

JAN 21 2022

---

# A BILL FOR AN ACT

RELATING TO HOUSING DENSITY.

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

1       SECTION 1. Chapter 46, Hawaii Revised Statutes, is amended  
2 by adding a new section to be appropriately designated and to  
3 read as follows:

4       "§46-     Block-level upzoning program. (a) The counties  
5 may adopt an ordinance establishing a block-level upzoning  
6 program that allows homeowners within a block to vote to  
7 increase the housing density beyond the allowable amount  
8 authorized by county ordinance for their respective block;  
9 provided that homeowners within a block shall not have the  
10 authority to decrease the housing density for their respective  
11 block; provided further that the block is located on land within  
12 an urban district as established by the state land use  
13 commission.

14       (b) The mayor of each county, with the approval of the  
15 respective county council, may designate a county agency or  
16 official who shall oversee the block-level upzoning program and



1 shall have the power to review and offer comments for all  
2 proposed housing density increases.

3 (c) Upon receiving an affirmative vote of two-thirds of  
4 the homeowners within a block, the county shall increase the  
5 housing density for that block.

6 (d) Any change in housing density by the county agency or  
7 official may be challenged in the circuit court of the circuit  
8 in which the land in question is located. The challenge in the  
9 circuit court shall be filed in accordance with the Hawaii rules  
10 of civil procedure.

11 (e) The county may adopt ordinances to carry out the  
12 purposes of this section, including:

- 13 (1) Voting rules and procedures;  
14 (2) Requirements for public outreach prior to voting; and  
15 (3) Ordinances defining a "block".

16 SECTION 2. Section 46-4, Hawaii Revised Statutes, is  
17 amended to read as follows:

18 **"§46-4 County zoning.** (a) This section and any  
19 ordinance, rule, or regulation adopted in accordance with this  
20 section shall apply to lands not contained within the forest



1 reserve boundaries as established on January 31, 1957, or as  
2 subsequently amended.

3 Zoning in all counties shall be accomplished within the  
4 framework of a long-range, comprehensive general plan prepared  
5 or being prepared to guide the overall future development of the  
6 county. Zoning shall be one of the tools available to the  
7 county to put the general plan into effect in an orderly manner.  
8 Zoning in the counties of Hawaii, Maui, and Kauai means the  
9 establishment of districts of such number, shape, and area, and  
10 the adoption of regulations for each district to carry out the  
11 purposes of this section. In establishing or regulating the  
12 districts, full consideration shall be given to all available  
13 data as to soil classification and physical use capabilities of  
14 the land to allow and encourage the most beneficial use of the  
15 land consonant with good zoning practices. The zoning power  
16 granted herein shall be exercised by ordinance, which may relate  
17 to:

- 18 (1) The areas within which agriculture, forestry,  
19 industry, trade, and business may be conducted;  
20 (2) The areas in which residential uses may be regulated  
21 or prohibited;



(3) The areas bordering natural watercourses, channels, and streams, in which trades or industries, filling or dumping, erection of structures, and the location of buildings may be prohibited or restricted;

(4) The areas in which particular uses may be subjected to special restrictions;

(5) The location of buildings and structures designed for specific uses and designation of uses for which buildings and structures may not be used or altered;

(6) The location, height, bulk, number of stories, and size of buildings and other structures;

(7) The location of roads, schools, and recreation areas;

(8) Building setback lines and future street lines;

(9) The density and distribution of population;

(10) The percentage of a lot that may be occupied, size of yards, courts, and other open spaces;

(11) Minimum and maximum lot sizes; and

(12) Other regulations the boards or city council find necessary and proper to permit and encourage the orderly development of land resources within their jurisdictions.



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

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

13       Nothing in this section shall invalidate any zoning  
14 ordinance or regulation adopted by any county or other agency of  
15 government pursuant to the statutes in effect prior to July 1,  
16 1957.

17       The powers granted herein shall be liberally construed in  
18 favor of the county exercising them, and in such a manner as to  
19 promote the orderly development of each county or city and  
20 county in accordance with a long-range, comprehensive general  
21 plan to ensure the greatest benefit for the State as a whole.



1 This section shall not be construed to limit or repeal any  
2 powers of any county to achieve these ends through zoning and  
3 building regulations, except insofar as forest and water reserve  
4 zones are concerned and as provided in subsections (c) and (d).

5 Neither this section nor any ordinance enacted pursuant to  
6 this section shall prohibit the continued lawful use of any  
7 building or premises for any trade, industrial, residential,  
8 agricultural, or other purpose for which the building or  
9 premises is used at the time this section or the ordinance takes  
10 effect; provided that a zoning ordinance may provide for  
11 elimination of nonconforming uses as the uses are discontinued,  
12 or for the amortization or phasing out of nonconforming uses or  
13 signs over a reasonable period of time in commercial,  
14 industrial, resort, and apartment zoned areas only. In no event  
15 shall such amortization or phasing out of nonconforming uses  
16 apply to any existing building or premises used for residential  
17 (single-family or duplex) or agricultural uses. Nothing in this  
18 section shall affect or impair the powers and duties of the  
19 director of transportation as set forth in chapter 262.

20 (b) Any final order of a zoning agency established under  
21 this section may be appealed to the circuit court of the circuit



1 in which the land in question is found. The appeal shall be in  
2 accordance with the Hawaii rules of civil procedure.

3 (c) Each county may adopt reasonable standards to allow  
4 the construction of two single-family dwelling units on any lot  
5 where a residential dwelling unit is permitted.

6 (d) Neither this section nor any other law, county  
7 ordinance, or rule shall prohibit group living in facilities  
8 with eight or fewer residents for purposes or functions that are  
9 licensed, certified, registered, or monitored by the State;  
10 provided that a resident manager or a resident supervisor and  
11 the resident manager's or resident supervisor's family shall not  
12 be included in this resident count. These group living  
13 facilities shall meet all applicable county requirements not  
14 inconsistent with the intent of this subsection, including but  
15 not limited to building height, setback, maximum lot coverage,  
16 parking, and floor area requirements.

17 (e) Neither this section nor any other law, county  
18 ordinance, or rule shall prohibit the use of land for employee  
19 housing and community buildings in plantation community  
20 subdivisions as defined in section 205-4.5(a)(12); in addition,  
21 no zoning ordinance shall provide for the elimination,



1 amortization, or phasing out of plantation community  
2 subdivisions as a nonconforming use.

3 (f) Neither this section nor any other law, county  
4 ordinance, or rule shall prohibit the use of land for medical  
5 cannabis production centers or medical cannabis dispensaries  
6 established and licensed pursuant to chapter 329D; provided that  
7 the land is otherwise zoned for agriculture, manufacturing, or  
8 retail purposes.

9 (g) Neither this section nor any other law, county  
10 ordinance, or rule shall prohibit the use of land for the block-  
11 level upzoning program pursuant to section 46- ; provided that  
12 the land is located within an urban district as classified by  
13 the state land use commission."

14 SECTION 3. New statutory material is underscored.

15 SECTION 4. This Act shall take effect on July 1, 2022.

16

INTRODUCED BY: 





# S.B. NO. 2484

**Report Title:**

Housing Density; Block-level Upzoning Program; Counties;  
Homeowners

**Description:**

Authorizes counties to establish a block-level upzoning program to allow homeowners within a block located in an urban district to vote to increase the housing density for their respective block.

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

