
A BILL FOR AN ACT

RELATING TO GROUP HOMES.

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

1 PART I

2 SECTION 1. The legislature finds that the clean and sober
3 homes and halfway houses task force was formed in response to
4 legislation introduced in the regular session of 2012. Clean
5 and sober homes and halfway houses, which are located in
6 communities throughout the State, provide housing for
7 individuals suffering from substance abuse, including people who
8 may have co-occurring mental health issues, as they transition
9 from the treatment setting to life in the community. The clean
10 and sober homes and halfway houses task force explored ways to
11 develop a plan to ensure that these homes are properly monitored
12 and accountable to meet occupancy, zoning, and permitting
13 requirements, as well as quality standards.

14 Clean and sober homes and halfway houses allow individuals
15 to return to the community through support in an alcohol- and
16 drug-free, home-like environment, without the rigid structure of
17 a therapeutic living program, which requires being licensed by
18 the State. Notwithstanding the needs of those who benefit from



1 these homes, neighboring residents have expressed concerns over
2 the legality of the operation of clean and sober homes in their
3 immediate vicinity and the poor conduct and lack of neighborly
4 behavior of some residents of the clean and sober homes. While
5 the State's only halfway house is monitored by the agencies that
6 contract for its services, the level of oversight for clean and
7 sober homes varies, depending on the referral source.

8 Currently, various types of group homes are defined in
9 section 46-4(f), Hawaii Revised Statutes, relating to county
10 zoning. Section 46-4(f), Hawaii Revised Statutes, defines terms
11 that are either no longer needed or are defined elsewhere in the
12 Hawaii Revised Statutes. In addition, inconsistent with the
13 federal Fair Housing Amendments Act, section 46-4(e), Hawaii
14 Revised Statutes, requires that a public informational meeting
15 be held before a halfway house, a clean and sober home, or a
16 drug rehabilitation home is located in a community.

17 As recommended by the clean and sober homes and halfway
18 houses task force, this Act will balance the needs of those
19 requiring the support of the group homes and the concerns of
20 community members.

21 The purpose of this Act is to help residents and
22 prospective residents of clean and sober group homes to access a



1 stable, alcohol- and drug-free, home-like living environment in
2 residences that are in compliance with federal, state, and
3 county requirements as well as minimum quality standards. This
4 Act:

- 5 (1) Establishes a registry for clean and sober homes
- 6 within the department of health; and
- 7 (2) Amends the county zoning statute to better align
- 8 functions of state and county jurisdictions with
- 9 federal law.

10 PART II

11 SECTION 2. The legislature finds that the primary goals of
12 rehabilitation and recovery are to restore social, family,
13 lifestyle, vocational, and economic supports by stabilizing an
14 individual's physical and psychological functioning. Alcohol-
15 and drug-free environments that are safe, sanitary, and secure
16 promote recovery and assist individuals in becoming self-
17 supporting. The legislature further finds that these
18 environments support those in recovery from substance abuse to
19 live in the community at-large.

20 The clean and sober homes and halfway houses task force
21 recognized that there is a need to improve the operation of
22 group homes if group homes are to achieve their intended



1 purposes. While some homes are well-run, others are overcrowded
2 and not well-managed. To increase the number of homes that
3 maintain appropriate living conditions, a voluntary registry
4 that sets minimum standards, but also gives special advantages
5 to homes on the registry, such as technical support and
6 preferred referral status, will be established. The voluntary
7 registry will include specific requirements that homes on the
8 registry will have to meet and will also provide a framework to
9 monitor the homes. A key function of the voluntary registry is
10 to enable agencies referring clients to monitor residences that
11 provide the necessary support for recovery efforts.

12 The purpose of this part is to establish a registry of
13 clean and sober homes.

14 SECTION 3. Chapter 321, Hawaii Revised Statutes, is
15 amended by adding a new section to part XVI to be appropriately
16 designated and to read as follows:

17 "§321- Clean and sober homes registry. (a) The
18 department shall establish a voluntary clean and sober homes
19 registry to assist persons recovering from substance abuse to
20 have a safe, clean, and sober environment that supports their
21 recovery. The department shall establish procedures and



1 standards by which homes will be allowed to be listed on the
2 registry, including but not limited to:

- 3 (1) Organizational and administrative standards;
- 4 (2) Fiscal management standards;
- 5 (3) Operation standards;
- 6 (4) Recovery support standards;
- 7 (5) Property standards; and
- 8 (6) Good neighbor standards.

9 (b) Upon review and approval of a home operator's
10 application, the department shall issue a certificate of
11 registration that shall specify:

- 12 (1) The name of the holder of the registration;
- 13 (2) The address to which the registration applies;
- 14 (3) The maximum number of persons to reside in the home;
- 15 and
- 16 (4) The period for which the registration shall be valid.

17 An owner, operator, or landlord shall not hold the property out
18 to be or advertise to be a "registered clean and sober home"
19 unless the home is registered with the clean and sober homes
20 registry and remains in good standing.

21 (c) The certificate of registration shall be publicly
22 displayed at the home.



1 (d) The certificate of registration shall not be
2 transferred to a new owner or operator, or to an address other
3 than as specified on the certificate of registration.

4 (e) Nothing in this section shall relieve a certificate
5 holder from compliance with other pertinent statutory
6 provisions, nor shall a certificate holder be relieved from
7 compliance with other applicable provisions of federal, state,
8 or county laws, ordinances, or rules.

9 (f) The department may revoke the certificate of
10 registration if a home ceases to meet established standards or
11 any other applicable federal, state, or county law, ordinance,
12 or rule.

13 (g) The department may immediately revoke a certificate of
14 registration if there are reasonable grounds to believe that the
15 continued operation of the home presents an immediate danger to
16 residents of the home or the general public. The revocation
17 shall be made in writing to the certificate holder.

18 (h) The department shall maintain a listing of all
19 registered clean and sober homes on its website.

20 (i) The department shall establish a toll-free telephone
21 line to receive and respond to complaints regarding clean and
22 sober homes.



1 (j) This section shall not be construed to abrogate an
2 individual's right to privacy. Unless otherwise provided by
3 law, the department shall implement sufficient protections to
4 ensure that the identity of a clean and sober home resident
5 remains strictly confidential and that information collected
6 pursuant to this section is used solely for the purposes of this
7 section.

8 (k) The department shall adopt rules under chapter 91 as
9 necessary to carry out the purposes of this section."

10 SECTION 4. Section 321-191, Hawaii Revised Statutes, is
11 amended by adding a new definition to be appropriately inserted
12 and to read as follows:

13 "Clean and sober home" means a dwelling unit that is
14 intended to provide a stable, independent environment of
15 alcohol- and drug-free living conditions to sustain recovery and
16 that is shared by unrelated adult persons who are attempting to
17 maintain a life of sobriety."

18 SECTION 5. There is appropriated out of the general
19 revenues of the State of Hawaii the sum of \$ or so
20 much thereof as may be necessary for fiscal year 2014-2015 for
21 staffing and operating costs to plan, establish, and operate the
22 registry of clean and sober homes.

1 The sum appropriated shall be expended by the department of
2 health for the purposes of this part.

3 PART III

4 SECTION 6. The legislature finds that amendments to
5 section 46-4, Hawaii Revised Statutes, relating to county
6 zoning, that were agreed upon by the clean and sober homes and
7 halfway houses task force in December 2012, are necessary to
8 better align the functions of state and county jurisdictions.

9 The purpose of this part is to amend section 46-4, Hawaii
10 Revised Statutes, to:

- 11 (1) Clarify the conditions under which the counties shall
- 12 not prohibit group homes that have up to eight
- 13 unrelated persons in a dwelling unit;
- 14 (2) Eliminate any conflict with the federal Fair Housing
- 15 Amendments Act by deleting the requirement for a
- 16 public informational meeting; and
- 17 (3) Eliminate definitions for terms that are defined
- 18 elsewhere in the Hawaii Revised Statutes or are no
- 19 longer needed.

20 SECTION 7. Section 46-4, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "**§46-4 County zoning.** (a) This section and any
2 ordinance, rule, or regulation adopted in accordance with this
3 section shall apply to lands not contained within the forest
4 reserve boundaries as established on January 31, 1957, or as
5 subsequently amended.

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

21 (1) The areas within which agriculture, forestry,
22 industry, trade, and business may be conducted;



- 1 (2) The areas in which residential uses may be regulated
- 2 or prohibited;
- 3 (3) The areas bordering natural watercourses, channels,
- 4 and streams, in which trades or industries, filling or
- 5 dumping, erection of structures, and the location of
- 6 buildings may be prohibited or restricted;
- 7 (4) The areas in which particular uses may be subjected to
- 8 special restrictions;
- 9 (5) The location of buildings and structures designed for
- 10 specific uses and designation of uses for which
- 11 buildings and structures may not be used or altered;
- 12 (6) The location, height, bulk, number of stories, and
- 13 size of buildings and other structures;
- 14 (7) The location of roads, schools, and recreation areas;
- 15 (8) Building setback lines and future street lines;
- 16 (9) The density and distribution of population;
- 17 (10) The percentage of a lot that may be occupied, size of
- 18 yards, courts, and other open spaces;
- 19 (11) Minimum and maximum lot sizes; and
- 20 (12) Other regulations the boards or city council find
- 21 necessary and proper to permit and encourage the

1 orderly development of land resources within their
2 jurisdictions.

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

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

15 Nothing in this section shall invalidate any zoning
16 ordinance or regulation adopted by any county or other agency of
17 government pursuant to the statutes in effect prior to July 1,
18 1957.

19 The powers granted herein shall be liberally construed in
20 favor of the county exercising them, and in such a manner as to
21 promote the orderly development of each county or city and
22 county in accordance with a long-range, comprehensive general



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

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

21 (b) Any final order of a zoning agency established under
22 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 [~~and~~] for purposes or functions
9 that are licensed, certified, registered, or monitored by the
10 State [as provided for under section 321-15.6, or in an
11 intermediate care facility for individuals with intellectual
12 disabilities in the community for persons, including mentally
13 ill, elder, disabled, developmentally disabled, or totally
14 disabled persons, who are not related to the home operator or
15 facility staff; provided that these]. A resident manager or a
16 resident supervisor and the resident manager's or resident
17 supervisor's family shall not be included in this resident
18 count. These group living facilities shall meet all applicable
19 county requirements not inconsistent with the intent of this
20 subsection [~~and~~], including but not limited to building height,
21 setback, maximum lot coverage, parking, and floor area
22 requirements.



1 ~~[(e) No permit shall be issued by a county agency for the~~
2 ~~operation of a halfway house, a clean and sober home, or a drug~~
3 ~~rehabilitation home unless a public informational meeting is~~
4 ~~first held in the affected community. The State shall provide~~
5 ~~notification and access to relevant information, as required,~~
6 ~~under chapter 846E.~~

7 ~~A clean and sober home shall be considered a residential~~
8 ~~use of property and shall be a permitted or conditional use in~~
9 ~~residentially designated zones, including but not limited to~~
10 ~~zones for single family dwellings.~~

11 ~~(f) For purposes of this section:~~

12 ~~"Clean and sober home" means a house that is operated~~
13 ~~pursuant to a program designed to provide a stable environment~~
14 ~~of clean and sober living conditions to sustain recovery and~~
15 ~~that is shared by unrelated adult persons who:~~

16 ~~(1) Are recovering from substance abuse;~~

17 ~~(2) Share household expenses; and~~

18 ~~(3) Do not require twenty four hour supervision,~~

19 ~~rehabilitation, or therapeutic services or care in the~~
20 ~~home or on the premises;~~

21 ~~provided that the home shall meet all applicable laws, codes,~~
22 ~~and rules of the counties and State.~~



1 ~~"Developmentally disabled person" means a person suffering~~
2 ~~from developmental disabilities as defined under section 333F 1.~~

3 ~~"Disabled person" means a person with a disability as~~
4 ~~defined under section 515 2.~~

5 ~~"Drug rehabilitation home" means:~~

6 ~~(1) A residential treatment facility that provides a~~
7 ~~therapeutic residential program for care, diagnosis,~~
8 ~~treatment, or rehabilitation for socially or~~
9 ~~emotionally distressed persons, mentally ill persons,~~
10 ~~persons suffering from substance abuse, and~~
11 ~~developmentally disabled persons; or~~

12 ~~(2) A supervised living arrangement that provides mental~~
13 ~~health services, substance abuse services, or~~
14 ~~supportive services for individuals or families who do~~
15 ~~not need the structure of a special treatment facility~~
16 ~~and are transitioning to independent living;~~
17 ~~provided that drug rehabilitation homes shall not include~~
18 ~~halfway houses or clean and sober homes.~~

19 ~~"Elder" means an elder as defined under section 356D 1.~~

20 ~~"Halfway house" means a group living facility for people~~
21 ~~who:~~



- 1 ~~(1) Have been released or are under supervised release~~
2 ~~from a correctional facility;~~
- 3 ~~(2) Have been released from a mental health treatment~~
4 ~~facility; or~~
- 5 ~~(3) Are receiving substance abuse or sex offender~~
6 ~~treatment; and~~
- 7 ~~are housed to participate in programs that help them readjust to~~
8 ~~living in the community.~~

9 ~~"Intermediate care facility for individuals with~~
10 ~~intellectual disabilities in the community" means an~~
11 ~~identifiable unit providing residence and care for eight or~~
12 ~~fewer individuals with intellectual disabilities. Its primary~~
13 ~~purpose is the provision of health, social, and rehabilitation~~
14 ~~services to the individuals with intellectual disabilities~~
15 ~~through an individually designed active treatment program for~~
16 ~~each resident. No person who is predominantly confined to bed~~
17 ~~shall be admitted as a resident of such a facility.~~

18 ~~"Mental health treatment facility" means a psychiatric~~
19 ~~facility or special treatment facility as defined under section~~
20 ~~334-1.~~

21 ~~"Mentally ill person" has the same meaning as defined under~~
22 ~~section 334-1.~~



1 ~~"Totally disabled person" means a "person totally disabled"~~
2 ~~as defined under section 235-1.~~

3 ~~"Treatment program" means a "substance abuse program" or~~
4 ~~"treatment program", as those terms are defined under section~~
5 ~~353C-2.~~

6 ~~(g)]~~ (e) Neither this section nor any other law, county
7 ordinance, or rule shall prohibit the use of land for employee
8 housing and community buildings in plantation community
9 subdivisions as defined in section 205-4.5(a)(12); in addition,
10 no zoning ordinance shall provide for elimination, amortization,
11 or phasing out of plantation community subdivisions as a
12 nonconforming use."

13 SECTION 8. Section 518-3, Hawaii Revised Statutes, is
14 amended to read as follows:

15 **"§518-3 Invalidity of certain restrictive covenants.** It
16 is the public policy of the State to establish community
17 residences in residential areas. Therefore, any restrictive
18 covenant or other private legal impediment made by any person,
19 association, firm, or corporation which directly or indirectly
20 prevents or restricts the establishment in an area zoned for
21 residential use of a facility licensed by the State as an adult
22 residential care home as defined under section 321-15.1;



1 intermediate care facility for individuals with intellectual
2 disabilities in the community [~~as defined under section 46-~~
3 ~~4(f)]]; or special treatment facility as defined under section
4 334-1 shall be void and unenforceable as to such community
5 residences."~~

6 PART IV

7 SECTION 9. The department of health shall submit a
8 progress report to the legislature concerning the status of the
9 plan for establishing and operating the registry of clean and
10 sober homes, no later than twenty days prior to the convening of
11 the regular session of 2015.

12 SECTION 10. This Act does not affect rights and duties
13 that matured, penalties that were incurred, and proceedings that
14 were begun before its effective date.

15 SECTION 11. If any provision of this Act, or the
16 application thereof to any person or circumstance, is held
17 invalid, the invalidity does not affect other provisions or
18 applications of the Act that can be given effect without the
19 invalid provision or application, and to this end the provisions
20 of this Act are severable.

21 SECTION 12. Statutory material to be repealed is bracketed
22 and stricken. New statutory material is underscored.



1 SECTION 13. This Act shall take effect on July 1, 2014.

2



Report Title:

Registry of Clean and Sober Homes; Appropriation; County Zoning

Description:

Establishes a registry for clean and sober homes within the Department of Health. Appropriates funds. Amends the county zoning statute to better align functions of state and county jurisdictions with federal law. (SD1)

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