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## A BILL FOR AN ACT

RELATING TO HOUSING.

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

1           SECTION 1. Section 46-4, Hawaii Revised Statutes, is  
2 amended to read as follows:

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

8           Zoning in all counties shall be accomplished within the  
9 framework of a long-range, comprehensive general plan prepared  
10 or being prepared to guide the overall future development of the  
11 county. Zoning shall be one of the tools available to the  
12 county to put the general plan into effect in an orderly manner.  
13 Zoning in the counties of Hawaii, Maui, and Kauai means the  
14 establishment of districts of such number, shape, and area, and  
15 the adoption of regulations for each district to carry out the  
16 purposes of this section. In establishing or regulating the  
17 districts, full consideration shall be given to all available



1 data as to soil classification and physical use capabilities of  
2 the land to allow and encourage the most beneficial use of the  
3 land consonant with good zoning practices. The zoning power  
4 granted herein shall be exercised by ordinance which may relate  
5 to:

- 6 (1) The areas within which agriculture, forestry,  
7 industry, trade, and business may be conducted;
- 8 (2) The areas in which residential uses may be regulated  
9 or prohibited;
- 10 (3) The areas bordering natural watercourses, channels,  
11 and streams, in which trades or industries, filling or  
12 dumping, erection of structures, and the location of  
13 buildings may be prohibited or restricted;
- 14 (4) The areas in which particular uses may be subjected to  
15 special restrictions;
- 16 (5) The location of buildings and structures designed for  
17 specific uses and designation of uses for which  
18 buildings and structures may not be used or altered;
- 19 (6) The location, height, bulk, number of stories, and  
20 size of buildings and other structures;
- 21 (7) The location of roads, schools, and recreation areas;



- 1           (8) Building setback lines and future street lines;
- 2           (9) The density and distribution of population;
- 3           (10) The percentage of a lot that may be occupied, size of
- 4                 yards, courts, and other open spaces;
- 5           (11) Minimum and maximum lot sizes; and
- 6           (12) Other regulations the boards or city council find
- 7                 necessary and proper to permit and encourage the
- 8                 orderly development of land resources within their
- 9                 jurisdictions.

10           The council of any county shall prescribe rules,  
11 regulations, and administrative procedures and provide personnel  
12 it finds necessary to enforce this section and any ordinance  
13 enacted in accordance with this section. The ordinances may be  
14 enforced by appropriate fines and penalties, civil or criminal,  
15 or by court order at the suit of the county or the owner or  
16 owners of real estate directly affected by the ordinances.

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



1           Nothing in this section shall invalidate any zoning  
2 ordinance or regulation adopted by any county or other agency of  
3 government pursuant to the statutes in effect prior to July 1,  
4 1957.

5           The powers granted herein shall be liberally construed in  
6 favor of the county exercising them, and in such a manner as to  
7 promote the orderly development of each county or city and  
8 county in accordance with a long-range, comprehensive general  
9 plan to ensure the greatest benefit for the State as a whole.  
10 This section shall not be construed to limit or repeal any  
11 powers of any county to achieve these ends through zoning and  
12 building regulations, except insofar as forest and water reserve  
13 zones are concerned and as provided in subsections (c) [~~and~~],  
14 (d) [~~-~~], and (e).

15           Neither this section nor any ordinance enacted pursuant to  
16 this section shall prohibit the continued lawful use of any  
17 building or premises for any trade, industrial, residential,  
18 agricultural, or other purpose for which the building or  
19 premises is used at the time this section or the ordinance takes  
20 effect; provided that a zoning ordinance may provide for  
21 elimination of nonconforming uses as the uses are discontinued,



1 or for the amortization or phasing out of nonconforming uses or  
2 signs over a reasonable period of time in commercial,  
3 industrial, resort, and apartment zoned areas only. In no event  
4 shall such amortization or phasing out of nonconforming uses  
5 apply to any existing building or premises used for residential  
6 (single-family or duplex) or agricultural uses. Nothing in this  
7 section shall affect or impair the powers and duties of the  
8 director of transportation as set forth in chapter 262.

9 (b) Any final order of a zoning agency established under  
10 this section may be appealed to the circuit court of the circuit  
11 in which the land in question is found. The appeal shall be in  
12 accordance with the Hawaii rules of civil procedure.

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

16 (d) Each county may adopt reasonable standards to allow  
17 construction of accessory dwelling units on any lot where a  
18 residential dwelling unit is permitted. For purposes of this  
19 subsection, "accessory dwelling unit" means a separate living  
20 area, with its own kitchen, bathroom, and sleeping facilities,  
21 which:



- 1        (1) May be occupied by any person;
- 2        (2) Is built on a lot that permits a residential dwelling
- 3                unit; and
- 4        (3) May be inside, attached to, or detached from the
- 5                permitted residential dwelling unit.

6        [~~d~~] (e) 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~~] (f) 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 SECTION 2. Section 205-2, Hawaii Revised Statutes, is  
4 amended by amending subsection (c) to read as follows:

5 "(c) Rural districts shall include activities or uses as  
6 characterized by low density residential lots of not more than  
7 one dwelling house per one-half acre, except as provided by  
8 county ordinance pursuant to [~~section~~] sections 46-4(c) [~~7~~] and  
9 46-4(d), in areas where "city-like" concentration of people,  
10 structures, streets, and urban level of services are absent, and  
11 where small farms are intermixed with low density residential  
12 lots except that within a subdivision, as defined in section  
13 484-1, the commission for good cause may allow one lot of less  
14 than one-half acre, but not less than eighteen thousand five  
15 hundred square feet, or an equivalent residential density,  
16 within a rural subdivision and permit the construction of one  
17 dwelling on such lot; provided that all other dwellings in the  
18 subdivision shall have a minimum lot size of one-half acre or  
19 21,780 square feet. Such petition for variance may be processed  
20 under the special permit procedure. These districts may include  
21 contiguous areas which are not suited to low density residential



1 lots or small farms by reason of topography, soils, and other  
2 related characteristics. Rural districts shall also include  
3 golf courses, golf driving ranges, and golf-related facilities.

4 In addition to the uses listed in this subsection, rural  
5 districts shall include geothermal resources exploration and  
6 geothermal resources development, as defined under section  
7 182-1, as permissible uses."

8 SECTION 3. Statutory material to be repealed is bracketed  
9 and stricken. New statutory material is underscored.

10 SECTION 4. This Act shall take effect upon its approval.

11

INTRODUCED BY:

*[Signature]*  
*John M. [Signature]*  
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JAN 29 2015





# H.B. NO. 1378

**Report Title:**

Accessory Dwelling Units; County Authorization

**Description:**

Authorizes the counties to adopt reasonable standards to allow construction of accessory dwelling units.

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

