home buyer market was affected by abnormal market conditions
13 such as a lack of materials, high interest rates, high mortgage
14 interest rates, or an economic recession.

15 §46- Streamlined housing approval process. (a) The
16 counties shall establish a process to streamline the ministerial
17 approval process for permits for units priced within the income
18 categories for which the county failed to meet its production
19 goals. To be eligible for the streamlined process, the
20 development shall satisfy all of the following objective
21 planning standards:



- 1 (1) The development is a multifamily housing development
2 that contains two or more residential units;
- 3 (2) The development is located on a site that satisfies
4 all of the following:
- 5 (A) A site that is a legal parcel or parcels; and
6 (B) A site that is designated urban by the land use
7 commission that is:
- 8 (i) Zoned for residential use;
9 (ii) Residential mixed-use development;
10 (iii) A general plan designation that allows
11 residential use; or
- 12 (iv) A mix of residential and nonresidential
13 uses, with at least two-thirds of the square
14 footage of the development designated for
15 residential use;
- 16 (3) The development of a market rate housing project is
17 subject to a requirement mandating a minimum
18 percentage of below market rate housing based on one
19 of the following:
- 20 (A) If the county has adopted a local ordinance that
21 requires that greater than ten per cent of the



1 units be dedicated to housing affordable to
2 households making below eighty percent of the
3 area median income, that zoning ordinance
4 applies; or

5 (B) If the county does not have an affordable housing
6 requirement, ten per cent of the proposed units,
7 on projects with greater than ten units, shall be
8 priced for those households making eighty per
9 cent or below the area median income; and

10 (4) If the development involves more than ten units and is
11 not entirely a public works project, then all
12 construction workers employed in the execution of the
13 development will be paid at least the general
14 prevailing rate of per diem wages for the type of work
15 and geographic area.

16 (b) If the county permitting agency determines that an
17 application submitted by a developer pursuant to this section is
18 in conflict with any of the objective planning standards as
19 specified in subsection (a), it shall provide the developer
20 written documentation of which standard or standards the
21 development is in conflict with and an explanation for the



1 reason or reasons the development conflicts with that standard
 2 or standards within ninety days of submittal of the application.
 3 If the county permitting agency fails to provide the required
 4 documentation pursuant to this subsection, the development shall
 5 be deemed to satisfy the objective planning standards specified
 6 in subsection (a).

7 (c) The county permitting agency may review the proposed
 8 project for compliance with codes and ordinances, and also for
 9 consistency with surrounding existing projects; provided that
 10 the county is prohibited from imposing any non-code related
 11 condition or exaction on projects processed pursuant to this
 12 section."

PART IV

14 SECTION 4. Statutory material to be repealed is bracketed
 15 and stricken. New statutory material is underscored.

16 SECTION 5. This Act shall take effect on July 1, 2019.
 17

Hakshuma

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H.B. NO. 1209

Report Title:

Land Use; Boundaries; Housing Development

Description:

Requires boundary amendments reflected in certain plans to be adopted in accordance with such approved plans. Prioritizes infrastructure funding to support planned growth. Establishes a streamlined approval process for ministerial permits for income categories for which the county did not meet production goals.

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