
A BILL FOR AN ACT

RELATING TO HOUSING.

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

1 PART I

2 SECTION 1. The legislature finds that the State of Hawaii
3 has a "housing crisis." In the department of business, economic
4 development and tourism's report, Measuring Housing Demand in
5 Hawaii 2015-2025 published on April 2015, the forecasted demand
6 for additional housing units by county is 25,847 units for
7 Honolulu, 19,610 for Hawaii, 13,949 for Maui, and 5,287 for
8 Kauai during 2015-2025.

9 The city and county of Honolulu's draft of its affordable
10 housing strategy states: "The marketplace is not building enough
11 affordable housing to keep up with demand. Many people live in
12 overcrowded homes, spend more than 45% of their incomes on
13 combined housing and transportation costs, or are homeless and
14 living on the streets. Oahu would need more than 24,000
15 additional housing units to address pent-up demand combined with
16 new household formation by 2016. Over 18,000 or 75% of the



1 total projected demand is for households earning less than 80%
2 of area median income (AMI), or \$76,650 for a family of four."

3 While government's own studies show the projected lack of
4 supply of housing over the next ten years, none of the counties
5 have formulated and proposed any possible solutions to increase
6 the production of housing in Hawaii to meet the projected demand
7 through reforming entitlement processes, as well as long-range
8 planning for infrastructure investment.

9 Hawaii's comprehensive land use system and policies,
10 coupled with an overlapping county entitlement process, are the
11 dominant reasons for why there is a severe housing shortage in
12 the State. The aggregate land area for all islands is about
13 four million acres with roughly half designated as agriculture
14 and the other half allocated to conservation. About two hundred
15 thousand acres or five per cent of island lands are designated
16 as urban and available for development.

17 In order to address this crisis, the legislature finds that
18 it is in the State's best interest to: "streamline" the process
19 of delivering more housing by aligning state and county
20 processes to ensure that there is sufficient developable land
21 and infrastructure to support the additional housing units



1 required, and establish housing production goals for each county
2 with a streamlined approval process when production goals are
3 not met.

4 PART II

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

7 **"§205-4 Amendments to district boundaries involving land**
8 **areas greater than fifteen acres.** (a) Any department or agency
9 of the State, any department or agency of the county in which
10 the land is situated, or any person with a property interest in
11 the land sought to be reclassified, may petition the land use
12 commission for a change in the boundary of a district. This
13 section applies to all petitions for changes in district
14 boundaries of lands within conservation districts, lands
15 designated or sought to be designated as important agricultural
16 lands, and lands greater than fifteen acres in the agricultural,
17 rural, and urban districts, except as provided in section 201H-
18 38. The land use commission shall adopt rules pursuant to
19 chapter 91 to implement section 201H-38.

20 (b) Upon proper filing of a petition pursuant to
21 subsection (a) the commission shall, within not less than sixty



1 and not more than one hundred and eighty days, conduct a hearing
2 on the appropriate island in accordance with the provisions of
3 sections 91-9, 91-10, 91-11, 91-12, and 91-13, as applicable.

4 (c) Any other provision of law to the contrary
5 notwithstanding, notice of the hearing together with a copy of
6 the petition shall be served on the county planning commission
7 and the county planning department of the county in which the
8 land is located and all persons with a property interest in the
9 land as recorded in the county's real property tax records. In
10 addition, notice of the hearing shall be mailed to all persons
11 who have made a timely written request for advance notice of
12 boundary amendment proceedings, and public notice shall be given
13 at least once in the county in which the land sought to be
14 redistricted is situated as well as once statewide at least
15 thirty days in advance of the hearing. The notice shall comply
16 with section 91-9, shall indicate the time and place that maps
17 showing the proposed district boundary may be inspected, and
18 further shall inform all interested persons of their rights
19 under subsection ~~[(e)-]~~ (g).

20 (d) Notwithstanding any other law to the contrary, upon
21 approval by the appropriate county land use decision-making



1 authority by ordinance, and with concurrence from the land use
2 commission, boundary amendments reflected in the general plan,
3 development plan, community plan, or sustainable community plan,
4 shall be adopted in accordance with the approved plans; provided
5 that the quantitative annual housing production goals are agreed
6 upon by the State for each of the following income categories:

7 (1) Market: One hundred forty per cent or more of the area
8 median income;

9 (2) Workforce: Eighty per cent to less than one hundred
10 forty percent of the area median income;

11 (3) Moderate Income: Sixty per cent to less than eighty
12 per cent of the area median income; and

13 (4) Low Income: Less than sixty percent of the area median
14 income.

15 No further action from the commission will be necessary.

16 (e) Notwithstanding any other law to the contrary, all
17 agencies responsible for providing public infrastructure to
18 areas of planned growth requiring boundary amendments adopted
19 pursuant to subsection (d) shall prepare a budget within one
20 year of the effective date of the amendment that will prioritize
21 funding for all infrastructure required to support the planned



1 growth reflected in the adopted general plan, development plan,
2 community plan, or sustainable 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 commission
9 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 shall
12 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 district
20 boundaries may obtain judicial review thereof in the manner set
21 forth in section 91-14, provided that the court may also reverse



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

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

8 PART III

9 SECTION 3. Chapter 201H, Hawaii Revised Statutes, is
10 amended by adding two new sections to be appropriately
11 designated and to read as follows:

12 "§201H-A Amendments to district boundaries; annual
13 production report. (a) For boundary amendments authorized
14 pursuant to section 205-4, each county shall provide, by April 1
15 of each year, an annual production report to the corporation
16 that includes the following:

17 (1) The number of net new units of housing, including both
18 rental housing and for-sale housing, that have been
19 issued a completed entitlement, a building permit, or
20 a certificate of occupancy, thus far in the housing
21 element cycle;



- 1 (2) The income category, by area median income category,
2 that each unit of housing, including both rental
3 housing and housing designated for home ownership,
4 satisfies;
- 5 (3) For each income category, the number of rental housing
6 units and the number of for-sale housing units that
7 satisfy each income category; and
- 8 (4) For each entitlement, building permit, or certificate
9 of occupancy, a unique site identifier, which must
10 include a tax map key parcel number, but may also
11 include street address or other identifiers.
- 12 (b) In normal market conditions, if a county fails to meet
13 its annual housing production goals for two consecutive years,
14 for any or all of the income categories pursuant to section 205-
15 4, that county shall be subject to the streamlined housing
16 approval process established pursuant to section 201H-B for each
17 income category that did not meet the production goal.
- 18 (c) In the event of abnormal market conditions that impact
19 either the production of housing, such as a lack of materials,
20 high interest rates, economic recession, or the home buyer
21 market, such as high mortgage interest rates or an economic



1 recession, the State shall decide, after consultation with the
2 respective county on which the housing project is located, on if
3 or when the county will be subject to the streamlined housing
4 approval process established pursuant to section 201H-B.

5 §201H-B Streamlined housing approval process. (a) A
6 development proponent may submit an application for a housing
7 development that is subject to the streamlined, ministerial
8 approval process provided by subsection (b) for units priced at
9 income categories that the county failed to meet production
10 goals, and not subject to a conditional use permit if the
11 development satisfies all of the following objective planning
12 standards:

13 (1) The development is a multifamily housing development
14 that contains two or more residential units.

15 (2) The development is located on a site that satisfies
16 all of the following:

17 (A) A site that is a legal parcel or parcels; and

18 (B) A site that is designated urban by the land use
19 commission that is:

20 (i) Zoned for residential use;

21 (ii) Residential mixed-use development;



- 1 (iii) A general plan designation that allows
- 2 residential use; or
- 3 (iv) A mix of residential and nonresidential
- 4 uses, with at least two-thirds of the square
- 5 footage of the development designated for
- 6 residential use;
- 7 (3) The development of a market rate housing project is
- 8 subject to a requirement mandating a minimum
- 9 percentage of below market rate housing based on one
- 10 of the following:
- 11 (A) The county has adopted a local ordinance that
- 12 requires that greater than ten per cent of the
- 13 units be dedicated to housing affordable to
- 14 households making below eighty percent of the
- 15 area median income, that zoning ordinance
- 16 applies; or
- 17 (B) If the county does not have an affordable housing
- 18 requirement, ten per cent of the proposed units,
- 19 on projects with greater than ten units, shall be
- 20 priced for those households making eighty per
- 21 cent or below the area median income;



- 1 (4) The county permitting agency may review the proposed
2 project for compliance with codes and ordinances, and
3 also for consistency with surrounding existing
4 projects; provided that the county is prohibited from
5 imposing any non-code related condition or exaction on
6 projects processed pursuant to this section; and
- 7 (5) If the development involves more than ten units and is
8 not entirely a public works project, then all
9 construction workers employed in the execution of the
10 development will be paid at least the general
11 prevailing rate of per diem wages for the type of work
12 and geographic area.
- 13 (b) If the county permitting agency determines that an
14 application submitted by a development proponent pursuant to
15 this section is in conflict with any of the objective planning
16 standards as specified in subsection (a), it shall provide the
17 development proponent written documentation of which standard or
18 standards the development is in conflict with and an explanation
19 for the reason or reasons the development conflicts with that
20 standard or standards within ninety days of submittal of the
21 application. If the county permitting agency fails to provide



1 the required documentation pursuant to this subsection, the
2 development shall be deemed to satisfy the objective planning
3 standards specified in subsection (a)."

4 PART IV




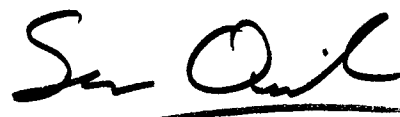
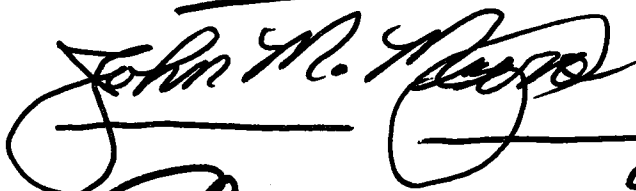
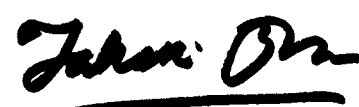





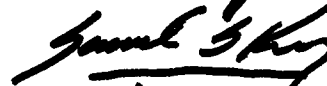
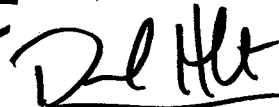
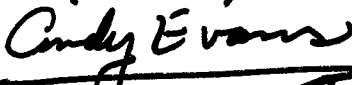

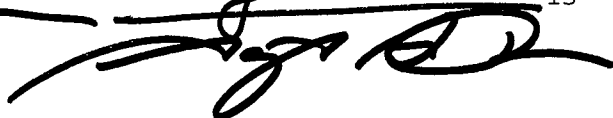
5 SECTION 4. In codifying the new sections added by section
6 3 of this Act, the revisor of statutes shall substitute
7 appropriate section numbers for the letters used in designating
8 the new sections in this Act.

9 SECTION 5. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 6. This Act shall take effect upon its approval.

12

INTRODUCED BY:



H.B. NO. 1 866

Report Title:

Land Use; Boundaries; Housing Development

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, and provides a streamlined approval process for those projects.

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

