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# A BILL FOR AN ACT

RELATING TO URBAN DEVELOPMENT.

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

**1** PART I

**2** SECTION 1. The legislature finds that Hawaii has the  
**3** highest housing costs in the nation. Adjusted for inflation,  
**4** the price of existing homes in Hawaii has increased by one  
**5** hundred fifty-five per cent since 1984. Meanwhile, the median  
**6** household income in Hawaii, adjusted for inflation, has only  
**7** gone up by twenty-four per cent over the same time period. Less  
**8** than one-third of households in Hawaii can afford a median-  
**9** priced single-family home, and less than one-half can afford a  
**10** median-priced condominium. Due to these factors, Hawaii has the  
**11** highest percentage of homeowners paying more than thirty per  
**12** cent of their income on their mortgage, making these households  
**13** more vulnerable to increased stress, mental health problems, and  
**14** an increased risk of disease. High housing costs also impact  
**15** the economy in negative ways as many residents are less likely  
**16** to spend money on consumer goods and services and invest in  
**17** business startups. High housing prices are the primary



1 contributor to high rates of homelessness nationwide, and, as  
2 would be expected given the dire housing market, Hawaii's rate  
3 of homelessness is more than double the national average.

4 The legislature further finds that Hawaii needs to build  
5 fifty thousand new homes between 2020 and 2025 to meet the  
6 demand for housing. However, over the last five years, Hawaii  
7 has only added twenty-seven thousand homes to the housing stock,  
8 a little more than one-half of the housing necessary to support  
9 the State's population. The legislature notes that Hawaii has  
10 the most regulated housing market in the country. Various  
11 studies have also concluded that housing regulations slow the  
12 rate of construction and lead to higher prices.

13 The legislature additionally finds that, in 1961, Act 187,  
14 Session Laws of Hawaii 1961 (Act 187), was enacted as Hawaii's  
15 land use law, with the intent to preserve, protect, and  
16 encourage the development of the lands in the State for those  
17 uses to which they are best suited for the public welfare. This  
18 law is unique in the United States in that both the State and  
19 the counties regulate land use. In furtherance of Act 187, the  
20 State enacted the Hawaii State Planning Act, codified as chapter  
21 226, Hawaii Revised Statutes, which states that urban growth



1 should be encouraged primarily to existing urban areas where  
2 adequate public facilities are already available or can be  
3 provided with reasonable public expenditures and away from areas  
4 where other important benefits are present, such as protection  
5 of important agricultural land or preservation of lifestyles.

6 The legislature also finds that the dual principles of  
7 making urbanization efficient and preserving agricultural and  
8 conservation land are being undermined by overly stringent  
9 development restrictions within the state urban land use  
10 district. The legislature believes that chapter 46, Hawaii  
11 Revised Statutes, must be amended to achieve the goals of the  
12 Hawaii land use law and Hawaii state plan by encouraging the  
13 development of multi-family homes in the state urban land use  
14 district, which will reduce the cost of housing, urban sprawl,  
15 infrastructure costs, traffic congestion, and carbon emissions.

16 Accordingly, the purpose of this Act is to:

17 (1) Prohibit county zoning ordinances from not allowing  
18 two or more missing middle housing units per  
19 residential lot within a state urban land use  
20 district;



- 1           (2) Prohibit private covenants for residential lots with a
- 2                   state urban land use district from including certain
- 3                   limitations or restrictions on residential units;
- 4           (3) Require the director of the county agency responsible
- 5                   for land use to review and act on any application for
- 6                   subdivision, consolidation, or resubdivision of
- 7                   parcels with a minimum lot size of two thousand square
- 8                   feet in the state urban land use district; and
- 9           (4) Amend the calculation of impact fees for certain
- 10                   developments.

PART II

12           SECTION 2. Chapter 46, Hawaii Revised Statutes, is amended  
13 by adding a new section to part I to be appropriately designated  
14 and to read as follows:

15           "§46-       Missing middle housing in urban districts. (a)  
16 Notwithstanding any law, ordinance, or building code or standard  
17 to the contrary, a residential lot within an urban district  
18 established by chapter 205 shall allow missing middle housing  
19 units.

20           (b) For residential lots within an urban district  
21 established by chapter 205, each county:



1       (1) Shall allow for at least two missing middle housing  
2       units, which shall be considered accessory to any  
3       dwelling unit or residential unit duly permitted by  
4       ordinance within a parcel or lot of record;

5       (2) May:

6       (A) Continue to apply any ordinance enacted pursuant  
7       to section 46-4 relating to location; height;  
8       bulk; number of stories; size of buildings;  
9       building setback lines; future street lines;  
10       percentage of a lot that may be occupied; open  
11       spaces; areas in which particular uses may be  
12       subjected to special restrictions; and building,  
13       electrical, mechanical, and housing code  
14       regulations that promote and protect the public  
15       health, safety, and welfare;

16       (B) Restrict short-term rentals, as defined by each  
17       county, including by imposition of mandatory  
18       owner-occupancy requirements for short-term  
19       rentals;

20       (C) Reject a permit application for development on  
21       the residential lot if the county determines



1           there is insufficient infrastructure for the  
2           development;  
3       (D) Adopt by ordinance or rule additional design  
4           guidelines specifically for missing middle  
5           housing; provided that no ordinance or rule shall  
6           require more than one off-street vehicle parking  
7           on-site per missing middle housing space; and  
8       (E) By ordinance or rule, consider permits granted  
9           under other ordinances for additional dwelling  
10          units or residential units toward meeting the  
11          requirements of subsection (b) (1); and  
12       (3) Shall not adopt:  
13           (A) Accessory or additional dwelling unit  
14           owner-occupancy requirements;  
15           (B) Bans on long-term rentals, as defined by each  
16           county; or  
17           (C) Setback and design requirements more restrictive  
18           than the principal unit. For purposes of this  
19           subparagraph, "principal unit" means the single-  
20           family housing unit, duplex, triplex, townhouse,



1                   or other housing unit located on the same lot as  
2                   an accessory or additional dwelling unit.

3           (c) This section shall not apply to:

4           (1) County powers within special management areas  
5           delineated pursuant to chapter 205A; and

6           (2) Any area within an urban district that a county deems  
7           to be at high risk of a natural hazard such as  
8           flooding, lava, or fire, as determined by the most  
9           current data and maps issued by a federal or state  
10           department or agency.

11           (d) For purposes of this section:

12           "Dwelling unit" has the same meaning as in section 521-8.

13           "Missing middle housing" means a new or existing dwelling  
14           unit, or a new or existing part of a dwelling unit, that  
15           includes a kitchen and bathroom."

16           SECTION 3. Chapter 205, Hawaii Revised Statutes, is  
17           amended by adding a new section to part I to be appropriately  
18           designated and to read as follows:

19           "§205-       **Private covenants; residential lot; urban**  
20           **district.** No private covenant for a residential lot within an







1 establishment of districts of such number, shape, and area, and  
2 the adoption of regulations for each district to carry out the  
3 purposes of this section. In establishing or regulating the  
4 districts, full consideration shall be given to all available  
5 data as to soil classification and physical use capabilities of  
6 the land to allow and encourage the most beneficial use of the  
7 land consonant with good zoning practices. The zoning power  
8 granted herein shall be exercised by ordinance which may relate  
9 to:

- 10 (1) The areas within which agriculture, forestry,  
11 industry, trade, and business may be conducted;
- 12 (2) The areas in which residential uses may be regulated  
13 or prohibited;
- 14 (3) The areas bordering natural watercourses, channels,  
15 and streams, in which trades or industries, filling or  
16 dumping, erection of structures, and the location of  
17 buildings may be prohibited or restricted;
- 18 (4) The areas in which particular uses may be subjected to  
19 special restrictions;



- 1 (5) The location of buildings and structures designed for  
2 specific uses and designation of uses for which  
3 buildings and structures may not be used or altered;
- 4 (6) The location, height, bulk, number of stories, and  
5 size of buildings and other structures;
- 6 (7) The location of roads, schools, and recreation areas;
- 7 (8) Building setback lines and future street lines;
- 8 (9) The density and distribution of population;
- 9 (10) The percentage of a lot that may be occupied, size of  
10 yards, courts, and other open spaces;
- 11 (11) Minimum and maximum lot sizes; and
- 12 (12) Other regulations the boards or city council find  
13 necessary and proper to permit and encourage the  
14 orderly development of land resources within their  
15 jurisdictions.

16 The council of any county shall prescribe rules,  
17 regulations, and administrative procedures and provide personnel  
18 it finds necessary to enforce this section and any ordinance  
19 enacted in accordance with this section. The ordinances may be  
20 enforced by appropriate fines and penalties, civil or criminal,



1 or by court order at the suit of the county or the owner or  
2 owners of real estate directly affected by the ordinances.

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

8 Nothing in this section shall invalidate any zoning  
9 ordinance or regulation adopted by any county or other agency of  
10 government pursuant to the statutes in effect prior to July 1,  
11 1957.

12 The powers granted [~~herein~~] in this section shall be  
13 liberally construed in favor of the county exercising them, and  
14 in [~~such~~] a manner [~~as to promote~~] that promotes the orderly  
15 development of each county or city and county in accordance with  
16 a long-range, comprehensive general plan to ensure the greatest  
17 benefit for the State as a whole. This section shall not be  
18 construed to limit or repeal any powers of any county to achieve  
19 these ends through zoning and building regulations, except  
20 insofar as forest and water reserve zones are concerned and as



1 provided in subsections (c) [~~and~~], (d) [~~+~~], (g), and section  
2 46-\_\_\_\_\_.

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

19       (b) Any final order of a zoning agency established under  
20 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~~] Except as provided in section 46- , each  
4 county may adopt reasonable standards to allow the construction  
5 of two single-family dwelling units on any lot where a  
6 residential dwelling unit is permitted.

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

18 (e) Neither this section nor any other law, county  
19 ordinance, or rule shall prohibit the use of land for employee  
20 housing and community buildings in plantation community  
21 subdivisions as defined in section 205-4.5(a)(12); in addition,



1 no zoning ordinance shall provide for the elimination,  
2 amortization, or phasing out of plantation community  
3 subdivisions as a nonconforming use.

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

10 (g) Notwithstanding any other law, county ordinance, or  
11 rule, any application for subdivision, consolidation, or  
12 resubdivision of parcels within the state urban land use  
13 district shall be reviewed and acted upon by the director of the  
14 county agency responsible for land use; provided that:

15 (1) All resulting parcels are residentially zoned and at  
16 least two thousand square feet in area, except that a  
17 county may by ordinance or rule allow residentially  
18 zoned parcels smaller than two thousand square feet;

19 (2) The parcel being subdivided is not located on a site  
20 that is:

21 (A) Designated as important agricultural land;



- 1           (B) On wetlands, as defined in the United States Fish  
2           and Wildlife Service Manual, Part 660 FW2;
- 3           (C) Within a floodplain as determined by maps  
4           promulgated by the Federal Emergency Management  
5           Agency;
- 6           (D) A habitat for protected or endangered species;
- 7           (E) Within a state historic district or designated as  
8           a historic property on the Hawaii register of  
9           historic places or the national register of  
10          historic places;
- 11          (F) Within lava zone one or lava zone two, as  
12          designated by the United States Geological  
13          Survey;
- 14          (G) Within the special management area, as defined in  
15          section 205A-22; or
- 16          (H) Subject to any land condition or features that  
17          render the site unsuitable or hazardous to the  
18          health, safety, and welfare of future residents  
19          or the surrounding community;



1       (3) The proposed subdivision would not require the  
2       demolition or alteration of housing that is subject  
3       to:  
4       (A) A recorded covenant, ordinance, or law that  
5       restricts rents to levels affordable to  
6       households of moderate, low, or very low income;  
7       or  
8       (B) Any form of rent or price control through an  
9       agency's valid exercise of its police power; and  
10       (4) The parcel of record was in existence prior to the  
11       effective date of Act       , Session Laws of Hawaii  
12       2024;  
13 provided further that the director of the county agency  
14 responsible for land use shall adopt rules pursuant to chapter  
15 91 to define the development standards and related  
16 infrastructure conditions to receive application approval from  
17 the respective director, including prohibitions if the parcel is  
18 located in the special management area, as defined in section  
19 205A-22."

PART IV





1 SECTION 5. Section 46-143, Hawaii Revised Statutes, is  
2 amended by amending subsection (d) to read as follows:

3 "(d) An impact fee shall be substantially related to the  
4 needs arising from the development and shall not exceed a  
5 proportionate share of the costs incurred or to be incurred in  
6 accommodating the development. The following [~~seven~~] factors  
7 shall be considered in determining a proportionate share of  
8 public facility capital improvement costs:

9 (1) The level of public facility capital improvements  
10 required to appropriately serve a development, based  
11 on a needs assessment study that identifies:

12 (A) Deficiencies in existing public facilities;

13 (B) The means, other than impact fees, by which  
14 existing deficiencies will be eliminated within a  
15 reasonable period of time; and

16 (C) Additional demands anticipated to be placed on  
17 specified public facilities by a development;

18 (2) The availability of other funding for public facility  
19 capital improvements, including but not limited to  
20 user charges, taxes, bonds, intergovernmental  
21 transfers, and special taxation or assessments;



- 1           (3) The cost of existing public facility capital  
2           improvements;
- 3           (4) The methods by which existing public facility capital  
4           improvements were financed;
- 5           (5) The extent to which a developer required to pay impact  
6           fees has contributed in the previous five years to the  
7           cost of existing public facility capital improvements  
8           and received no reasonable benefit therefrom, and any  
9           credits that may be due to a development because of  
10          such contributions;
- 11          (6) The extent to which a developer required to pay impact  
12          fees over the next twenty years may reasonably be  
13          anticipated to contribute to the cost of existing  
14          public facility capital improvements through user  
15          fees, debt service payments, or other payments, and  
16          any credits that may accrue to a development because  
17          of future payments; [~~and~~]
- 18          (7) The extent to which a developer is required to pay  
19          impact fees as a condition precedent to the  
20          development of non-site related public facility



1 capital improvements, and any offsets payable to a  
2 developer because of this provision[~~—~~]; and

3 (8) The square footage of the development; provided that:

4 (A) In cases where the developer is converting an  
5 existing structure, the square footage of the  
6 existing structure shall be deducted from the  
7 total square footage of the development when  
8 calculating impact fees; and

9 (B) In cases where the public facility impacted is a  
10 water or sewage facility, the appropriate board  
11 of water supply may choose to calculate impact  
12 fees based on the total number of fixtures in the  
13 development, rather than by square footage."

14 PART V

15 SECTION 6. This Act does not affect rights and duties that  
16 matured, penalties that were incurred, and proceedings that were  
17 begun before its effective date.

18 SECTION 7. Statutory material to be repealed is bracketed  
19 and stricken. New statutory material is underscored.



**1** SECTION 8. This Act shall take effect on January 1, 2026.



**Report Title:**

Counties; Zoning; Urban District; Subdivision; Residential Lots;  
Missing Middle Housing; Approval; Impact Fees Assessment;  
Calculation

**Description:**

Part II: Prohibits county zoning ordinances from not allowing two or more missing middle housing units per residential lot within an urban district. Prohibits private covenants for residential lots within a state urban land use district from including certain limitations or restrictions on residential units. Part III: Requires the director of the county agency responsible for land use to review and act on any application for subdivision, consolidation, or resubdivision of certain parcels within the state urban land use district. Part IV: Amends the calculation of impact fees for certain developments. Effective 1/1/2026. (PROPOSED HD1)

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

