

JAN 18 2019

A BILL FOR AN ACT

RELATING TO HOUSING.

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

1 SECTION 1. The legislature finds that the State of Hawaii
2 has a housing crisis. The department of business, economic
3 development, and tourism's report, Measuring Housing Demand in
4 Hawaii 2015-2025 published on April 2015, forecast that the
5 demand for additional housing units by county is 25,847 units
6 for the city and county of Honolulu, 19,610 for Hawaii county,
7 13,949 for Maui county, and 5,287 for Kauai county during 2015
8 to 2025.

9 The city and county of Honolulu's draft of its affordable
10 housing strategy states: "The marketplace is not building
11 enough affordable housing to keep up with demand. Many people
12 live in overcrowded homes, spend more than forty-five per cent
13 of their incomes on combined housing and transportation costs,
14 or are homeless and living on the streets. Oahu would need more
15 than 24,000 additional housing units to address pent-up demand
16 combined with new household formation by 2016. Over 18,000 or
17 75% of the total projected demand is for households earning less



1 than 80% of area median income (AMI), or \$76,650 for a family of
2 four".

3 While the state's study shows the projected lack of supply
4 of housing over the next ten years, none of the counties have
5 formulated and proposed any possible solutions to increase the
6 production of housing in Hawaii to meet the projected demand
7 through reforming entitlement processes, as well as long-range
8 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 why there is a severe housing shortage in the
12 State. The aggregate land area for all islands is about four
13 million acres with roughly half designated as agriculture and
14 the other half allocated to conservation. According to the
15 Urban and Rural Areas in the State of Hawaii, by County: 2010
16 report, about two hundred fifty thousand acres or five per cent
17 of the islands' lands are designated as urban and available for
18 development.

19 The purpose of this Act is to require boundary amendments
20 reflected in certain plans to be adopted in accordance with the
21 respective plans, upon approval by the county land use decision-



1 making authority, with concurrence from the land use commission,
2 and to increase housing inventory by prioritizing funding for
3 public infrastructure and providing a streamlined approval
4 process for the projects.

5 SECTION 2. Chapter 201H, Hawaii Revised Statutes, is
6 amended by adding two new sections to be appropriately
7 designated and to read as follows:

8 "§201H-A Amendments to district boundaries; annual
9 production report. (a) For boundary amendments authorized
10 pursuant to section 205-4, each county shall provide, by April 1
11 of each year, an annual production report to the corporation
12 that includes:

13 (1) The number of net new units of housing, including
14 rental housing and for-sale housing, that have been
15 issued a completed entitlement, building permit, or
16 certificate of occupancy, in the housing element
17 cycle;

18 (2) The income category, by area median income category,
19 that each unit of housing satisfies, which includes
20 rental housing and housing designated for home
21 ownership;



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1 (3) For each income category, the number of rental housing
2 units and the number of for-sale housing units that
3 satisfy each income category; and

4 (4) For each entitlement, building permit, or certificate
5 of occupancy, a unique site identifier, which shall
6 include a tax map key parcel number but may also
7 include street address or other identifiers.

8 (b) In normal market conditions, if a county fails to meet
9 its annual housing production goals for two consecutive years
10 for any or all of the income categories pursuant to section
11 205-4(d), that county shall be subject to the streamlined
12 housing approval process established pursuant to section 201H-B
13 for each income category that did not meet the production goal.

14 (c) In the event of abnormal market conditions that impact
15 the production of housing, including but not limited to a lack
16 of materials, high interest rates, economic recession, or the
17 home buyer market, such as high mortgage interest rates or an
18 economic recession, the State shall decide, after consultation
19 with the respective county on which the housing project is
20 located, if or when the county will be subject to the



1 streamlined housing approval process established pursuant to
2 section 201H-B.

3 §201H-B Streamlined housing approval process. (a) A
4 development proponent may submit an application for a housing
5 development that is subject to the streamlined, ministerial
6 approval process provided by subsection (b) for units priced at
7 income categories for which the county failed to meet production
8 goals, and shall not be subject to a conditional use permit if
9 the development satisfies all of the following:

10 (1) The development is a multifamily housing development
11 that contains two or more residential units;

12 (2) The development is located on a site that is:

13 (A) A legal parcel or parcels; and

14 (B) Designated in the urban district by the land use
15 commission and:

16 (i) Is zoned for residential use;

17 (ii) Is a residential mixed-use development;

18 (iii) Has a general plan designation that allows
19 residential use; or

20 (iv) Allows a mix of residential and

21 nonresidential uses, with at least two-



1 thirds of the square footage of the
2 development designated for residential use;

3 (3) The development of a market rate housing project is
4 subject to a requirement mandating a minimum
5 percentage of below market rate housing based on one
6 of the following:

7 (A) If the county has adopted a local ordinance that
8 requires that greater than ten per cent of the
9 units be dedicated to housing affordable to
10 households making below eighty per cent of the
11 area median income, that zoning ordinance
12 applies; or

13 (B) If the county does not have an affordable housing
14 requirement, ten per cent of the proposed units,
15 on projects with greater than ten units, shall be
16 priced for those households making eighty per
17 cent or below the area median income;

18 (4) The county permitting agency may review the proposed
19 project for compliance with codes and ordinances and
20 for consistency with surrounding existing projects;
21 provided that the county is prohibited from imposing



1 any non-code related condition or exaction on projects
2 processed pursuant to this section; and

3 (5) If the development involves more than ten units and is
4 not a public works project, then all construction
5 workers employed in the execution of the development
6 shall be paid at least the general prevailing rate of
7 per diem wages for the type of work and geographic
8 area.

9 (b) If the county permitting agency determines that an
10 application submitted by a development proponent pursuant to
11 this section is in conflict with any of the objective planning
12 standards as specified in subsection (a), it shall provide the
13 development proponent written documentation of any standard the
14 development is in conflict with and an explanation for any
15 reason the development conflicts with that standard within
16 ninety days of submittal of the application. If the county
17 permitting agency fails to provide the required documentation
18 pursuant to this subsection, the development shall be deemed to
19 satisfy the objective planning standards specified in subsection
20 (a)."



1 SECTION 3. Section 205-4, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§205-4 Amendments to district boundaries involving land
4 areas greater than fifteen acres. (a) Any department or agency
5 of the State, any department or agency of the county in which
6 the land is situated, or any person with a property interest in
7 the land sought to be reclassified, may petition the land use
8 commission for a change in the boundary of a district. This
9 section applies to all petitions for changes in district
10 boundaries of lands within conservation districts, lands
11 designated or sought to be designated as important agricultural
12 lands, and lands greater than fifteen acres in the agricultural,
13 rural, and urban districts, except as provided in section
14 201H-38. The land use commission shall adopt rules pursuant to
15 chapter 91 to implement section 201H-38.

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



1 (c) Any other provision of law to the contrary
2 notwithstanding, notice of the hearing together with a copy of
3 the petition shall be served on the county planning commission
4 and the county planning department of the county in which the
5 land is located and all persons with a property interest in the
6 land as recorded in the county's real property tax records. In
7 addition, notice of the hearing shall be mailed to all persons
8 who have made a timely written request for advance notice of
9 boundary amendment proceedings, and public notice shall be given
10 at least once in the county in which the land sought to be
11 redistricted is situated as well as once statewide at least
12 thirty days in advance of the hearing. The notice shall comply
13 with section 91-9, shall indicate the time and place that maps
14 showing the proposed district boundary may be inspected, and
15 further shall inform all interested persons of their rights
16 under subsection [~~(e)~~] (g).

17 (d) Notwithstanding any other law to the contrary, upon
18 approval by the land use commission, and with the concurrence
19 from the appropriate county land use decision-making authority
20 by ordinance, boundary amendments reflected in the general plan,
21 development plan, community plan, or sustainable community plan



1 shall be adopted in accordance with the approved plans; provided
2 that the quantitative annual production goals are agreed upon by
3 the State for each of the following income categories:

4 (1) Market: one hundred forty per cent or more of the
5 area median income;

6 (2) Workforce: eighty per cent to less than one hundred
7 forty per cent of the area median income;

8 (3) Moderate Income: sixty per cent to less than eighty
9 per cent of the area median income; and

10 (4) Low income: less than sixty per cent of the area
11 median income.

12 No further action from the land use commission shall be
13 necessary.

14 (e) Notwithstanding any other law to the contrary, all
15 agencies responsible for providing public infrastructure to
16 areas of planned growth requiring boundary amendments adopted
17 pursuant to subsection (d) shall prepare a budget within one
18 year of the effective date of the amendment that will prioritize
19 funding for all infrastructure required to support the planned
20 growth reflected in the adopted general plan, development plan,
21 community plan, or sustainable community plan.



1 ~~[(d)]~~ (f) Any other provisions of law to the contrary
2 notwithstanding, prior to hearing of a petition the commission
3 and its staff may view and inspect any land which is the subject
4 of the petition.

5 ~~[(e)]~~ (g) Any other provisions of law to the contrary
6 notwithstanding, agencies and persons may intervene in the
7 proceedings in accordance with this subsection.

8 (1) The petitioner, the office of planning, and the county
9 planning department shall in every case appear as
10 parties and make recommendations relative to the
11 proposed boundary change;

12 (2) All departments and agencies of the State and of the
13 county in which the land is situated shall be admitted
14 as parties upon timely application for intervention;

15 (3) All persons who have some property interest in the
16 land, who lawfully reside on the land, or who
17 otherwise can demonstrate that they will be so
18 directly and immediately affected by the proposed
19 change that their interest in the proceeding is
20 clearly distinguishable from that of the general



1 public shall be admitted as parties upon timely
2 application for intervention;

3 (4) All other persons may apply to the commission for
4 leave to intervene as parties. Leave to intervene
5 shall be freely granted; provided that the commission
6 or its hearing officer, if one is appointed, may deny
7 an application to intervene when in the commission's
8 or hearing officer's sound discretion it appears that:

9 (A) The position of the applicant for intervention
10 concerning the proposed change is substantially
11 the same as the position of a party already
12 admitted to the proceeding; and

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

15 A person whose application to intervene is denied may
16 appeal the denial to the circuit court pursuant to
17 section 91-14; and

18 (5) The commission, pursuant to chapter 91, shall adopt
19 rules governing the intervention of agencies and
20 persons under this subsection. The rules shall
21 without limitation establish:



- 1 (A) The information to be set forth in any
- 2 application for intervention;
- 3 (B) The limits within which applications shall be
- 4 filed; and
- 5 (C) Reasonable filing fees to accompany applications.

6 [~~f~~] (h) Together with other witnesses that the
7 commission may desire to hear at the hearing, it shall allow a
8 representative of a citizen or a community group to testify who
9 indicates a desire to express the view of such citizen or
10 community group concerning the proposed boundary change.

11 [~~g~~] (i) Within a period of not more than three hundred
12 sixty-five days after the proper filing of a petition, unless
13 otherwise ordered by a court, or unless a time extension, which
14 shall not exceed ninety days, is established by a two-thirds
15 vote of the members of the commission, the commission, by filing
16 findings of fact and conclusions of law, shall act to approve
17 the petition, deny the petition, or to modify the petition by
18 imposing conditions necessary to uphold the intent and spirit of
19 this chapter or the policies and criteria established pursuant
20 to section 205-17 or to assure substantial compliance with
21 representations made by the petitioner in seeking a boundary



1 change. The commission may provide by condition that absent
2 substantial commencement of use of the land in accordance with
3 such representations, the commission shall issue and serve upon
4 the party bound by the condition an order to show cause why the
5 property should not revert to its former land use classification
6 or be changed to a more appropriate classification. Such
7 conditions, if any, shall run with the land and be recorded in
8 the bureau of conveyances.

9 ~~[(h)]~~ (j) No amendment of a land use district boundary
10 shall be approved unless the commission finds upon the clear
11 preponderance of the evidence that the proposed boundary is
12 reasonable, not violative of section 205-2 and part III of this
13 chapter, and consistent with the policies and criteria
14 established pursuant to sections 205-16 and 205-17. Six
15 affirmative votes of the commission shall be necessary for any
16 boundary amendment under this section.

17 ~~[(i)]~~ (k) Parties to proceedings to amend land use
18 district boundaries may obtain judicial review thereof in the
19 manner set forth in section 91-14, provided that the court may
20 also reverse or modify a finding of the commission if such



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1 finding appears to be contrary to the clear preponderance of the
2 evidence.



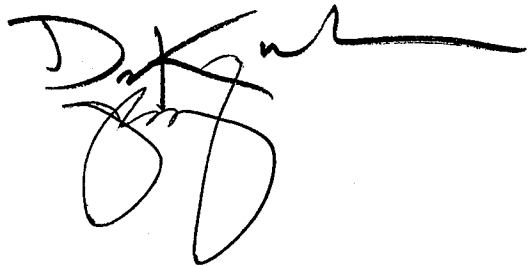
3 ~~[(j)]~~ (1) At the hearing, all parties may enter into
4 appropriate stipulations as to findings of fact, conclusions of
5 law, and conditions of reclassification concerning the proposed
6 boundary change. The commission may but shall not be required
7 to approve such stipulations based on the evidence adduced."

8 SECTION 4. In codifying the new sections added by section
9 2 of this Act, the revisor of statutes shall substitute
10 appropriate section numbers for the letters used in designating
11 the new sections in this Act.

12 SECTION 5. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 6. This Act shall take effect upon its approval.

15

INTRODUCED BY: 





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Report Title:

Land Use; Boundaries; Housing Development; Counties

Description:

Requires boundary amendments reflected in certain plans to be adopted in accordance with the approved plans, upon approval by the county land use decision-making authority, with concurrence from the land use commission. Increases housing inventory by prioritizing funding for public infrastructure in areas of planned growth, and provides a streamlined approval process for those projects.

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

