A BILL FOR AN ACT

RELATING TO HOUSING.

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

PART I

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

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

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

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

In order to address this crisis, the legislature finds that it is in the State's best interest to "streamline" the process of delivering more housing by aligning state and county processes to ensure that there is sufficient developable land and infrastructure to support the required additional housing
units, and establish housing production goals for each county
with a streamlined approval process when production goals are
not met.

The purpose of this measure is to address Hawaii's housing
crisis by:

(1) Providing a process for approval of land use boundary
amendments consistent with county plans to permit
housing development;

(2) Requiring the prioritization of infrastructure funding
to support planned growth; and

(3) Establishing a streamlined approval process for
housing developments that include below market-rate
units.

PART II

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

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

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

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

(d) Notwithstanding any other law to the contrary, upon
approval by the appropriate county land use decision-making
authority by ordinance, and with concurrence from the land use
commission, boundary amendments reflected in the general plan,
development plan, community plan, or sustainable community plan,
shall be adopted in accordance with the approved plans; provided
that the quantitative annual housing production goals are agreed
upon by the State for each of the following income categories:

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

(2) Workforce: Eighty per cent to less than one hundred
forty percent of the area median income;
(3) Moderate Income: Sixty per cent to less than eighty per cent of the area median income; and

(4) Low Income: Less than sixty per cent of the area median income.

No further action from the commission will be necessary.

(e) Notwithstanding any other law to the contrary, all agencies responsible for providing public infrastructure to land areas with boundary amendments adopted pursuant to subsection (d) shall, within one year of the effective date of the boundary amendment, prepare a budget to prioritize funding for all infrastructure required to support the planned growth reflected in the adopted general plan, development plan, community plan, or sustainable community plan.

(f) Any other provisions of law to the contrary notwithstanding, prior to hearing of a petition the commission and its staff may view and inspect any land which is the subject of the petition.

[+e+] (g) Any other provisions of law to the contrary notwithstanding, agencies and persons may intervene in the proceedings in accordance with this subsection.
(1) The petitioner, the office of planning, and the county planning department shall in every case appear as parties and make recommendations relative to the proposed boundary change;

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

(3) All persons who have some property interest in the land, who lawfully reside on the land, or who otherwise can demonstrate that they will be so directly and immediately affected by the proposed change that their interest in the proceeding is clearly distinguishable from that of the general public shall be admitted as parties upon timely application for intervention;

(4) All other persons may apply to the commission for leave to intervene as parties. Leave to intervene shall be freely granted; provided that the commission or its hearing officer, if one is appointed, may deny an application to intervene when in the commission's or hearing officer's sound discretion it appears that:
(A) The position of the applicant for intervention concerning the proposed change is substantially the same as the position of a party already admitted to the proceeding; and

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

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

(5) The commission, pursuant to chapter 91, shall adopt rules governing the intervention of agencies and persons under this subsection. The rules shall without limitation establish:

(A) The information to be set forth in any application for intervention;

(B) The limits within which applications shall be filed; and

(C) Reasonable filing fees to accompany applications.

Together with other witnesses that the commission may desire to hear at the hearing, it shall allow a representative of a citizen or a community group to testify who
indicates a desire to express the view of such citizen or
community group concerning the proposed boundary change.

(i) Within a period of not more than three hundred
sixty-five days after the proper filing of a petition, unless
otherwise ordered by a court, or unless a time extension, which
shall not exceed ninety days, is established by a two-thirds
vote of the members of the commission, the commission, by filing
findings of fact and conclusions of law, shall act to approve
the petition, deny the petition, or to modify the petition by
imposing conditions necessary to uphold the intent and spirit of
this chapter or the policies and criteria established pursuant
to section 205-17 or to assure substantial compliance with
representations made by the petitioner in seeking a boundary
change. The commission may provide by condition that absent
substantial commencement of use of the land in accordance with
such representations, the commission shall issue and serve upon
the party bound by the condition an order to show cause why the
property should not revert to its former land use classification
or be changed to a more appropriate classification. Such
conditions, if any, shall run with the land and be recorded in
the bureau of conveyances.
[(j)] No amendment of a land use district boundary shall be approved unless the commission finds upon the clear preponderance of the evidence that the proposed boundary is reasonable, not violative of section 205-2 and part III of this chapter, and consistent with the policies and criteria established pursuant to sections 205-16 and 205-17. Six affirmative votes of the commission shall be necessary for any boundary amendment under this section.

[(k)] Parties to proceedings to amend land use district boundaries may obtain judicial review thereof in the manner set forth in section 91-14, provided that the court may also reverse or modify a finding of the commission if such finding appears to be contrary to the clear preponderance of the evidence.

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

SECTION 3. Chapter 46, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

"§46- Amendments to district boundaries; annual production report. (a) By April 1 of each year, each county shall provide to the Hawaii housing finance and development corporation an annual production report for boundary amendments authorized pursuant to section 205-4. The annual production report shall include:

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

(2) The income category defined in section 205-4 that each net rental housing and for-sale housing units satisfies;

(3) The number total of rental housing units and for-sale housing units in each income category defined in section 205-4; and
(4) The tax map key number and any other site identifier for each entitlement, building permit, or certificate of occupancy.

(b) If a county fails to meet its annual housing production goals for two consecutive years for any or all of the income categories defined in section 205-4, the county shall be subject to the streamlined housing approval process established pursuant to section 46- for each income category that did not meet the production goal; provided that the State shall decide whether the county will be subject to the streamlined housing approval process if the county's production of housing or the home buyer market was affected by abnormal market conditions such as a lack of materials, high interest rates, high mortgage interest rates, or an economic recession.

§46- Streamlined housing approval process. (a) The counties shall establish a process to streamline the ministerial approval process for permits for units priced within the income categories for which the county failed to meet its production goals. To be eligible for the streamlined process, the development shall satisfy all of the following objective planning standards:
(1) The development is a multifamily housing development that contains two or more residential units;

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

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

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

(i) Zoned for residential use;

(ii) Residential mixed-use development;

(iii) A general plan designation that allows residential use; or

(iv) A mix of residential and nonresidential uses, with at least two-thirds of the square footage of the development designated for residential use;

(3) The development of a market rate housing project is subject to a requirement mandating a minimum percentage of below market rate housing based on one of the following:

(A) If the county has adopted a local ordinance that requires that greater than ten per cent of the
units be dedicated to housing affordable to households making below eighty percent of the area median income, that zoning ordinance applies; or
(B) If the county does not have an affordable housing requirement, ten per cent of the proposed units, on projects with greater than ten units, shall be priced for those households making eighty per cent or below the area median income; and
(4) If the development involves more than ten units and is not entirely a public works project, then all construction workers employed in the execution of the development will be paid at least the general prevailing rate of per diem wages for the type of work and geographic area.
(b) If the county permitting agency determines that an application submitted by a developer pursuant to this section is in conflict with any of the objective planning standards as specified in subsection (a), it shall provide the developer written documentation of which standard or standards the development is in conflict with and an explanation for the
reason or reasons the development conflicts with that standard or standards within ninety days of submittal of the application. If the county permitting agency fails to provide the required documentation pursuant to this subsection, the development shall be deemed to satisfy the objective planning standards specified in subsection (a).

(c) The county permitting agency may review the proposed project for compliance with codes and ordinances, and also for consistency with surrounding existing projects; provided that the county is prohibited from imposing any non-code related condition or exaction on projects processed pursuant to this section."

PART IV

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

SECTION 5. This Act shall take effect on July 1, 2019.
Report Title:
Land Use; Boundaries; Housing Development

Description:
Requires boundary amendments reflected in certain plans to be adopted in accordance with such approved plans. Prioritizes infrastructure funding to support planned growth. Establishes a streamlined approval process for ministerial permits for income categories for which the county did not meet production goals.

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