
A BILL FOR AN ACT

RELATING TO LAND USE.

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." In the department of business, economic
3 development and tourism's report, Measuring Housing Demand in
4 Hawaii 2015-2025 published on April 2015, the forecasted demand
5 for additional housing units by county is 25,847 units for
6 Honolulu, 19,610 for Hawaii, 13,949 for Maui, and 5,287 for
7 Kauai during 2015-2025.

8 The city and county of Honolulu's draft of its affordable
9 housing strategy states: "The marketplace is not building enough
10 affordable housing to keep up with demand. Many people live in
11 overcrowded homes, spend more than 45% of their incomes on
12 combined housing and transportation costs, or are homeless and
13 living on the streets. Oahu would need more than 24,000
14 additional housing units to address pent-up demand combined with
15 new household formation by 2016. Over 18,000 or 75% of the
16 total projected demand is for households earning less than 80%
17 of area median income (AMI), or \$76,650 for a family of four."



1 While government's own studies forecast an acute housing
2 shortage over the next ten years, there has been a lack of
3 coordinated planning that would provide more urban land for
4 additional housing. The current process is duplicative as it
5 requires separate actions by both the counties and the State to
6 reclassify lands that have been planned for future growth based
7 on population projections.

8 The purpose of this Act is to require boundary amendments
9 reflected in certain county plans to be adopted by the land use
10 commission upon approval by the respective county land use
11 decision-making authority.

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

14 "**§205-4 Amendments to district boundaries involving land**
15 **areas greater than fifteen acres.** (a) Any department or agency
16 of the State, any department or agency of the county in which
17 the land is situated, or any person with a property interest in
18 the land sought to be reclassified, may petition the land use
19 commission for a change in the boundary of a district. This
20 section applies to all petitions for changes in district
21 boundaries of lands within conservation districts, lands



1 designated or sought to be designated as important agricultural
2 lands, and lands greater than fifteen acres in the agricultural,
3 rural, and urban districts, except as provided in section 201H-
4 38. The land use commission shall adopt rules pursuant to
5 chapter 91 to implement section 201H-38.

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

11 (c) Any other provision of law to the contrary
12 notwithstanding, notice of the hearing together with a copy of
13 the petition shall be served on the county planning commission
14 and the county planning department of the county in which the
15 land is located and all persons with a property interest in the
16 land as recorded in the county's real property tax records. In
17 addition, notice of the hearing shall be mailed to all persons
18 who have made a timely written request for advance notice of
19 boundary amendment proceedings, and public notice shall be given
20 at least once in the county in which the land sought to be
21 redistricted is situated as well as once statewide at least



1 thirty days in advance of the hearing. The notice shall comply
2 with section 91-9, shall indicate the time and place that maps
3 showing the proposed district boundary may be inspected, and
4 further shall inform all interested persons of their rights
5 under subsection ~~[(e)-]~~ (g).

6 (d) Notwithstanding any other law to the contrary, upon
7 approval by the appropriate county land use decision-making
8 authority by ordinance, and with concurrence from the land use
9 commission, boundary amendments reflected in a county general
10 plan, development plan, community plan, or sustainable community
11 plan shall be adopted in accordance with the applicable approved
12 plans. The land use commission shall not be required to take
13 further action.

14 (e) Notwithstanding any other law to the contrary, all
15 agencies responsible for providing public infrastructure to
16 areas of planned growth subject to boundary amendments adopted
17 pursuant to subsection (d) shall prepare a budget within one
18 year of the effective date of the boundary amendments that
19 prioritizes funding for all infrastructure required to support
20 the planned growth reflected in the applicable approved county



1 general plan, development plan, community plan, or sustainable
2 community plan.

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

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

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

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

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



1 clearly distinguishable from that of the general
2 public shall be admitted as parties upon timely
3 application for intervention;

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

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

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

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

19 (5) The commission, pursuant to chapter 91, shall adopt
20 rules governing the intervention of agencies and



1 persons under this subsection. The rules shall
2 without limitation establish:
3 (A) The information to be set forth in any
4 application for intervention;
5 (B) The limits within which applications shall be
6 filed; and
7 (C) Reasonable filing fees to accompany applications.

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

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



1 to section 205-17 or to assure substantial compliance with
2 representations made by the petitioner in seeking a boundary
3 change. The commission may provide by condition that absent
4 substantial commencement of use of the land in accordance with
5 such representations, the commission shall issue and serve upon
6 the party bound by the condition an order to show cause why the
7 property should not revert to its former land use classification
8 or be changed to a more appropriate classification. Such
9 conditions, if any, shall run with the land and be recorded in
10 the bureau of conveyances.

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

19 ~~(i)~~ (k) Parties to proceedings to amend land use
20 district boundaries may obtain judicial review thereof in the
21 manner set forth in section 91-14, provided that the court may



1 also reverse or modify a finding of the commission if such
2 finding appears to be contrary to the clear preponderance of the
3 evidence.

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

9 SECTION 3. This Act does not affect rights and duties that
10 matured, penalties that were incurred, and proceedings that were
11 begun before its effective date.

12 SECTION 4. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 5. This Act shall take effect upon its approval.
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H.B. NO. 1818

Report Title:

Land Use; Boundaries; Land Use Commission; Housing

Description:

Upon approval by county land use decision-making authority, and with concurrence from Land Use Commission, requires boundary amendments reflected in certain plans to be adopted in accordance with such approved plans. Increases housing inventory by prioritizing funding for public infrastructure in areas of planned growth.

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