

JAN 23 2020

A BILL FOR AN ACT

RELATING TO COUNTIES.

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

1 SECTION 1. The legislature finds that zoning has
2 traditionally been a function delegated by the State to the
3 counties pursuant to section 46-4, Hawaii Revised Statutes.
4 Counties are thereby authorized to establish zoning
5 classifications and provide for allowable uses and structures
6 within those classifications.

7 The legislature further finds that short-term rentals that
8 are not authorized by applicable zoning standards, permit, or
9 other means, are nonetheless being promoted through bookings by
10 hosting platforms. Hosting platforms facilitate these unlawful
11 operations by serving as the commercial conduit through which
12 the rentals are reserved.

13 The legislature finds that providing the counties with
14 explicit authority to enact legislation to regulate hosting
15 platforms that promote unlawful short-term rental operations by
16 providing, and collecting and receiving a fee for, booking
17 services, will enable counties to better regulate and enforce



1 their zoning policies in furtherance of the public health,
2 safety, and welfare.

3 The purpose of this Act is to make explicit the counties'
4 authority to enact zoning ordinances to regulate hosting
5 platforms providing booking services for short-term rentals.

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

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

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



S.B. NO. 3001

1 data as to soil classification and physical use capabilities of
2 the land to allow and encourage the most beneficial use of the
3 land consonant with good zoning practices. The zoning power
4 granted herein shall be exercised by ordinance which may relate
5 to:

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



- 1 (8) Building setback lines and future street lines;
- 2 (9) The density and distribution of population;
- 3 (10) The percentage of a lot that may be occupied, size of
- 4 yards, courts, and other open spaces;
- 5 (11) Minimum and maximum lot sizes; [~~and~~]
- 6 (12) Practices of hosting platforms providing booking
- 7 services for short-term rentals; and
- 8 [~~(12)~~] (13) Other regulations the boards or city council find
- 9 necessary and proper to permit and encourage the
- 10 orderly development of land resources within their
- 11 jurisdictions.

12 For purposes of this subsection, the following definitions
13 shall apply:

14 "Booking services" means reservation or payment services
15 that facilitate a short-term rental transaction between a
16 prospective renter and a host.

17 "Hosting platform" means a person or entity participating
18 in the short-term rental business by providing, and collecting
19 or receiving a fee for, a booking service.

20 "Short-term rental" means the payment for use, or swapping,
21 bartering, or exchange, of a residential dwelling, or portion



1 thereof, for a stay of less than one hundred eighty days, or a
2 lesser maximum duration as determined by a county, by someone
3 other than the owner, and includes "transient vacation rentals"
4 as defined in section 514E-1.

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

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

17 Nothing in this section shall invalidate any zoning
18 ordinance or regulation adopted by any county or other agency of
19 government pursuant to the statutes in effect prior to July 1,
20 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 amortization or phasing out of nonconforming uses
21 apply to any existing building or premises used for residential



S.B. NO. 3001

1 (single-family or duplex) or agricultural uses. Nothing in this
2 section shall affect or impair the powers and duties of the
3 director of transportation as set forth in chapter 262."

4 SECTION 3. If any provision of this Act, or the
5 application thereof to any person or circumstance, is held
6 invalid, the invalidity does not affect other provisions or
7 applications of the Act that can be given effect without the
8 invalid provision or application, and to this end the provisions
9 of this Act are severable.

10 SECTION 4. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 5. This Act shall take effect upon its approval.

13

INTRODUCED BY:

M. J. ...
By Request



S.B. NO. 3001

Report Title:

Short-term Rentals; Hosting Platforms; Counties

Description:

Makes explicit the counties' authority to regulate hosting platforms providing booking services for short-term rentals. Includes swapping, bartering, or exchange of a residential dwelling, or portion thereof, in definition of "short-term rental" for this purpose.

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

