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# A BILL FOR AN ACT

RELATING TO GROUP HOMES.

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

1 PART I

2 SECTION 1. The legislature finds that the clean and sober  
3 homes and halfway houses task force was formed in response to  
4 legislation introduced in the regular session of 2012. Clean  
5 and sober homes and halfway houses, which are located in  
6 communities throughout the State, provide housing for  
7 individuals suffering from substance abuse, including people who  
8 may have co-occurring mental health issues, as they transition  
9 from the treatment setting to life in the community. The clean  
10 and sober homes and halfway houses task force explored ways to  
11 develop a plan to ensure that these homes are properly monitored  
12 and accountable to meet occupancy, zoning, and permitting  
13 requirements, as well as quality standards.

14 Clean and sober homes and halfway houses allow individuals  
15 to return to the community through support in an alcohol- and  
16 drug-free, home-like environment, without the rigid structure of  
17 a therapeutic living program, which requires being licensed by



1 the State. Notwithstanding the needs of those who benefit from  
2 these homes, neighboring residents have expressed concerns over  
3 the legality of the operation of clean and sober homes in their  
4 immediate vicinity and the poor conduct and lack of neighborly  
5 behavior of some residents of the clean and sober homes. While  
6 the State's only halfway house is monitored by the agencies that  
7 contract for its services, the level of oversight for clean and  
8 sober homes varies, depending on the referral source.

9       Currently, various types of group homes are defined in  
10 section 46-4(f), Hawaii Revised Statutes, relating to county  
11 zoning. Section 46-4(f), Hawaii Revised Statutes, defines terms  
12 that are either no longer needed or are defined elsewhere in the  
13 Hawaii Revised Statutes. In addition, inconsistent with the  
14 federal Fair Housing Amendments Act, section 46-4(e), Hawaii  
15 Revised Statutes, requires that a public informational meeting  
16 be held in the affected community before a halfway house, a  
17 clean and sober home, or a drug rehabilitation home is located  
18 in that community.

19       As recommended by the clean and sober homes and halfway  
20 houses task force, this Act will balance the needs of those



1 requiring the support of the group homes and the concerns of  
2 community members.

3 The purpose of this Act is to help residents and  
4 prospective residents of clean and sober group homes to access a  
5 stable, alcohol- and drug-free, home-like living environment in  
6 residences that comply with federal, state, and county  
7 requirements and minimum quality standards. This Act:

8 (1) Establishes a registry for clean and sober homes  
9 within the department of health; and

10 (2) Amends the county zoning statute to better align  
11 functions of state and county jurisdictions with  
12 federal law.

13 PART II

14 SECTION 2. The legislature finds that the primary goals of  
15 rehabilitation and recovery are to restore social, family,  
16 lifestyle, vocational, and economic supports by stabilizing an  
17 individual's physical and psychological functioning. Alcohol-  
18 and drug-free environments that are safe, sanitary, and secure  
19 promote recovery and assist individuals in becoming self-  
20 supporting. The legislature further finds that these



1 environments assist persons recovering from substance abuse to  
2 live in the community at-large.

3       The clean and sober homes and halfway houses task force  
4 recognized that there is a need to improve the operation of  
5 group homes if group homes are to achieve their intended  
6 purposes. While some homes are well-run, others are overcrowded  
7 and not well-managed. To increase the number of homes that  
8 maintain appropriate living conditions, a voluntary registry  
9 will be established to set minimum standards, but also give  
10 special advantages to homes on the registry, such as technical  
11 support and preferred referral status. The voluntary registry  
12 will include specific requirements that homes on the registry  
13 must meet and will also provide a framework to monitor the  
14 homes. A key function of the voluntary registry is to enable  
15 agencies referring clients to monitor residences that provide  
16 the necessary support for recovery efforts.

17       The purpose of this part is to establish a registry of  
18 clean and sober homes.

19       SECTION 3. Chapter 321, Hawaii Revised Statutes, is  
20 amended by adding a new section to part XVI to be appropriately  
21 designated and to read as follows:



1           "§321- Clean and sober homes registry. (a) The  
2 department shall establish a voluntary clean and sober homes  
3 registry to assist persons recovering from substance abuse to  
4 have a safe, clean, and sober environment that supports their  
5 recovery. The department shall establish procedures and  
6 standards by which homes will be allowed to be listed on the  
7 registry, including but not limited to:

8           (1) Organizational and administrative standards;

9           (2) Fiscal management standards;

10          (3) Operation standards;

11          (4) Recovery support standards;

12          (5) Property standards; and

13          (6) Good neighbor standards.

14          (b) Upon review and approval of a home operator's  
15 application, the department shall issue a certificate of  
16 registration that shall specify:

17          (1) The name of the holder of the registration;

18          (2) The address to which the registration applies;

19          (3) The maximum number of persons to reside in the home;

20                 and

21          (4) The period for which the registration shall be valid.



1 An owner, operator, or landlord shall not hold the property out  
2 to be or advertise to be a "registered clean and sober home"  
3 unless the home is registered and in good standing with the  
4 clean and sober homes registry.

5 (c) The certificate of registration shall be publicly  
6 displayed at the home.

7 (d) The certificate of registration shall not be  
8 transferred to a new owner or operator, or to an address other  
9 than as specified on the certificate of registration.

10 (e) Nothing in this section shall relieve a certificate  
11 holder from compliance with other pertinent statutory  
12 provisions, nor shall a certificate holder be relieved from  
13 compliance with other applicable provisions of federal, state,  
14 or county laws, ordinances, or rules.

15 (f) The department may revoke the certificate of  
16 registration if a home ceases to meet established standards or  
17 any other applicable federal, state, or county law, ordinance,  
18 or rule.

19 (g) The department may immediately revoke a certificate of  
20 registration if there are reasonable grounds to believe that the



1 continued operation of the home presents an immediate danger to  
2 residents of the home or the general public.

3 (h) Any revocation of the certificate of registration  
4 shall be made in writing to the certificate holder.

5 (i) The department shall maintain a listing of all  
6 registered clean and sober homes on its website.

7 (j) The department shall establish a toll-free telephone  
8 number to receive complaints regarding clean and sober homes.

9 (k) This section shall not be construed to abrogate an  
10 individual's right to privacy. Unless otherwise provided by  
11 law, the department shall implement sufficient protections to  
12 ensure that the identity of a clean and sober home resident  
13 remains confidential and that information collected pursuant to  
14 this section is used solely for the purposes of this section.

15 (l) The department shall adopt rules under chapter 91 as  
16 necessary to carry out the purposes of this section."

17 SECTION 4. Section 321-191, Hawaii Revised Statutes, is  
18 amended by adding a new definition to be appropriately inserted  
19 and to read as follows:

20 "Clean and sober home" means a dwelling unit that is  
21 intended to provide a stable, independent environment of



1 alcohol- and drug-free living conditions to sustain recovery and  
2 that is shared by unrelated adult persons who are recovering  
3 from substance abuse."

4 SECTION 5. There is appropriated out of the general  
5 revenues of the State of Hawaii the sum of \$250,000 or so much  
6 thereof as may be necessary for fiscal year 2014-2015 for  
7 staffing and operating costs to plan, establish, and operate the  
8 registry of clean and sober homes.

9 The sum appropriated shall be expended by the department of  
10 health for the purposes of this part.

11 PART III

12 SECTION 6. The legislature finds that amendments to  
13 section 46-4, Hawaii Revised Statutes, relating to county  
14 zoning, that were agreed upon by the clean and sober homes and  
15 halfway houses task force in December 2012, are necessary to  
16 better align the functions of state and county jurisdictions.

17 The purpose of this part is to amend section 46-4, Hawaii  
18 Revised Statutes, to:

- 19 (1) Clarify the conditions under which the counties shall  
20 not prohibit group homes that have up to eight  
21 unrelated persons in a dwelling unit;





1 (2) Eliminate any conflict with the federal Fair Housing  
2 Amendments Act by deleting the requirement for a  
3 public informational meeting; and

4 (3) Eliminate definitions for terms that are defined  
5 elsewhere in the Hawaii Revised Statutes or are no  
6 longer needed.

7 SECTION 7. Section 46-4, Hawaii Revised Statutes, is  
8 amended to read as follows:

9 **"§46-4 County zoning.** (a) This section and any  
10 ordinance, rule, or regulation adopted in accordance with this  
11 section shall apply to lands not contained within the forest  
12 reserve boundaries as established on January 31, 1957, or as  
13 subsequently amended.

14 Zoning in all counties shall be accomplished within the  
15 framework of a long-range, comprehensive general plan prepared  
16 or being prepared to guide the overall future development of the  
17 county. Zoning shall be one of the tools available to the  
18 county to put the general plan into effect in an orderly manner.  
19 Zoning in the counties of Hawaii, Maui, and Kauai means the  
20 establishment of districts of such number, shape, and area, and  
21 the adoption of regulations for each district to carry out the



1 purposes of this section. In establishing or regulating the  
2 districts, full consideration shall be given to all available  
3 data as to soil classification and physical use capabilities of  
4 the land to allow and encourage the most beneficial use of the  
5 land consonant with good zoning practices. The zoning power  
6 granted herein shall be exercised by ordinance which may relate  
7 to:

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



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

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

20 Any civil fine or penalty provided by ordinance under this  
 21 section may be imposed by the district court, or by the zoning



1 agency after an opportunity for a hearing pursuant to chapter  
2 91. The proceeding shall not be a prerequisite for any  
3 injunctive relief ordered by the circuit court.

4 Nothing in this section shall invalidate any zoning  
5 ordinance or regulation adopted by any county or other agency of  
6 government pursuant to the statutes in effect prior to July 1,  
7 1957.

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

17 Neither this section nor any ordinance enacted pursuant to  
18 this section shall prohibit the continued lawful use of any  
19 building or premises for any trade, industrial, residential,  
20 agricultural, or other purpose for which the building or  
21 premises is used at the time this section or the ordinance takes



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

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

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

18 (d) Neither this section nor any other law, county  
19 ordinance, or rule shall prohibit group living in facilities  
20 with eight or fewer residents [~~and~~] for purposes or functions  
21 that are licensed, certified, registered, or monitored by the



1 State ~~[as provided for under section 321-15.6, or in an~~  
2 ~~intermediate care facility for individuals with intellectual~~  
3 ~~disabilities in the community for persons, including mentally~~  
4 ~~ill, elder, disabled, developmentally disabled, or totally~~  
5 ~~disabled persons, who are not related to the home operator or~~  
6 ~~facility staff; provided that those]; provided that a resident  
7 manager or a resident supervisor and the resident manager's or  
8 resident supervisor's family shall not be included in this  
9 resident count. These group living facilities shall meet all  
10 applicable county requirements not inconsistent with the intent  
11 of this subsection [and], including but not limited to building  
12 height, setback, maximum lot coverage, parking, and floor area  
13 requirements.~~

14 [~~(c) No permit shall be issued by a county agency for the~~  
15 ~~operation of a halfway house, a clean and sober home, or a drug~~  
16 ~~rehabilitation home unless a public informational meeting is~~  
17 ~~first held in the affected community. The State shall provide~~  
18 ~~notification and access to relevant information, as required,~~  
19 ~~under chapter 846E.~~

20 A ~~clean and sober home shall be considered a residential~~  
21 ~~use of property and shall be a permitted or conditional use in~~



1 ~~residentially designated zones, including but not limited to~~  
2 ~~zones for single family dwellings.~~

3 ~~(f) For purposes of this section:~~

4 ~~"Clean and sober home" means a house that is operated~~  
5 ~~pursuant to a program designed to provide a stable environment~~  
6 ~~of clean and sober living conditions to sustain recovery and~~  
7 ~~that is shared by unrelated adult persons who:~~

8 ~~(1) Are recovering from substance abuse;~~

9 ~~(2) Share household expenses; and~~

10 ~~(3) Do not require twenty four hour supervision,~~

11 ~~rehabilitation, or therapeutic services or care in the~~  
12 ~~home or on the premises;~~

13 ~~provided that the home shall meet all applicable laws, codes,~~  
14 ~~and rules of the counties and State.~~

15 ~~"Developmentally disabled person" means a person suffering~~  
16 ~~from developmental disabilities as defined under section 333F 1.~~

17 ~~"Disabled person" means a person with a disability as~~  
18 ~~defined under section 515 2.~~

19 ~~"Drug rehabilitation home" means:~~

20 ~~(1) A residential treatment facility that provides a~~

21 ~~therapeutic residential program for care, diagnosis,~~



1 ~~treatment, or rehabilitation for socially or~~  
2 ~~emotionally distressed persons, mentally ill persons,~~  
3 ~~persons suffering from substance abuse, and~~  
4 ~~developmentally disabled persons; or~~  
5 (2) ~~A supervised living arrangement that provides mental~~  
6 ~~health services, substance abuse services, or~~  
7 ~~supportive services for individuals or families who do~~  
8 ~~not need the structure of a special treatment facility~~  
9 ~~and are transitioning to independent living,~~  
10 ~~provided that drug rehabilitation homes shall not include~~  
11 ~~halfway houses or clean and sober homes.~~  
12 ~~"Elder" means an elder as defined under section 356D-1.~~  
13 ~~"Halfway house" means a group living facility for people~~  
14 ~~who:~~  
15 (1) ~~Have been released or are under supervised release~~  
16 ~~from a correctional facility;~~  
17 (2) ~~Have been released from a mental health treatment~~  
18 ~~facility; or~~  
19 (3) ~~Are receiving substance abuse or sex offender~~  
20 ~~treatment; and~~





1 ~~are housed to participate in programs that help them readjust to~~  
2 ~~living in the community.~~

3 ~~"Intermediate care facility for individuals with~~  
4 ~~intellectual disabilities in the community" means an~~  
5 ~~identifiable unit providing residence and care for eight or~~  
6 ~~fewer individuals with intellectual disabilities. Its primary~~  
7 ~~purpose is the provision of health, social, and rehabilitation~~  
8 ~~services to the individuals with intellectual disabilities~~  
9 ~~through an individually designed active treatment program for~~  
10 ~~each resident. No person who is predominantly confined to bed~~  
11 ~~shall be admitted as a resident of such a facility.~~

12 ~~"Mental health treatment facility" means a psychiatric~~  
13 ~~facility or special treatment facility as defined under section~~  
14 ~~334-1.~~

15 ~~"Mentally ill person" has the same meaning as defined under~~  
16 ~~section 334-1.~~

17 ~~"Totally disabled person" means a "person totally disabled"~~  
18 ~~as defined under section 235-1.~~

19 ~~"Treatment program" means a "substance abuse program" or~~  
20 ~~"treatment program", as those terms are defined under section~~  
21 ~~353G-2.~~



1       ~~(g)~~ (e) Neither this section nor any other law, county  
2 ordinance, or rule shall prohibit the use of land for employee  
3 housing and community buildings in plantation community  
4 subdivisions as defined in section 205-4.5(a)(12); in addition,  
5 no zoning ordinance shall provide for the elimination,  
6 amortization, or phasing out of plantation community  
7 subdivisions as a nonconforming use."

8       SECTION 8. Section 518-3, Hawaii Revised Statutes, is  
9 amended to read as follows:

10       "**§518-3 Invalidity of certain restrictive covenants.** It  
11 is the public policy of the State to establish community  
12 residences in residential areas. Therefore, any restrictive  
13 covenant or other private legal impediment made by any person,  
14 association, firm, or corporation which directly or indirectly  
15 prevents or restricts the establishment in an area zoned for  
16 residential use of a facility licensed by the State as an adult  
17 residential care home as defined under section 321-15.1;  
18 intermediate care facility for individuals with intellectual  
19 disabilities in the community [~~as defined under section 46-~~  
20 ~~4(f)~~]; or special treatment facility as defined under section



1 334-1 shall be void and unenforceable as to such community  
2 residences."

3 PART IV

4 SECTION 9. The department of health shall submit a  
5 progress report to the legislature concerning the status of the  
6 plan for establishing and operating the registry of clean and  
7 sober homes, no later than twenty days prior to the convening of  
8 the regular session of 2015.

9 SECTION 10. This Act does not affect rights and duties  
10 that matured, penalties that were incurred, and proceedings that  
11 were begun before its effective date.

12 SECTION 11. If any provision of this Act, or the  
13 application thereof to any person or circumstance, is held  
14 invalid, the invalidity does not affect other provisions or  
15 applications of the Act that can be given effect without the  
16 invalid provision or application, and to this end the provisions  
17 of this Act are severable.

18 SECTION 12. Statutory material to be repealed is bracketed  
19 and stricken. New statutory material is underscored.

20 SECTION 13. This Act shall take effect on July 1, 2014.



**Report Title:**

Registry of Clean and Sober Homes; Appropriation; County Zoning

**Description:**

Establishes a registry for clean and sober homes within the Department of Health. Appropriates funds. Amends the county zoning statute to better align functions of state and county jurisdictions with federal law. (HB2224 CD1)

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

