

---

---

# A BILL FOR AN ACT

RELATING TO DISTRICT BOUNDARY AMENDMENTS.

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

1           SECTION 1. The legislature finds that the counties are  
2 responsible for determining district boundary amendments  
3 involving land areas of fifteen acres or less and not within the  
4 conservation district, whereas district boundary amendments  
5 involving lands in the conservation district, land areas greater  
6 than fifteen acres, and lands delineated as important  
7 agricultural lands are processed by the land use commission  
8 through a quasi-judicial process. The legislature further finds  
9 that a change to this system of district boundary amendment  
10 approvals for certain larger parcels of land, over fifteen acres  
11 and up to fifty acres, may provide the counties with greater  
12 flexibility to meet the needs of their communities while also  
13 requiring the counties to consider broader, secondary impacts,  
14 such as impacts on state and county infrastructure, and  
15 opportunities to provide housing.

16           Therefore, the purpose of this Act is to authorize the  
17 appropriate county land use decision-making authority to



1 determine district boundary amendments involving land areas over  
2 fifteen acres but equal to or less than fifty acres, subject to  
3 review and approval by the land use commission.

4 SECTION 2. Section 205-3.1, Hawaii Revised Statutes, is  
5 amended to read as follows:

6 **"§205-3.1 Amendments to district boundaries. (a)**

7 District boundary amendments involving lands in the conservation  
8 district, land areas greater than fifteen acres, or lands  
9 delineated as important agricultural lands shall be processed by  
10 the land use commission pursuant to section 205-4~~(-)~~, except as  
11 otherwise provided in this section.

12 (b) Any department or agency of the State, and department  
13 or agency of the county in which the land is situated, or any  
14 person with a property interest in the land sought to be  
15 reclassified may petition the appropriate county land use  
16 decision-making authority of the county in which the land is  
17 situated for a change in the boundary of a district involving  
18 lands less than fifteen acres presently in the rural and urban  
19 districts and lands less than fifteen acres in the agricultural  
20 district that are not designated as important agricultural  
21 lands.



1 (c) District boundary amendments involving land areas of  
2 fifteen acres or less, except as provided in subsection (b),  
3 shall be determined by the appropriate county land use decision-  
4 making authority for the district and shall not require  
5 consideration by the land use commission pursuant to section  
6 205-4; provided that ~~[such]~~ the boundary amendments and approved  
7 uses are consistent with this chapter. The appropriate county  
8 land use decision-making authority may consolidate proceedings  
9 to amend state land use district boundaries pursuant to this  
10 subsection, with county proceedings to amend the general plan,  
11 development plan, zoning of the affected land, or such other  
12 proceedings. Appropriate ordinances and rules to allow  
13 consolidation of such proceedings may be developed by the county  
14 land use decision-making authority.

15 (d) District boundary amendments involving land areas  
16 greater than fifteen acres and equal to or less than fifty  
17 acres, processed by a county decision-making authority under  
18 this section shall be subject to review and approval by the land  
19 use commission. The land use commission may impose additional  
20 restrictions as may be necessary and appropriate in granting the



1 approval, including the adherence to representations by the  
2 applicant.

3 (1) The district boundary amendment is necessary to  
4 produce housing, sixty per cent of which shall be  
5 affordable housing reserved for occupants whose  
6 incomes do not exceed eighty per cent of the area  
7 median income;

8 (2) If, by the date of the application, the county has  
9 adopted an ordinance that:

10 (A) Establishes a procedure for determining such  
11 district boundary amendments;

12 (B) Requires the county, in considering an  
13 application for a district boundary amendment, to  
14 consider the impact of the proposed  
15 reclassification on areas of state and county  
16 concern, including but not limited to impacts on  
17 state and county infrastructure and provision for  
18 housing opportunities for certain income groups;

19 (C) Requires the district boundary amendment and  
20 approved uses to be consistent with the



- 1           applicable county general plan or community  
2           development plan;
- 3           (D) Requires final action on an application for a  
4           district boundary amendment to be taken by the  
5           county legislative body; and
- 6           (E) Requires the county to take enforcement actions  
7           to assure substantial compliance with  
8           representations made by the applicant in seeking  
9           a boundary amendment, including conditioning  
10           approvals upon substantial commencement of use of  
11           the land in accordance with those  
12           representations;
- 13           (3) A copy of the final action or decision of the  
14           appropriate county legislative body together with the  
15           complete record of the proceedings before the county  
16           decision-making authority on all district boundary  
17           amendments involving land areas greater than fifteen  
18           acres and equal to or less than fifty acres, shall be  
19           transmitted to the land use commission within sixty  
20           days after the decision is rendered; provided that  
21           within ninety days after receipt of the complete



1 record of the proceedings before the county decision-  
 2 making authority, the land use commission shall act to  
 3 approve, approve with modification, or deny the  
 4 petition. A denial by the county legislative body or  
 5 the land use commission, or a modification by the land  
 6 use commission, as the case may be, of the desired use  
 7 shall be appealable to the circuit court of the  
 8 circuit in which the land is situated and shall be  
 9 made pursuant to the Hawaii rules of civil procedure;  
 10 and

11 (4) The land use commission's review and basis for  
 12 approval, denial, or modification shall be limited to  
 13 issues concerning:

14 (A) Whether adequate due process was provided to all  
 15 interested persons by the county decision making  
 16 authority with regard to the district boundary  
 17 amendment process;

18 (B) Whether chapter 343 was adhered to by the county  
 19 decision-making authority;



1           (C) Whether the land subject to a district boundary  
2           amendment is contiguous to or adjacent to  
3           existing urban district lands;

4           (D) Whether the county decision-making authority has  
5           adhered to its obligations under the Public Trust  
6           Doctrine;

7           (E) Whether cultural resources and traditional and  
8           customary rights would be negatively impacted or  
9           adequately addressed;

10          (F) Whether parceling has occurred with respect to  
11          associated lands;

12          (G) Whether there will be significant environmental  
13          impacts on the natural environment; and

14          (H) Whether the district boundary amendment is  
15          consistent with and implements the Hawaii 2050  
16          sustainability plan.

17          As used in this subsection, "county legislative body" means  
18          the city council or county council of a county.

19          ~~(d)~~ (e) The county land use decision-making authority  
20 shall serve a copy of the application for a district boundary  
21 amendment to the land use commission and the department of



1 business, economic development, and tourism and shall notify the  
 2 commission and the department of the time and place of the  
 3 hearing and the proposed amendments scheduled to be heard at the  
 4 hearing. A change in the state land use district boundaries  
 5 pursuant to this subsection shall become effective on the day  
 6 designated by the county land use decision-making authority in  
 7 its decision. Within sixty days of the effective date of any  
 8 decision to amend state land use district boundaries by the  
 9 county land use decision-making authority, the decision and the  
 10 description and map of the affected property shall be  
 11 transmitted to the land use commission and the department of  
 12 business, economic development, and tourism by the county  
 13 planning director.

14 (f) Parceling of lands for development shall be prohibited  
 15 for the purposes of subsection (d). If lands that have been  
 16 parceled are proposed for reclassification, the petition for  
 17 reclassification shall be processed as lands greater than fifty  
 18 acres, pursuant to section 205-4.

19 (g) Before a county land use decision-making authority  
 20 grants a petition for reclassification pursuant to subsection  
 21 (d), the county land use decision-making authority shall make a





1 clear finding, based on the evidence submitted, that the land  
2 subject to a petition for reclassification has not been parceled  
3 or proposed to be parceled.

4 (h) As used in this section:

5 "Affordable housing" means homes that are affordable to  
6 occupants whose incomes do not exceed eighty per cent of the  
7 area median income for the county in which the reclassification  
8 is to occur.

9 "Parceling" means the subdivision of lands greater than  
10 fifty acres into two or more parcels, more than one of which is  
11 then proposed for reclassification within a ten-year period from  
12 the date of the subdivision."

13 SECTION 3. Section 205-4, Hawaii Revised Statutes, is  
14 amended by amending its title and subsection (a) to read as  
15 follows:

16 **"§205-4 Amendments to district boundaries [~~involving land~~**  
17 **~~areas greater than fifteen acres.]; proceedings before the land~~**  
18 **use commission.** (a) Any department or agency of the State, any  
19 department or agency of the county in which the land is  
20 situated, or any person with a property interest in the land  
21 sought to be reclassified, may petition the land use commission



1 for a change in the boundary of a district. This section  
2 applies to all petitions for changes in district boundaries of  
3 lands within conservation districts, lands designated or sought  
4 to be designated as important agricultural lands, and lands  
5 greater than fifteen acres in the agricultural, rural, and urban  
6 districts, except as provided in [~~section~~] sections 201H-38[~~-~~]  
7 and 205-3.1(d). The land use commission shall adopt rules  
8 pursuant to chapter 91 to implement section 201H-38."

9 SECTION 4. 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 5. Statutory material to be repealed is bracketed  
13 and stricken. New statutory material is underscored.

14 SECTION 6. This Act shall take effect on July 1, 2050.

15



# H.B. NO. 1840 H.D. 2

**Report Title:**

Counties; District Boundary Amendments; Fifteen to Fifty Acres;  
Affordable Housing; Land Use Commission

**Description:**

Authorizes the appropriate county land use decision-making authority to determine district boundary amendments involving land areas over fifteen acres but less than or equal to fifty acres, subject to land use commission review and approval. Prohibits parceling of such lands. Effective 7/1/2050. (HD2)

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

