

STAND. COM. REP. NO. 399

Honolulu, Hawaii

FEB 16 2023

RE: S.B. No. 219
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-Second State Legislature
Regular Session of 2023
State of Hawaii

Sir:

Your Committees on Public Safety and Intergovernmental and Military Affairs and Water and Land, to which was referred S.B. No. 219 entitled:

"A BILL FOR AN ACT RELATING TO COUNTY ZONING,"

beg leave to report as follows:

The purpose and intent of this measure is to:

- (1) Clarify that section 46-4, Hawaii Revised Statutes, does not prohibit the counties from adopting zoning regulations that eliminate or amortize land uses or structures established after the effective date of the first comprehensive zoning ordinance adopted by a county; and
- (2) Clarify that county zoning regulations that restrict the time, place, manner, or duration of a land use activity do not create different types of land uses by limiting the time, place, manner, or duration of a use of land.

Your Committees received testimony in support of this measure from Keep it Kailua and four individuals. Your Committees received testimony in opposition to this measure from the Bali House and Cottage at Kehena Beach and forty-nine individuals. Your Committees received comments on this measure from the Department of the Attorney General, Airbnb, and one individual.



Your Committees find that when section 46-4, Hawaii Revised Statutes (HRS), was enacted in 1957, the Legislature intended to protect land uses and structures that were established prior to the implementation of comprehensive zoning ordinances by the counties. Interpretations of section 46-4, HRS, that prohibit the counties from adopting zoning regulations that eliminate or amortize land uses and structures established after the ordainment of comprehensive county zoning ordinances are inimical to the Legislature's intent and direction that county zoning is to be accomplished within the framework of a long-range, comprehensive general plan, and zoning districts are to guide the overall future development of each county. Your Committees further find that the rise of short-term rentals, time shares, and other short-duration uses of real property have raised questions about whether the rental types of real property for human occupancy can be treated as different types of land uses depending on the duration of a renter's length of stay or the duration of the underlying rental agreement. Your Committees believe that clarifications to section 46-4, HRS, are needed to address the regulation of short term rentals, time shares, and other short-duration uses of real property by the counties under their local zoning ordinances.

Your Committees have amended this measure by:

- (1) Inserting language to clarify that section 46-4, HRS, does not prohibit the counties from adopting zoning regulations that eliminate or amortize land uses or structures established after the effective date of the first comprehensive zoning ordinance adopted by a county; and
- (2) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

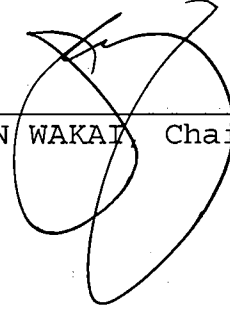
As affirmed by the records of votes of the members of your Committees on Public Safety and Intergovernmental and Military Affairs and Water and Land that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 219, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 219, S.D. 1, and be referred to your Committee on Judiciary.



Respectfully submitted on
behalf of the members of the
Committees on Public Safety and
Intergovernmental and Military
Affairs and Water and Land,



LORRAINE R. INOUÉ, Chair




GLENN WAKAI, Chair



The Senate
 Thirty-Second Legislature
 State of Hawai'i


Record of Votes
Committee on Public Safety and Intergovernmental and Military Affairs
PSM

Bill / Resolution No.:* SB219	Committee Referral: PSM/WTL, JDC	Date: 2/13/23		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
WAKAI, Glenn (C)	✓			
ELEFANTE, Brandon J.C. (VC)	✓			
FUKUNAGA, Carol	✓			
MCKELVEY, Angus L.K.	✓			
AWA, Brenton	✓			
TOTAL	5	∅	∅	∅
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes

The Senate
 Thirty-Second Legislature
 State of Hawai'i

Record of Votes
Committee on Water and Land
WTL

Bill / Resolution No.:* SB219	Committee Referral: PSM/WTL, JDC	Date: 2/13/23		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
INOUYE, Lorraine R. (C)	✓			
ELEFANTE, Brandon J.C. (VC)	✓			
CHANG, Stanley	✓			
MCKELVEY, Angus L.K.	✓			
FEVELLA, Kurt				✓
TOTAL	4	0	0	1
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

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