

____.B. NO.____

A BILL FOR AN ACT

RELATING TO ZONING

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

1 SECTION 1. Section 46-4, Hawai'i Revised Statutes, is amended by
2 amending subsection (a) to read as follows:

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

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

____.B. NO. _____

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

4 (1) The areas within which agriculture, forestry, industry,
5 trade, and business may be conducted;

6 (2) The areas in which residential uses may be regulated or
7 prohibited;

8 (3) The areas bordering natural watercourses, channels, and
9 streams, in which trades or industries, filling or dumping, erection of
10 structures, and the location of buildings may be prohibited or
11 restricted;

12 (4) The areas in which particular uses may be subjected to
13 special restrictions;

14 (5) The location of buildings and structures designed for
15 specific uses and designation of uses for which buildings and
16 structures may not be used or altered;

17 (6) The location, height, bulk, number of stories, and size of
18 buildings and other structures;

19 (7) The location of roads, schools, and recreation areas;

20 (8) Building setback lines and future street lines;

21 (9) The density and distribution of population;

____.B. NO. ____

1 (10) The percentage of a lot that may be occupied, size of
2 yards, courts, and other open spaces;

3 (11) Minimum and maximum lot sizes; and

4 (12) Other regulations the boards or city council find necessary
5 and proper to permit and encourage the orderly development of land
6 resources within their jurisdictions.

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

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

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

20 The powers granted herein shall be liberally construed in favor of the
21 county exercising them, and in such a manner as to promote the orderly

____.B. NO. _____

1 development of each county or city and county in accordance with a long-
2 range, comprehensive general plan to ensure the greatest benefit for the
3 State as a whole. This section shall not be construed to limit or repeal any
4 powers of any county to achieve these ends through zoning and building
5 regulations, except insofar as forest and water reserve zones are concerned
6 and as provided in subsections (c) and (d).

7 Neither this section nor any ordinance enacted pursuant to this section
8 shall prohibit the continued lawful use of any building or premises for any
9 trade, industrial, residential, agricultural, or other purpose for which the
10 building or premises is used at the time this section or the ordinance takes
11 effect; provided that a zoning ordinance may provide for elimination of
12 nonconforming uses as the uses are discontinued, or for the amortization or
13 phasing out of nonconforming uses or signs over a reasonable period of time
14 in commercial, industrial, resort, and apartment zoned areas only[-]; and
15 provided further that a zoning ordinance may provide for the amortization or
16 phasing out of nonconforming single-family transient vacation rental units or
17 nonconforming single-family transient vacation units over a reasonable
18 period of time in an area of any zoning classification. In no event shall such
19 amortization or phasing out of nonconforming uses apply to any existing
20 building or premises used for residential (single-family or duplex) or

____.B. NO. _____

1 agricultural uses. Nothing in this section shall affect or impair the powers
2 and duties of the director of transportation as set forth in chapter 262.”

3 SECTION 2. Statutory material to be repealed is bracketed and
4 stricken. New statutory material is underscored.

5 SECTION 3. This Act shall take effect upon its approval.

6 Introduced by:

7

Report Title: County Zoning; Single-Family Transient Vacation Rentals

Description: Clarifies County zoning authority by distinguishing Single-Family residential use from Single-Family vacation rental use and allowing amortization by ordinance for Single-Family Transient Vacation Rentals over a reasonable period.

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

JUSTIFICATION SHEET

Title: A Bill For An Act Relating to Zoning

Purpose: This proposed Bill for an Act distinguishes Single-Family residential use from Single-Family vacation rental use, and allows amortization by Ordinance for Single-Family Transient Vacation Rentals over a reasonable period of time.

Means: Amends Section 46-4 of the Hawai'i Revised Statutes

Justification: This proposed Bill was introduced by several Legislators during the 2014 Hawai'i State Legislative Session, addressing the issue regarding Single-Family Transient Vacation Rentals and whether they should be treated as residential or resort units. It is evident that the vacation rental market has grown over the year and has significantly impacted many residential areas. The current statute allows certain vacation rental operations to circumvent many regulatory controls and claim their use is residential. To properly regulate and align non-conforming vacation rentals with other similar uses, this proposal distinguishes Single-Family residential use from Single-Family vacation rental use, and allows amortization by ordinance for Single-Family Transient Vacation Rentals over a reasonable period of time.