

COUNCIL OF THE COUNTY OF MAUI

# GOVERNMENT RELATIONS, ETHICS, AND TRANSPARENCY COMMITTEE

November 19, 2021

**Committee  
Report No.** \_\_\_\_\_

Honorable Chair and Members  
of the County Council  
County of Maui  
Wailuku, Maui, Hawaii

Chair and Members:

Your Government Relations, Ethics, and Transparency Committee, having met on September 14, 2021, and November 2, 2021, makes reference to County Communication 21-44, from Council Chair Alice L. Lee, relating to the Maui County Council Legislative Package.

Your Committee notes each year the Council may compile a package of proposals to be presented to the State Legislature.

Your Committee notes a deadline of December 30, 2021, for the submission of all non-administration bill packages for introduction during the Regular Session, which commences on January 19, 2022.

Your Committee received four proposals for inclusion in the 2022 Maui County Council Legislative Package, including State bills to:

- Establish criminal offenses of unlawful chop-shop activity;
- Allow County regulation of noise nuisances stricter than Department of Health rules;
- Appropriate funds for Fiscal Year 2022-2023 for highway improvements in the County of Maui; and
- Incorporate Kalaupapa Settlement into Maui County.

Your Committee extended the deadline to September 20, 2021, for Councilmembers to transmit additional proposals for your Committee's consideration.

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Your Committee received five new proposals for inclusion in the 2022 Maui County Council Legislative Package, including State bills to:

- Lower the size threshold for home construction that is considered “development” under the Coastal Zone Management Act;
- Lower the threshold of blood-alcohol content for the offense of operating a vehicle while under the influence of an intoxicant;
- Assess a climate change mitigation impact fee for tourism-related vehicles;
- Establish a green fee surcharge on transient accommodations; and
- Allow counties to regulate transient accommodation hosting platforms.

Your Committee further notes Resolution 21-154, relating to a proposal to increase the minimum wage, was adopted by the Council at its meeting of October 1, 2021, for inclusion in the 2022 Maui County Council Legislative Package.

### **Establishing Criminal Offenses of Unlawful Chop-Shop Activity**

By correspondence dated August 26, 2021, Councilmember Tamara Paltin transmitted a proposed resolution entitled “APPROVING FOR INCLUSION IN THE 2022 MAUI COUNTY COUNCIL LEGISLATIVE PACKAGE A STATE BILL TO ESTABLISH CRIMINAL OFFENSES OF UNLAWFUL CHOP SHOP ACTIVITY.”

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The purpose of the proposed resolution is to approve for inclusion in the 2022 Maui County Council Legislative Package a proposed State bill, attached as Exhibit "A," entitled "A BILL FOR AN ACT RELATING TO UNLAWFUL CHOP SHOP ACTIVITY."

The purpose of the proposed State bill is to amend Chapter 708, Hawaii Revised Statutes (HRS), to: 1) establish the criminal offenses of unlawful chop-shop activity in the first and second degrees; and 2) provide for the forfeiture of property connected with chop-shop activity.

Your Committee noted the legislative proposal would help to prevent chop shops from being established and classify chop-shop activity as a Class A felony. Your Committee further noted the legislative proposal was modeled after House Bill 38 (2013).

Your Committee voted 8-0 to recommend adoption of the proposed resolution. Committee Chair Molina, Vice-Chair Rawlins-Fernandez, and members Johnson, Kama, Lee, Paltin, Sinenci, and Sugimura voted "aye." Committee member King was excused.

## **County Regulation of Noise Nuisances Stricter than Department of Health Rules**

By correspondence dated August 26, 2021, Councilmember Shane M. Sinenci transmitted a proposed resolution entitled "APPROVING FOR INCLUSION IN THE 2022 MAUI COUNTY COUNCIL LEGISLATIVE PACKAGE A STATE BILL TO ALLOW COUNTY REGULATION OF NOISE NUISANCES STRICTER THAN DEPARTMENT OF HEALTH RULES."

The purpose of the proposed resolution is to approve for inclusion in the 2022 Maui County Council Legislative Package a proposed State bill, attached as Exhibit "A," entitled "A BILL FOR AN ACT RELATING TO REGULATION OF CERTAIN PUBLIC NUISANCES."

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The purpose of the proposed State bill is to amend Section 46-17, HRS, to allow counties to regulate agricultural noise by ordinance in a manner more exacting and stricter than rule adopted by the State Department of Health on noise nuisances under authority of Chapter 342F, HRS.

Your Committee notes the proposal was based on residents' complaints over excessive noise rising from commercial hemp production near homes.

After hearing concerns from members of the agricultural sector about the proposal's foreseeable unintended consequences, your Committee discussed existing County authority to possibly address residents' complaints about commercial hemp production. One option for the Council to consider is amending the Agricultural Zoning District ordinance.

Your Committee voted 8-0 to recommend filing of the correspondence. Committee Chair Molina, Vice-Chair Rawlins-Fernandez, and members Johnson, Kama, Lee, Paltin, Sinenci, and Sugimura voted "aye." Committee member King was excused.

## **Highway Improvements in Maui County**

By correspondence dated August 27, 2021, Councilmember Shane M. Sinenci transmitted a proposed resolution entitled "APPROVING FOR INCLUSION IN THE 2022 MAUI COUNTY LEGISLATIVE PACKAGE A STATE BILL RELATING TO HIGHWAY IMPROVEMENTS IN THE COUNTY OF MAUI."

The purpose of the proposed resolution is to approve for inclusion in the 2022 Maui County Council Legislative Package a proposed State bill, attached as Exhibit "A," entitled "A BILL FOR AN ACT RELATING TO HIGHWAY IMPROVEMENTS IN THE COUNTY OF MAUI."

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The purpose of the proposed State bill is to appropriate funds for Fiscal Year 2022–2023 for the repair and maintenance of feeder roads and alternate routes for Hana Highway and Piʻilani Highway and any portion of those highways under the jurisdiction of the County of Maui.

Your Committee noted the additional funds would address traffic, illegal parking, trespassing, emergency vehicular access, and improving pedestrian safety along Hana Highway and Piʻilani Highway. Other projects would include the repair and maintenance of County-owned sections of Hana Highway, road resurfacing, bridge reinforcements, reflective paint and signage, and the clearing of vegetation for improved sign visibility.

The Director of Public Works expressed support for the proposal.

Your Committee voted 8-0 to recommend adoption of the proposed resolution. Committee Chair Molina, Vice-Chair Rawlins-Fernandez, and members Johnson, Kama, Lee, Paltin, Sinenci, and Sugimura voted “aye.” Committee member King was excused.

Your Committee is in receipt of a revised proposed resolution relating to a State bill to fund highway improvements in Maui County, incorporating a nonsubstantive revision.

### **Incorporating Kalaupapa Settlement into Maui County**

By correspondence dated August 27, 2021, Council Vice-Chair Keani N.W. Rawlins-Fernandez transmitted a proposed resolution entitled “APPROVING FOR INCLUSION IN THE 2022 MAUI COUNTY COUNCIL LEGISLATIVE PACKAGE A STATE BILL TO INCORPORATE KALAUPAPA SETTLEMENT INTO MAUI COUNTY.”

The purpose of the proposed resolution is to approve for inclusion in the 2022 Maui County Council Legislative Package a proposed State bill, attached as Exhibit “A,” entitled “A BILL FOR AN ACT RELATING TO KALAWAO COUNTY.”

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The purpose of the proposed State bill is to amend Section 4-1, HRS, to abolish Kalawao County and incorporate the portion of the island of Moloka'i, known as Kalaupapa, Kalawao, and Waikolu, commonly designated as the Kalaupapa Settlement, into Maui County.

Your Committee noted the historical division of Moloka'i Island stems from the designation of Kalaupapa as a remote quarantine site for patients with leprosy, which is managed by the Department of Health, State of Hawaii (State DOH).

Your Committee also noted the State DOH is no longer needed to govern the area because of the significant reduction in the number of leprosy patients at Kalaupapa.

In addition, your Committee noted Kalaupapa Settlement consists of Makanalua Peninsula and Waikolu Valley.

Your Committee further noted the State's responsibility to manage Makanalua Peninsula would not change with this proposal. Approximately one-third of the area is under the jurisdiction of the State Department of Hawaiian Home Lands and leased to the National Park Service (NPS), and the remaining two-thirds of the area is under the jurisdiction of the Department of Land and Natural Resources, State of Hawaii.

A representative from the Department of Fire and Public Safety expressed support for the proposal. He said the area's resources are currently under the NPS. He said placing Kalawao County under Maui County would help to streamline community services and response.

A representative from the Department of Police also expressed support for the proposal. He provided an anticipated annual cost of \$705,360 to cover officers' salaries, housing, and vehicles, not including travel and vehicle fuel costs, if the area were to require daily police patrol.

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Your Committee discussed the possibility of keeping Kalaupapa as a cultural preserve.

Your Committee expressed support for the proposal that would incorporate Kalaupapa Settlement into Maui County and make Moloka'i Island whole.

Your Committee voted 8-0 to recommend adoption of the proposed resolution. Committee Chair Molina, Vice-Chair Rawlins-Fernandez, and members Johnson, Kama, Lee, Paltin, Sinenci, and Sugimura voted "aye." Committee member King was excused.

### **Lowering the Size Threshold for Home Construction Under the Coastal Zone Management Act**

By correspondence dated September 20, 2021, Councilmember Tamara Paltin transmitted a proposed resolution entitled "APPROVING FOR INCLUSION IN THE 2022 MAUI COUNTY COUNCIL LEGISLATIVE PACKAGE A STATE BILL TO LOWER THE SIZE THRESHOLD FOR HOME CONSTRUCTION THAT IS CONSIDERED 'DEVELOPMENT' UNDER THE COASTAL ZONE MANAGEMENT ACT."

The purpose of the proposed resolution is to approve for inclusion in the 2022 Maui County Council Legislative Package a proposed State bill, attached as Exhibit "A," entitled "A BILL FOR AN ACT RELATING TO THE COASTAL ZONE MANAGEMENT ACT."

The purpose of the proposed State bill is to amend Section 205A-22, HRS, to amend the definition of "development" by lowering the size threshold for a single-family residence to 5,000 square feet under the Coastal Zone Management Act.

Your Committee amended the State bill to add a definition of "floor area," which was modeled after the definition in the County's Comprehensive Zoning Ordinance, as recommended by the Department of Planning.

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Your Committee voted 8-0 to recommend adoption of a revised proposed resolution. Committee Chair Molina, Vice-Chair Rawlins-Fernandez, and members Johnson, Kama, Lee, Paltin, Sinenci, and Sugimura voted “aye.” Committee member King was excused.

Your Committee is in receipt of a revised proposed resolution attaching a State bill to lower the size threshold for a single-family residence, incorporating your Committee’s revisions.

### **Use of Intoxicants While Operating a Vehicle**

By correspondence dated September 20, 2021, Councilmember Kelly Takaya King transmitted a proposed resolution entitled “APPROVING FOR INCLUSION IN THE 2022 MAUI COUNTY COUNCIL LEGISLATIVE PACKAGE A STATE BILL RELATING TO THE USE OF INTOXICANTS WHILE OPERATING A VEHICLE.”

The purpose of the proposed resolution is to approve for inclusion in the 2022 Maui County Council Legislative Package a proposed State bill, attached as Exhibit “A,” entitled “A BILL FOR AN ACT RELATING TO THE USE OF INTOXICANTS WHILE OPERATING A VEHICLE.”

The purpose of the proposed State bill is to amend Section 291E-3, HRS, to lower the threshold of blood-alcohol content (BAC) for the offense of operating a vehicle while under the influence of an intoxicant.

Your Committee noted lowering the BAC from 0.08 percent to 0.05 percent will be an additional tool to prevent drunk-driving accidents and related deaths. Your Committee further noted Utah’s BAC was reduced to 0.05 percent, the lowest BAC in the United States, as of December 30, 2018.

Your Committee voted 8-0 to recommend adoption of the proposed resolution. Committee Chair Molina, Vice-Chair Rawlins-Fernandez, and

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members Johnson, Kama, Lee, Paltin, Sinenci, and Sugimura voted “aye.” Committee member King was excused.

### **Green Fee Surcharge on Transient Accommodations**

#### **Climate Change Mitigation Impact Fee for Tourism-Related Vehicles**

By correspondence dated September 20, 2021, Councilmember Kelly Takaya King transmitted a proposed resolution entitled “APPROVING FOR INCLUSION IN THE 2022 MAUI COUNTY COUNCIL LEGISLATIVE PACKAGE A STATE BILL TO ESTABLISH A GREEN FEE SURCHARGE ON TRANSIENT ACCOMODATIONS.”

The purpose of the proposed resolution is to approve for inclusion in the 2022 Maui County Council Legislative Package a proposed State bill, attached as Exhibit “A,” entitled “A BILL FOR AN ACT RELATING TO ENVIRONMENTAL PROTECTION.”

The purpose of the proposed State bill is to amend Chapter 171, HRS, to establish: 1) a Conservation Workforce Special Fund to deposit all revenues collected under Chapter 237D, HRS and any appropriations made by the Hawai‘i State Legislature for deposit into the Fund; 2) a Conservation Advisory Committee within the Department and the Office of Planning; and 3) a Visitor Green Fee Surcharge.

By correspondence dated September 20, 2021, Councilmember Kelly Takaya King transmitted a proposed resolution entitled “APPROVING FOR INCLUSION IN THE 2022 MAUI COUNTY COUNCIL LEGISLATIVE PACKAGE A STATE BILL TO ASSESS A CLIMATE CHANGE MITIGATION IMPACT FEE FOR TOURISM-RELATED VEHICLES.”

The purpose of the proposed resolution is to approve for inclusion in the 2022 Maui County Council Legislative Package a proposed State bill, attached as Exhibit “A,” entitled “A BILL FOR AN ACT RELATING TO CLIMATE CHANGE MITIGATION.”

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The purpose of the proposed State bill is to amend Chapter 171, HRS, to establish: 1) a Climate Change Mitigation Impact Fee for persons renting, leasing, or utilizing tourism-related vehicles in the State to be used toward protecting Hawai'i's natural resources and environment; and 2) a Climate Change Mitigation Special Fund to deposit all fees collected in accordance with Section 171-A and any appropriations made by the State Legislature for deposit into the Fund.

Your Committee recognized the importance of establishing impact fees on rental vehicles and transient accommodations, both which directly impact Hawaii's natural resources and environment. Your Committee further supported the concept of green fees to support climate change mitigation.

Your Committee voted 8-0 to recommend adoption of the proposed resolutions. Committee Chair Molina, Vice-Chair Rawlins-Fernandez, and members Johnson, Kama, Lee, Paltin, Sinenci, and Sugimura voted "aye." Committee member King was excused.

Your Committee is in receipt of a revised proposed resolution relating to a State bill to establish a green fee surcharge on transient accommodations, incorporating nonsubstantive revisions.

### **Transient Accommodations Hosting Platforms**

By correspondence dated September 20, 2021, Councilmember Kelly Takaya King transmitted a proposed resolution entitled "APPROVING FOR INCLUSION IN THE 2022 MAUI COUNTY COUNCIL LEGISLATIVE PACKAGE A STATE BILL RELATING TO TRANSIENT ACCOMMODATIONS HOSTING PLATFORMS."

The purpose of the proposed resolution is to approve for inclusion in the 2022 Maui County Council Legislative Package House Bill 504 (2021) and Senate Bill 643 (2021), attached as Exhibits "A" and "B," respectively, and both entitled "A BILL FOR AN ACT RELATING TO TRANSIENT ACCOMMODATIONS HOSTING PLATFORMS."

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The purpose of the proposed State bills is to allow the counties to regulate transient accommodation hosting platforms.

Your Committee supported the counties' authority to regulate online platforms to prevent the further proliferation of illegal transient accommodations and preserve residential housing. Municipalities in other states have been successfully exercising this type of authority.

Your Committee voted 8-0 to recommend adoption of the proposed resolution. Committee Chair Molina, Vice-Chair Rawlins-Fernandez, and members Johnson, Kama, Lee, Paltin, Sinenci, and Sugimura voted "aye." Committee member King was excused.

Your Government Relations, Ethics, and Transparency Committee RECOMMENDS the following:

1. That Resolution \_\_\_\_\_, attached hereto, entitled "APPROVING FOR INCLUSION IN THE 2022 MAUI COUNTY COUNCIL LEGISLATIVE PACKAGE A STATE BILL TO ESTABLISH CRIMINAL OFFENSES OF UNLAWFUL CHOP SHOP ACTIVITY," be ADOPTED;
2. That Resolution \_\_\_\_\_, attached hereto, entitled "APPROVING FOR INCLUSION IN THE 2022 MAUI COUNTY COUNCIL LEGISLATIVE PACKAGE A STATE BILL RELATING TO HIGHWAY IMPROVEMENTS IN THE COUNTY OF MAUI," be ADOPTED;
3. That Resolution \_\_\_\_\_, attached hereto, entitled "APPROVING FOR INCLUSION IN THE 2022 MAUI COUNTY COUNCIL LEGISLATIVE PACKAGE A STATE BILL TO INCORPORATE KALAUPAPA SETTLEMENT INTO MAUI COUNTY," be ADOPTED;

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4. That Resolution \_\_\_\_\_, attached hereto, entitled “APPROVING FOR INCLUSION IN THE 2022 MAUI COUNTY COUNCIL LEGISLATIVE PACKAGE A STATE BILL TO LOWER THE SIZE THRESHOLD FOR HOME CONSTRUCTION THAT IS CONSIDERED ‘DEVELOPMENT’ UNDER THE COASTAL ZONE MANAGEMENT ACT,” be ADOPTED;
5. That Resolution \_\_\_\_\_, attached hereto, entitled “APPROVING FOR INCLUSION IN THE 2022 MAUI COUNTY COUNCIL LEGISLATIVE PACKAGE A STATE BILL RELATING TO THE USE OF INTOXICANTS WHILE OPERATING A VEHICLE,” be ADOPTED;
6. That Resolution \_\_\_\_\_, attached hereto, entitled “APPROVING FOR INCLUSION IN THE 2022 MAUI COUNTY COUNCIL LEGISLATIVE PACKAGE A STATE BILL TO ESTABLISH A GREEN FEE SURCHARGE ON TRANSIENT ACCOMMODATIONS,” be ADOPTED;
7. That Resolution \_\_\_\_\_, attached hereto, entitled “APPROVING FOR INCLUSION IN THE 2022 MAUI COUNTY COUNCIL LEGISLATIVE PACKAGE A STATE BILL TO ASSESS A CLIMATE CHANGE MITIGATION IMPACT FEE FOR TOURISM-RELATED VEHICLES,” be ADOPTED; and
8. That Resolution \_\_\_\_\_, attached hereto, entitled “APPROVING FOR INCLUSION IN THE 2022 MAUI COUNTY COUNCIL LEGISLATIVE PACKAGE A STATE BILL RELATING TO TRANSIENT ACCOMMODATIONS HOSTING PLATFORMS,” be ADOPTED; and
9. That correspondence dated August 26, 2021, relating to County regulation of noise nuisances stricter than Department of Health rules be FILED.

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This report is submitted in accordance with Rule 8 of the Rules of the Council.



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MICHAEL J. MOLINA, Chair

great:cr:21004aa:ske

# Resolution

No. \_\_\_\_\_

APPROVING FOR INCLUSION IN THE 2022  
MAUI COUNTY COUNCIL LEGISLATIVE  
PACKAGE A STATE BILL TO ESTABLISH  
CRIMINAL OFFENSES OF UNLAWFUL CHOP  
SHOP ACTIVITY

WHEREAS, a “chop shop” is a place of criminal activity, often mimicking a legitimate auto body or repair shop, where stolen motor vehicles or motor vehicle parts are taken to be altered to conceal their true identity; and

WHEREAS, chop shop activity may include the theft of motor vehicles and motor vehicle parts, defacing vehicle identification numbers, re-stamping false vehicle identification numbers into stolen vehicles, and re-sale of these stolen vehicles to unsuspecting, innocent buyers; and

WHEREAS, according to a “Crime in the U.S. 2019” report by the Federal Bureau of Investigation’s Criminal Justice Information Services Division, Hawai‘i had the third-highest motor vehicle theft rate in the nation at 371.1 per 100,000 people; and

WHEREAS, in 2019, the Maui Police Department reported 661 motor vehicle theft offenses and \$4,421,246 in stolen motor vehicle property; and

WHEREAS, there is no State statute covering the criminal misconduct of chop shop activity, and the need for such a statute has been established through numerous auto theft investigations that led to the discovery of chop shop activity as part of the criminal misconduct; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That the proposed State bill, attached as Exhibit “A,” to establish criminal offenses of unlawful chop shop activity, is approved for inclusion in the 2022 Maui County Council Legislative Package; and

**Resolution No. \_\_\_\_\_**

2. That certified copies of this Resolution be transmitted to the Mayor and Chief of Police.

paf:kmatt:21-216b



\_\_\_ **B. NO.** \_\_\_

1 "Chop shop" means:

2 (1) Any building, lot, or other premises that is used to  
3 store, destroy, dismantle, disassemble, or reassemble a motor  
4 vehicle or two or more motor vehicle parts that the person knows  
5 to have been stolen; or

6 (2) Any building lot, or other premises that is used to  
7 alter, conceal, disguise, or remove the vehicle identification  
8 number of at least one motor vehicle or two or more motor vehicle  
9 parts from at least one motor vehicle that the person knows to  
10 have been stolen.

11 "Motor vehicle" means any automobile, motorcycle, motorboat,  
12 or other motor-propelled vehicle.

13 "Vehicle identification number" means the number that the  
14 manufacturer or a governmental agency assigns to a motor vehicle  
15 for the purpose of identifying the motor vehicle or a major  
16 component part of the motor vehicle. "Vehicle identification  
17 number" includes any combination of numbers or letters.

18 **§708- Unlawful chop shop activity.** A person commits  
19 unlawful chop shop activity if the person knowingly:

20 (a) Owns or operates a chop shop;

21 (b) Transports a stolen motor vehicle or two or more stolen  
22 motor vehicle parts to or from a chop shop;

\_\_\_ **.B. NO.** \_\_\_

1           (c) Sells or transfers to, or purchases or receives from a  
2 chop shop a stolen motor vehicle or two or more stolen motor  
3 vehicle parts; or

4           (d) Conducts or participates in the conduct of the affairs  
5 of any chop shop by:

6           (A) Storing, destroying, dismantling, disassembling, or  
7 reassembling a stolen motor vehicle or two or more stolen motor  
8 vehicle parts; or

9           (B) Altering, concealing, disguising, or removing the  
10 vehicle identification number of at least one stolen motor vehicle  
11 or two or more motor vehicle parts from at least one stolen motor  
12 vehicle.

13           **§708- Unlawful chop shop activity in the first degree. (1)**

14 A person commits the offense of unlawful chop shop activity in the  
15 first degree if the person commits unlawful chop shop activity and  
16 the total value of all stolen motor vehicles or stolen motor  
17 vehicle parts stored, transported, sold, transferred, purchased,  
18 received, destroyed, dismantled, disassembled, reassembled, or  
19 made unidentifiable by altering, concealing, disguising, or  
20 removing the vehicle identification number of the motor vehicle or  
21 motor vehicle parts by the person is equal to or greater than  
22 \$250,000.

1           (2) Unlawful chop shop activity in the first degree is a  
2 class A felony.

3           **§708- Unlawful chop shop activity in the second degree.**

4           (1) A person commits the offense of unlawful chop shop activity  
5 in the second degree if the person commits unlawful chop shop  
6 activity and the total value of all stolen motor vehicles or stolen  
7 motor vehicle parts stored, transported, sold, transferred,  
8 purchased, received, destroyed, dismantled, disassembled,  
9 reassembled, or made unidentifiable by altering, concealing,  
10 disguising, or removing the vehicle identification number of the  
11 motor vehicle or motor vehicle parts by the person is less than  
12 \$250,000, but equal to or greater than \$100,000.

13           (2) Unlawful chop shop activity in the second degree is a  
14 class B felony.

15           **§708- Forfeiture of property connected with chop shop**  
16 **activity.** Any motor vehicle, motor vehicle part, tool, implement,  
17 or real property possessed or used in violation of this part, or  
18 any money obtained in violation of this part may be ordered  
19 forfeited to the State, subject to the requirements of chapter  
20 712A.""

21           SECTION 3. Statutory material to be repealed is bracketed  
22 and in strikethrough. New statutory material is underscored.

\_\_\_\_.B. NO. \_\_\_\_\_

1           SECTION 4. This Act does not affect rights and duties that  
2 matured, penalties that were incurred, and proceedings that were  
3 begun before its effective date.

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

5

6                                   INTRODUCED BY: \_\_\_\_\_

7

8           paf:kmat:21-216a

# Resolution

No. \_\_\_\_\_

APPROVING FOR INCLUSION IN THE 2022  
MAUI COUNTY COUNCIL LEGISLATIVE  
PACKAGE A STATE BILL RELATING TO  
HIGHWAY IMPROVEMENTS IN THE COUNTY  
OF MAUI

WHEREAS, Hāna Highway spans over 64 miles and features 620 curves and 59 bridges, attracting many visitors to enjoy abundant rainforests, picturesque waterfalls, and dramatic seascapes; and

WHEREAS, with stresses of climate change, overcrowding, and everyday wear and tear on Hāna Highway, and the connecting Pi'ilani Highway, the road conditions pose safety hazards for motorists and liability for the State and County; and

WHEREAS, maintenance and repair of Hāna Highway and Pi'ilani Highway including resurfacing of the road, reinforcement of bridges, improvement of reflective paint and signage, and clearing of vegetation from signage and turnouts are crucial to improve its overall safety conditions; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That the proposed State bill, attached as Exhibit "A," to authorize the State Director of Finance to issue General Obligation Bonds and appropriate the same amount for the Fiscal Year 2022-2023 for repair and maintenance of Hāna Highway and Pi'ilani Highway, is approved for inclusion in the 2022 Maui County Council Legislative Package; and
2. That certified copies of this Resolution be transmitted to the Mayor and the Director of Public Works.

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# A BILL FOR AN ACT

RELATING TO HIGHWAY IMPROVEMENTS IN THE COUNTY OF MAUI.

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

1           SECTION 1. The director of finance is authorized to issue  
2 general obligation bonds in the sum of \$20,000,000 or so much  
3 thereof as may be necessary and the same sum or so much thereof  
4 as may be necessary is appropriated for fiscal year 2022-2023  
5 for the repair and maintenance of feeder roads and alternate  
6 routes for Hāna Highway and Pi'ilani Highway and any portion of  
7 those highways under the jurisdiction of the county of Maui.

8           The sum appropriated shall be expended by the county of  
9 Maui for the purposes of this Act.

10          SECTION 2. The appropriation made for the capital  
11 improvement project authorized by this Act shall not lapse at  
12 the end of the fiscal biennium for which the appropriation is  
13 made; provided that all moneys from the appropriation  
14 unencumbered as of June 30, 2025, shall lapse as of that date.

15          SECTION 3. This Act shall take effect on July 1, 2022.

16

17

INTRODUCED BY: \_\_\_\_\_

\_\_\_\_.B. NO. \_\_\_\_\_

1 paf:kmat:21-258a

# Resolution

No. \_\_\_\_\_

APPROVING FOR INCLUSION IN THE 2022  
MAUI COUNTY COUNCIL LEGISLATIVE  
PACKAGE A STATE BILL TO INCORPORATE  
KALAUPAPA SETTLEMENT INTO MAUI COUNTY

WHEREAS, in 1865 the Kingdom of Hawai'i passed "An Act to Prevent the Spread of Leprosy," and designated Kalaupapa on the Island of Moloka'i as the place where those with leprosy, or Hansen's disease, would reside; and

WHEREAS, in 1905; the Territorial Legislature passed the County Act, forming county governance and placing Kalawao County under the jurisdiction of the Department of Health, with the Director of Health serving as the Mayor of Kalawao County; and

WHEREAS, at its peak, about 1,200 men, women, and children were in exile at Kalaupapa; and

WHEREAS, today, there are about 10 remaining patients at Kalaupapa; and

WHEREAS, the significant reduction in the number of patients no longer necessitates the governance of the Department of Health; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That the proposed State bill, attached as Exhibit "A," to incorporate the Kalaupapa Settlement into Maui County, is approved for inclusion in the 2022 Maui County Council Legislative Package; and
2. That verified copies of this Resolution be transmitted to the Mayor Michael P. Victorino.

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# A BILL FOR AN ACT

RELATING TO KALAWAO COUNTY.

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

1           SECTION 1. The legislature finds that the remaining number  
2 of Hansen's disease patients in Kalawao County no longer  
3 necessitates governance by the Department of Health.

4           The purpose of this Act is to abolish Kalawao County and  
5 incorporate the portion of the island of Molokai known as  
6 Kalaupapa, Kalawao, and Waikolu and commonly known or designated  
7 as the Kalaupapa Settlement into Maui County.

8           Section 2. Section 4-1, Hawaii Revised Statutes, is amended  
9 as follows:

10           "**§4-1 Districts, generally.** For election, taxation, city,  
11 county, and all other purposes, the State shall be divided into  
12 the following districts; provided that the establishment of  
13 election districts shall be exclusively governed by article IV of  
14 the constitution of the State of Hawaii and chapter 25:

15           (1) The island and county of Hawaii shall be divided into  
16 nine districts as follows:

17           (A) Puna, to be styled the Puna district;

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1           (B) From the Hakalau stream to the boundary of South  
2 Hilo and Puna, to be styled the South Hilo district;

3           (C) From the boundary of Hamakua and North Hilo to the  
4 Hakalau stream, to be styled the North Hilo district;

5           (D) Hamakua, to be styled the Hamakua district;

6           (E) North Kohala, to be styled the North Kohala district;

7           (F) South Kohala, to be styled the South Kohala district;

8           (G) North Kona, to be styled the North Kona district;

9           (H) South Kona, to be styled the South Kona district;

10 and

11           (I) Kau, to be styled the Kau district.

12           (2) The islands of Maui, Molokai, Lanai, and Kahoolawe [~~the~~  
13 ~~counties of Maui and Kalawao~~] and the county of Maui shall be  
14 divided into [~~seven~~] six districts as follows:

15           (A) Kahikinui, Kaupo, Kipahulu, Hana, and Koolau, to be  
16 styled the Hana district;

17           (B) Hamakualoa, Hamakuapoko, portion of Kula, and  
18 Honuaula, the western boundary being a line starting from the sea  
19 at Kapukaulua on the boundary between the ahupuaas of Haliimaile  
20 and Wailuku, thence running inland following the boundary to the  
21 mauka side of the Lowrie ditch, thence following the mauka side of  
22 the ditch and its projected extension to the Waiakoa gulch which

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1 is the boundary between the ahupuaas of Pulehunui and Waiakoa,  
2 thence down along the boundary to the mauka boundary of the Waiakoa  
3 Homesteads (makai section), thence along the boundary to the  
4 ahupuaa of Kaonoulu, thence across the ahupuaa of Kaonoulu to the  
5 mauka boundary of the Waiohuli-Keokea Beach Homesteads, thence  
6 along the boundary to the mauka boundary of the Kamaole Homesteads,  
7 thence along the boundary and the extension thereof to the north  
8 boundary of the ahupuaa of Paeahu, thence along the boundary to  
9 the sea, and including the island of Kahoolawe, to be styled the  
10 Makawao district;

11           (C) All that portion of central Maui lying east of a  
12 line along the boundary of the ahupuaas of Kahakuloa and Honokohau  
13 to the peak of Eke crater, thence along the ridge of mountains and  
14 down the bottom of Manawainui gulch to the sea, and west of the  
15 boundary of Makawao district, to be styled Wailuku district;

16           (D) All that portion of Maui lying west of Wailuku  
17 district, to be styled the Lahaina district;

18           (E) The island of Molokai, ~~[except that portion of the~~  
19 ~~island known as Kalaupapa, Kalawao, and Waikolu and commonly known~~  
20 ~~or designated as the Settlement for Hansen's disease sufferers,]~~  
21 to be styled the Molokai district; and

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1           ~~[(F) All that portion of the island of Molokai known as~~  
2 ~~Kalaupapa, Kalawao, and Waikolu forming the county of Kalawao, to~~  
3 ~~be styled the Kalawao district; and]~~

4           ~~[(G)]~~ (F) The island of Lanai, to be styled the Lanai  
5 district.

6           (3) For judicial purposes, the island of Oahu shall be  
7 divided into seven districts as follows:

8           (A) From Makapuu Head in Maunalua to Moanalua inclusive,  
9 and the islands not included in any other district, to be styled  
10 the Honolulu district;

11           (B) Ewa, excluding Waikakalaua, Waipio Acres, and  
12 Mililani Town, to be styled the Ewa district;

13           (C) Waianae excluding Waianae Uka, to be styled the  
14 Waianae district;

15           (D) From Kaena point to and including Waialeale Stream  
16 excluding Wahiawa, hereinafter described, to be styled the Waialua  
17 district;

18           (E) From Waialeale Stream to Lae o ka Oio, to be styled  
19 the Koolauloa district;

20           (F) From Lae o ka Oio to Makapuu Head in Waimanalo, to  
21 be styled the Koolaupoko district; and

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1           (G)    Wahiawa and Waianae Uka, including Waikakalaua,  
2   Waipio Acres, and Mililani Town, lying between Ewa and Waialua  
3   districts and more particularly described in the following  
4   manner: Beginning at Puu Kaaumakua in the Koolau range and running  
5   to and along the south boundary of Waianae Uka (which is also the  
6   south boundary of Schofield Barracks Military Reservation) to Puu  
7   Hapapa in the Waianae range; thence continuing along Schofield  
8   Barracks Military Reservation northerly along the Waianae range to  
9   Puu Kaala, easterly along Mokuleia down ridge to Puu Pane,  
10   continuing to Maili Trig. station, and down ridge to Haleauau  
11   stream and down Haleauau stream to Kaukonahua gulch, and easterly  
12   along the gulch to the west boundary of the ahupuaa of Wahiawa;  
13   thence leaving Schofield Barracks Military Reservation and  
14   following up and along the west and north boundaries of the ahupuaa  
15   of Wahiawa to the Koolau range; thence along the Koolau range to  
16   the beginning; to be styled the Wahiawa district.

17           (4)   For all purposes except for judicial, the island of Oahu  
18   shall be divided into seven districts as follows:

19           (A)   From Makapuu Head in Maunaloa to Moanalua inclusive,  
20   and the islands not included in any other district, to be styled  
21   the Honolulu district;

22           (B)   Ewa, to be styled the Ewa district;

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1           (C)    Waianae excluding Waianae Uka, to be styled the  
2 Waianae district;

3           (D)    From Kaena point to and including the ahupuaa of  
4 Waimea excluding Wahiawa, hereinafter described, to be styled the  
5 Waialua district;

6           (E)    From Waimea to Lae o ka Oio, to be styled the  
7 Koolauloa district;

8           (F)    From Lae o ka Oio to Makapuu Head in Waimanalo, to  
9 be styled the Koolaupoko district; and

10          (G)    Wahiawa and Waianae Uka, lying between Ewa and  
11 Waialua districts and more particularly described in the following  
12 manner: Beginning at Puu Kaaumakua in the Koolau range and running  
13 to and along the south boundary of Waianae Uka (which is also the  
14 south boundary of Schofield Barracks Military Reservation) to Puu  
15 Hapapa in the Waianae range; thence continuing along Schofield  
16 Barracks Military Reservation northerly along the Waianae range to  
17 Puu Kaala, easterly along Mokuleia down ridge to Puu Pane,  
18 continuing to Maili Trig. station, and down ridge to Haleauau  
19 stream and down Haleauau stream to Kaukonahua gulch, and easterly  
20 along the gulch to the west boundary of the ahupuaa of Wahiawa;  
21 thence leaving Schofield Barracks Military Reservation and  
22 following up and along the west and north boundaries of the ahupuaa

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1 of Wahiawa to the Koolau range; thence along the Koolau range to  
2 the beginning; to be styled the Wahiawa district.

3 (5) The islands of Kauai, Niihau, Kaula, and county of Kauai,  
4 shall be divided into five districts as follows:

5 (A) From Puanaaiea point to the ili of Eleele, including  
6 the islands of Niihau and Kaula, to be styled the Waimea district;

7 (B) From and including the ili of Eleele to and including  
8 Mahaulepu, to be styled the Koloa district;

9 (C) From and including Kipu to the northerly bank of the  
10 north fork and the main Wailua river, to be styled the Lihue  
11 district;

12 (D) From the northerly bank of the north fork and the  
13 main Wailua river to Kealaakaiole, to be styled the Kawaihau  
14 district; and

15 (E) From and including Kealaakaiole to Puanaaiea point  
16 to be styled the Hanalei district."

17 SECTION 3. Section 11-1, Hawaii Revised Statutes, is amended  
18 by amending the definition of "county" to read as follows:

19 "'County", the counties of Hawaii, Maui, Kauai, and the city  
20 and county of Honolulu, as the context may require. ~~For the~~  
21 ~~purposes of this title, the county of Kalawao shall be deemed to~~  
22 ~~be included in the county of Maui.]"~~

1 SECTION 4. Section 11-61, Hawaii Revised statutes, is amended  
2 by amending subsection (a) to read as follows:

3 "(a) The term "political party" means any party which has  
4 qualified as a political party under sections 11-62 and 11-64 and  
5 has not been disqualified by this section. A political party shall  
6 be an association of voters united for the purpose of promoting a  
7 common political end or carrying out a particular line of political  
8 policy and which maintains a general organization throughout the  
9 State, including a regularly constituted central committee and  
10 county committees in each county [~~other than Kalawae~~]."

11 SECTION 5. Section 23.81, Hawaii Revised Statutes, is amended  
12 by amending subsection (c) to read as follows:

13 "(c) This section shall apply to the following:

14 (1) Section 237-23(a)(3)--Fraternal benefit societies,  
15 orders, or associations for the payment of benefits to members;

16 (2) Section 237-23(a)(4)--Corporations, associations,  
17 trusts, or societies:

18 (A) Organized and operated exclusively for religious,  
19 charitable, scientific, or educational purposes;

20 (B) Operating senior citizens housing facilities  
21 qualifying for loans under the United States Housing Act of 1959,  
22 as amended;

1 (C) Operating legal service plans; or

2 (D) Operating or managing homeless facilities or other  
3 programs for the homeless;

4 (3) Section 237-23(a)(5)--Business leagues, chambers of  
5 commerce, boards of trade, civic leagues, agricultural and  
6 horticultural organizations, and organizations operated  
7 exclusively for the benefit of the community or promotion of social  
8 welfare, including legal service plans;

9 (4) Section 237-23(a)(6)--Hospitals, infirmaries, and  
10 sanitararia;

11 (5) Section 237-23(a)(7)--Tax-exempt potable water companies  
12 serving residential communities lacking access to public utility  
13 water services;

14 (6) Section 237-23(a)(8)--Agricultural cooperative  
15 associations incorporated under state or federal law;

16 (7) Section 237-23(a)(9)--Persons affected with Hansen's  
17 disease and kokuas with respect to business within the [~~county of~~  
18 ~~Kalawao~~] portion of the island of Molokai known as Kalaupapa,  
19 Kalawao, and Waikolu, and commonly known or designated as the  
20 Kalaupapa Settlement;

21 (8) Section 237-23(a)(10)--Corporations, companies,  
22 associations, or trusts organized for cemeteries; and

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1 (9) Section 237-23(a)(11)--Nonprofit shippers."

2 SECTION 6. Section 101-1, Hawaii Revised Statutes, is amended  
3 by amending the definition of "county" to read as follows:

4 "County" means a county [~~(except the county of Kalawao)~~] and  
5 any agency of a county, including the board of water supply  
6 thereof, duly authorized to exercise the power of eminent domain."

7 SECTION 7. Section 103F-202, Hawaii Revised Statutes, is  
8 amended by amending subsection (a) to read as follows:

9 "(a) There is established a community council on purchase of  
10 health and human services. The community council shall be  
11 comprised of no more than nine voting members, and one non-voting,  
12 ex-officio member of the interagency committee on purchase of  
13 health or human services designated by the majority of the members  
14 of the committee. There shall be a member from each county[~~7~~  
15 ~~except the county of Kalawao,~~] and up to five members interested  
16 in health, human services, employment, or the provision of services  
17 to children and youth."

18 SECTION 8. Section 127A-2, Hawaii Revised Statutes, is  
19 amended is amended by amending the definition of "county" to read  
20 as follows:

21 "County" means the city and county of Honolulu, and the  
22 counties of Hawaii, Kauai, and Maui [~~7~~ ~~provided that the county of~~

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1 ~~Maui shall include the county of Kalawao for the purposes of this~~  
2 ~~chapter]."~~

3 SECTION 9. Section 128A-2, Hawaii Revised Statutes, is  
4 amended is amended by amending the definition of "county" to read  
5 as follows:

6 "County" means any of the political subdivisions of the  
7 State, including the counties of Hawaii, Maui, and Kauai and the  
8 city and county of Honolulu~~[, but does not include the county of~~  
9 ~~Kalawao]."~~

10 SECTION 10. Section 128E-4, Hawaii Revised Statutes, is  
11 amended as follows:

12 "~~§128E-4~~ **Establishment of emergency planning**  
13 **districts.** Each county is designated as an emergency planning  
14 district for the purposes of this chapter~~;~~ ~~provided that the~~  
15 ~~department shall be responsible for Kalawao county]."~~

16 SECTION 11. Section 231-2, Hawaii Revised Statutes, is  
17 amended as follows:

18 **§231-2 Taxation districts.** For the purpose of taxation, the  
19 State is divided into the following four districts:

20 (1) The city and county of Honolulu, to be called the first  
21 district;

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1           (2) The ~~counties~~ county of Maui ~~[and Kalawae]~~, to be called  
2 the second district;

3           (3) The county of Hawaii, to be called the third district;  
4 and

5           (4) The county of Kauai, to be called the fourth district.

6           SECTION 12. Section 237-23, Hawaii Revised Statutes, is  
7 amended by amending subsection (a) to read as follows:

8           “(a) This chapter shall not apply to the following persons:

9           (1) Public service companies as that term is defined in  
10 section 239-2, with respect to the gross income, either actual  
11 gross income or gross income estimated and adjusted, that is  
12 included in the measure of the tax imposed by chapter 239;

13           (2) Public utilities owned and operated by the State or any  
14 county, or other political subdivision thereof;

15           (3) Fraternal benefit societies, orders, or associations,  
16 operating under the lodge system, or for the exclusive benefit of  
17 the members of the fraternity itself, operating under the lodge  
18 system, and providing for the payment of death, sick, accident, a  
19 legal service plan, or other benefits to the members of the  
20 societies, orders, or associations, and to their dependents;

21           (4) Corporations, associations, trusts, or societies  
22 organized and operated exclusively for religious, charitable,

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1 scientific, or educational purposes, as well as that of operating  
2 senior citizens housing facilities qualifying for a loan under the  
3 laws of the United States as authorized by section 202 of the  
4 Housing Act of 1959, as amended, as well as that of operating a  
5 legal service plan, as well as that of operating or managing a  
6 homeless facility, or any other program for the homeless authorized  
7 under part XVII of chapter 346;

8 (5) Business leagues, chambers of commerce, boards of trade,  
9 civic leagues, agricultural and horticultural organizations, and  
10 organizations operated exclusively for the benefit of the  
11 community and for the promotion of social welfare that shall  
12 include the operation of a legal service plan, and from which no  
13 profit inures to the benefit of any private stockholder or  
14 individual;

15 (6) Hospitals, infirmaries, and sanitararia;

16 (7) Companies that provide potable water to residential  
17 communities that lack any access to public utility water services  
18 and are tax exempt under section 501(c)(12) of the Internal Revenue  
19 Code of 1986, as amended;

20 (8) Cooperative associations incorporated under chapter 421  
21 or Code section 521 cooperatives which fully meet the requirements

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1 of section 421-23, except Code section 521 cooperatives need not  
2 be organized in Hawaii; provided that:

3 (A) The exemption shall apply only to the gross income  
4 derived from activities that are pursuant to purposes and powers  
5 authorized by chapter 421, except those provisions pertaining to  
6 or requiring corporate organization in Hawaii do not apply to Code  
7 section 521 cooperatives;

8 (B) The exemption shall not relieve any person who  
9 receives any proceeds of sale from the association of the duty of  
10 returning and paying the tax on the total gross proceeds of the  
11 sales on account of which the payment was made, in the same amount  
12 and at the same rate as would apply thereto had the sales been  
13 made directly by the person, and all those persons shall be so  
14 taxable; and

15 (C) As used in this paragraph, "Code section 521  
16 cooperatives" mean associations that qualify as a cooperative  
17 under section 521 (with respect to exemption of farmers'  
18 cooperatives from tax) of the Internal Revenue Code of 1986, as  
19 amended;

20 (9) Persons affected with Hansen's disease and kokuas, with  
21 respect to business within [~~the county of Kalawao~~] Kalaupapa,

1 Kalawao, and Waikolu, commonly known or designated as the Kalaupapa  
2 settlement;

3 (10) Corporations, companies, associations, or trusts  
4 organized for the establishment and conduct of cemeteries no part  
5 of the net earnings of which inures to the financial benefit of  
6 any private stockholder or individual; provided that the exemption  
7 shall apply only to the activities of those persons in the conduct  
8 of cemeteries and shall not apply to any activity the primary  
9 purpose of which is to produce income, even though the income is  
10 to be used for or in the furtherance of the exempt activities of  
11 those persons; and

12 (11) Nonprofit shippers associations operating under part  
13 296 of the Civil Aeronautics Board Economic Regulations."

14 SECTION 13. Section 281-1, Hawaii Revised Statutes, is  
15 amended by amending the definition of "county" to read as follows:

16 "County" means the county in respect of which each commission  
17 has jurisdiction under this chapter [~~; provided that in the county~~  
18 ~~of Kalawao liquor may be sold only by such persons and only under~~  
19 ~~such conditions as may be permitted or prescribed from time to~~  
20 ~~time by the department of health]."~~

21 SECTION 14. Section 326-24, Hawaii Revised Statutes, is  
22 amended as follows:

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1       "~~§326-24~~ **Rules.** The director of health may adopt rules  
2 pursuant to chapter 91 necessary for the conduct of all matters  
3 pertaining to Hansen's disease, the treatment and care thereof,  
4 and other services provided to persons affected with Hansen's  
5 disease [~~, and the full and complete governance of the county of~~  
6 ~~Kalawao]~~, except as limited by this chapter."

7       SECTION 15. Section 326-34, Hawaii Revised Statutes, is  
8 repealed.

9       [~~"§326-34 County of Kalawao; governance.~~ (a) The county of  
10 Kalawao shall consist of that portion of the island of Molokai  
11 known as Kalaupapa, Kalawao, and Waikolu, and commonly known or  
12 designated as the Kalaupapa Settlement, and shall not be or form  
13 a portion of the county of Maui, but is constituted a county by  
14 itself. As a county it shall have only the powers especially  
15 conferred and given by sections 326-34 to 326-38 and, except as  
16 provided in those sections, none of the provisions of the Hawaii  
17 Revised Statutes regarding counties shall be deemed to refer to or  
18 shall be applicable to the county of Kalawao.

19       (b) The county of Kalawao shall be under the jurisdiction and  
20 control of the department of health and be governed by the laws,  
21 and rules relating to the department and the care and treatment of

1 ~~persons affected with Hansen's disease, except as otherwise~~  
2 ~~provided by law.”]~~

3 SECTION 16. Section 326-35, Hawaii Revised Statutes, is  
4 repealed.

5 [~~There shall be no county officer in the county other than~~  
6 ~~a sheriff, who shall be a patient resident of and be appointed in~~  
7 ~~the county by the department of health and who shall hold office~~  
8 ~~at the pleasure of the department or until a successor is appointed~~  
9 ~~by the department. When a qualified patient resident is not~~  
10 ~~available, the department may appoint a staff employee or other~~  
11 ~~qualified person to serve as sheriff.”]~~

12 SECTION 17. Section 326-36, Hawaii Revised Statutes, is  
13 repealed.

14 [~~The salary of the sheriff shall be fixed and paid by the~~  
15 ~~department of health out of the appropriation allowed by the~~  
16 ~~legislature for the care and treatment of persons affected with~~  
17 ~~Hansen's disease.”]~~

18 SECTION 18. Section 326-37, Hawaii Revised Statutes, is  
19 repealed.

20 [~~The sheriff of the county of Kalawao shall preserve the~~  
21 ~~public peace and shall arrest and take before the district judge~~  
22 ~~for examination all persons who attempt to commit or who have~~

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1 ~~committed a public offense and prosecute the same to the best of~~  
2 ~~the sheriff's ability.”]~~

3 SECTION 19. Section 326-38, Hawaii Revised Statutes, is  
4 repealed.

5 [~~The sheriff may appoint and dismiss and reappoint as many~~  
6 ~~police officers as may be authorized by the department of health~~  
7 ~~for the county. Patient residents, for the services rendered as~~  
8 ~~police officers, shall receive pay as the department determines~~  
9 ~~and which pay shall be taken out of and from the appropriation~~  
10 ~~made by the legislature for the care and treatment of persons~~  
11 ~~affected with Hansen's disease. The sheriff shall have other powers~~  
12 ~~and duties within the county of Kalawao and appropriate thereto as~~  
13 ~~are prescribed by law for the chiefs of police or police officers~~  
14 ~~of the several counties respectively.”]~~

15 SECTION 20. Section 329D-2, Hawaii Revised Statutes, is  
16 amended by amending subsection (d) to read as follows:

17 “(d) The department shall issue eight dispensary licenses  
18 statewide; provided that three dispensary licenses shall be issued  
19 for the city and county of Honolulu, two dispensary licenses each  
20 shall be issued for the county of Hawaii and the county of Maui,  
21 and one dispensary license shall be issued for the county of

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1 Kauai [~~; provided further that no dispensary license shall be issued~~  
2 ~~for the county of Kalawao~~].”

3 SECTION 21. Section 431:10C-119, Hawaii Revised Statutes, is  
4 amended by amending subsection (a) to read as follows:

5 “(a) Prior to licensing an insurer to transact a motor  
6 vehicle insurance business in this State, the commissioner:

7 (1) Shall effect a thorough examination of the insurer's  
8 business experience, financial soundness, and general reputation  
9 as an insurer in this and other states. In the discretion of the  
10 commissioner, this examination may include an examination of any  
11 or all of the business records of the insurer, and an audit of all  
12 or any part of the insurer's motor vehicle insurance business,  
13 each to be performed by the commissioner's staff or by independent  
14 consultants. No license shall be issued until the commissioner is  
15 satisfied as to the business experience, financial solvency, and  
16 the economic soundness of the insurer;

17 (2) Except for a member-owned reciprocal insurer and its  
18 wholly owned insurer subsidiaries, as specified in subsection (c),  
19 shall require of each insurer, and determine that satisfactory  
20 arrangements have been made for, the provision of a complete sales  
21 and claims service office in the State; provided that the  
22 establishment and maintenance of an office by licensed producers

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1 of an insurer in every county the insurer does business shall meet  
2 the requirements of this paragraph; [~~provided further that the~~  
3 ~~preceding shall not be required for the county of Kalawao;~~] and

4 (3) Notwithstanding any other requirements of this section  
5 or of the insurance code, may require a bond in a reasonable amount  
6 and with deposits or sureties determined in the commissioner's  
7 discretion of any applicant for a license hereunder. The  
8 commissioner may, at any time, make and enforce such a requirement  
9 of any licensed insurer or self-insurer."

10 SECTION 22. Section 804-5, Hawaii Revised Statutes, is  
11 amended as follows:

12 "§804-5 **By whom allowed.** In cases where the punishment for  
13 the offense charged may be imprisonment for life not subject to  
14 parole, or imprisonment for a term more than ten years with or  
15 without fine, a judge or justice of a court of record, including  
16 a district judge, shall be competent to admit the accused to bail,  
17 in conformity with sections 804-3 to 804-6. In all other cases,  
18 the accused may be so admitted to bail by any judge or justice of  
19 a court of record, including a district judge, and in cases, except  
20 under section 712-1207, where the punishment for the offense  
21 charged may not exceed two years' imprisonment with or without  
22 fine, the sheriff, the sheriff's deputy, the chief of police or

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1 any person named by the chief of police, ~~or the sheriff of~~  
2 ~~Kalawao,~~ regardless of the circuit within which the alleged  
3 offense was committed, may admit the accused person to bail. The  
4 court shall impose conditions of release or bail that are the least  
5 restrictive conditions required to ensure the accused's appearance  
6 and to protect the public."

7 SECTION 23. Statutory material to be deleted is bracketed  
8 and in strikethrough. New statutory material is underscored.

9 SECTION 24. This Act shall take effect on January 2, 2025.

10

11

INTRODUCED BY: \_\_\_\_\_

# Resolution

No. \_\_\_\_\_

APPROVING FOR INCLUSION IN THE 2022  
MAUI COUNTY COUNCIL LEGISLATIVE  
PACKAGE A STATE BILL TO LOWER THE SIZE  
THRESHOLD FOR HOME CONSTRUCTION  
THAT IS CONSIDERED “DEVELOPMENT”  
UNDER THE COASTAL ZONE MANAGEMENT  
ACT

WHEREAS, under the Coastal Zone Management Act, a single-family home of less than 7,500 square feet of floor is not considered a “development” and, therefore, does not require a Special Management Area Major Use Permit; and

WHEREAS, revising the CZMA to lower the size threshold to 5,000 square feet would appropriately make more residential development subject to review by the Planning Commissions for SMA Major Use Permits; and; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That the proposed State bill, attached as Exhibit “A,” to lower the size threshold for home construction that is considered “development” under the Coastal Zone Management Act is approved for inclusion in the 2022 Maui County Council Legislative Package; and
2. That certified copies of this Resolution be transmitted to the Mayor.

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\_\_\_\_.B. NO. \_\_\_\_\_

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# A BILL FOR AN ACT

RELATING TO THE COASTAL ZONE MANAGEMENT ACT.

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

1           SECTION 1.    Section 205A-22, Hawaii Revised Statutes, is  
2 amended by amending the definition of "development" as follows:

3           "~~§205A-22-~~    **Definitions.**   As used in this part:

4           "Development" means any of the uses, activities, or  
5 operations on land or in or under water within a special management  
6 area that are included below:

7           (1) Placement or erection of any solid material or any  
8 gaseous, liquid, solid, or thermal waste;

9           (2) Grading, removing, dredging, mining, or extraction of any  
10 materials;

11           (3) Change in the density or intensity of use of land,  
12 including but not limited to the division or subdivision of land;

13           (4) Change in the intensity of use of water, ecology related  
14 thereto, or of access thereto; and

15           (5) Construction, reconstruction, or alteration of the size  
16 of any structure.

17           "Development" does not include the following:

\_\_\_ .B. NO. \_\_\_

1           (1) Construction or reconstruction of a single-family  
2 residence that is less than [~~seven thousand five hundred~~] five  
3 thousand square feet of floor area, is not situated on a shoreline  
4 parcel or a parcel that is impacted by waves, storm surges, high  
5 tide, or shoreline erosion, and is not part of a larger  
6 development;

7           (2) Repair or maintenance of roads and highways within  
8 existing rights-of-way;

9           (3) Routine maintenance dredging of existing streams,  
10 channels, and drainage ways;

11           (4) Repair and maintenance of underground utility lines,  
12 including but not limited to water, sewer, power, and telephone  
13 and minor appurtenant structures such as pad mounted transformers  
14 and sewer pump stations;

15           (5) Zoning variances, except for height, density, parking,  
16 and shoreline setback;

17           (6) Repair, maintenance, or interior alterations to existing  
18 structures;

19           (7) Demolition or removal of structures, except those  
20 structures located on any historic site as designated in national  
21 or state registers;

22           (8) Use of any land for the purpose of cultivating, planting,  
23 growing, and harvesting plants, crops, trees, and other

\_\_\_\_.B. NO. \_\_\_\_\_

1 agricultural, horticultural, or forestry products or animal  
2 husbandry, or aquaculture or mariculture of plants or animals, or  
3 other agricultural purposes;

4 (9) Transfer of title to land;

5 (10) Creation or termination of easements, covenants, or  
6 other rights in structures or land;

7 (11) Subdivision of land into lots greater than twenty acres  
8 in size;

9 (12) Subdivision of a parcel of land into four or fewer  
10 parcels when no associated construction activities are proposed;  
11 provided that any land that is so subdivided shall not thereafter  
12 qualify for this exception with respect to any subsequent  
13 subdivision of any of the resulting parcels;

14 (13) Installation of underground utility lines and  
15 appurtenant aboveground fixtures less than four feet in height  
16 along existing corridors;

17 (14) Structural and nonstructural improvements to existing  
18 single-family residences, where otherwise permissible;

19 (15) Nonstructural improvements to existing commercial or  
20 noncommercial structures; and

21 (16) Construction, installation, maintenance, repair, and  
22 replacement of emergency management warning or signal devices and  
23 sirens;

\_\_\_ .B. NO. \_\_\_

1 provided that whenever the authority finds that any excluded  
2 use, activity, or operation may have a cumulative impact, or a  
3 significant environmental or ecological effect on a special  
4 management area, that use, activity, or operation shall be defined  
5 as "development" for the purpose of this part."

6 "Floor area" means the roofed area of all floors of a  
7 structure measured from the exterior faces of the exterior walls  
8 or from the center line of party walls dividing a structure; the  
9 floor areas of a structure, or portion of the floor area, that is  
10 not enclosed by exterior walls shall be the area under the  
11 covering, roof, or floor that is supported by posts, columns,  
12 partial walls, or similar structural members that define the wall  
13 line. Excluded from the floor area are:

14 (1) Parking structures such as garages and carports,  
15 including covered driveways and accessways, porte  
16 cocheres, and parking attendant booths.

17 (2) Attic areas with head room less than seven feet.

18 (3) Projections such as sunshade devices and architectural  
19 embellishments that are decorative only.

20 (4) Areas covered by roofing treatment to screen rooftop  
21 machinery only.

22 (5) Areas underneath unsupported roof overhangs or  
23 cantilevered building overhangs, provided no portion of

\_\_\_\_.B. NO. \_\_\_\_\_

1           the area is enclosed except for a safety railing or wall  
2           not exceeding four feet in height.

3           (6) Elevators and vent shafts.

4           (7) Basements that are used exclusively for storage.

5           (8) Common walkways and other exterior common areas in  
6           multi-family and commercial structures, such as  
7           stairways, breezeways, and fire escapes.

8           (9) Exterior machinery and equipment enclosures such as for  
9           laundry, water heaters, air conditioning, and trash  
10          receptacles.

11          See figures below.

12

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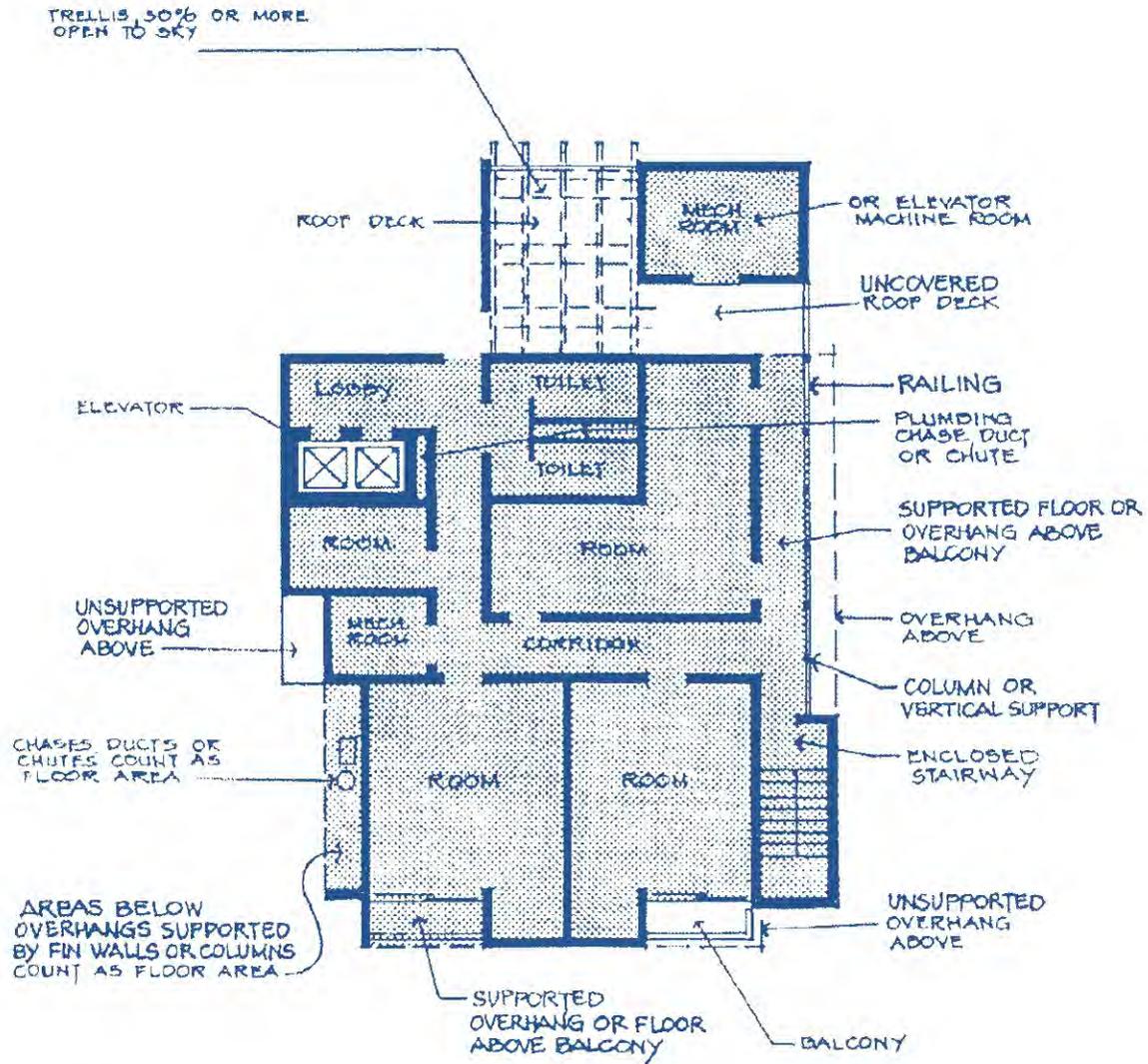
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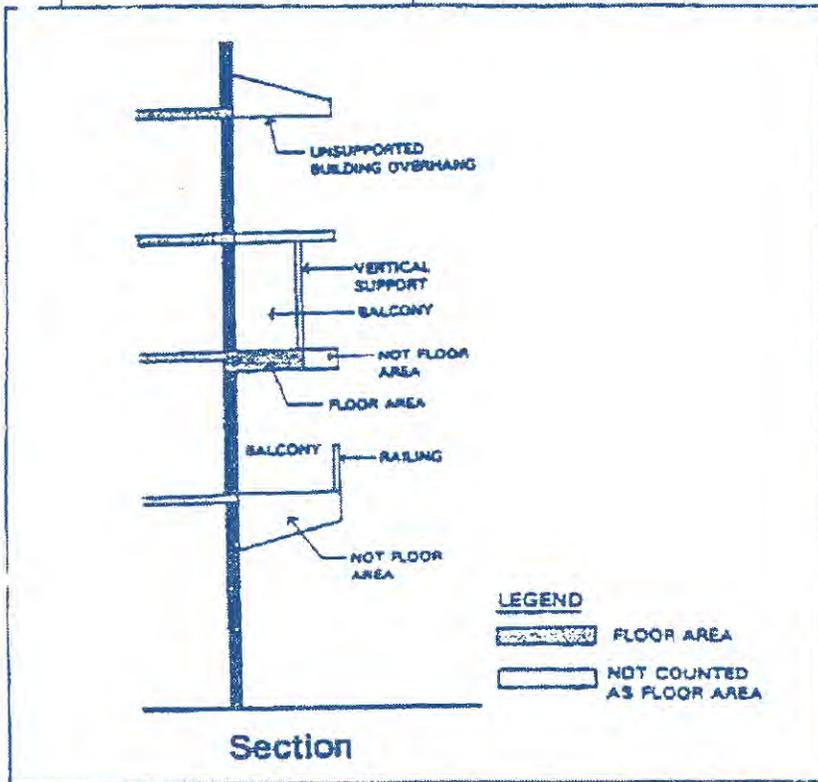
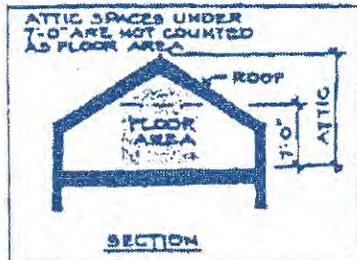
**FLOOR AREA**



**LEGEND**

-  FLOOR AREA (See definition for exclusions)
-  NOT COUNTED AS FLOOR AREA

*FLOOR AREA (Continued)*



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SECTION 2. ~~Statutory material to be repealed is bracketed~~  
~~and in strikethrough.~~ New statutory material is underscored.

SECTION 3. This Act does not affect rights and duties that  
matured, penalties that were incurred, and proceedings that were  
begun before its effective date.

SECTION 4. This Act shall take effect upon its approval.

\_\_\_\_.B. NO. \_\_\_\_\_

1 INTRODUCTION BY: \_\_\_\_\_

2

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# Resolution

No. \_\_\_\_\_

APPROVING FOR INCLUSION IN THE 2022  
MAUI COUNTY COUNCIL LEGISLATIVE  
PACKAGE A STATE BILL RELATING TO THE  
USE OF INTOXICANTS WHILE OPERATING A  
VEHICLE

WHEREAS, according to the National Transportation Safety Board, a driver with a Blood Alcohol Concentration of 0.05 would be affected by exaggerated behavior, loss of small-muscle control and eye focus, impaired judgment, lowered alertness, and release of inhibition; and

WHEREAS, a Blood Alcohol Concentration of 0.05 would result in reduced coordination, reduced ability to track moving objects, difficulty steering, and reduced response to emergency driving situations; and

WHEREAS, lowering the threshold of Blood Alcohol Concentration to 0.05 for the offense of operating a vehicle while under the influence of an intoxicant would save lives, prevent catastrophic injuries, and decrease medical costs; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That the proposed State bill, attached as Exhibit "A," relating to the use of intoxicants while operating a vehicle is approved for inclusion in the 2022 Maui County Council Legislative Package; and
2. That certified copies of this Resolution be transmitted to the Mayor.

\_\_\_\_.B. NO.\_\_\_\_

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# A BILL FOR AN ACT

RELATING TO THE USE OF INTOXICANTS WHILE OPERATING A VEHICLE.

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

1           SECTION 1. The legislature finds that in 2013, the  
2 National Transportation Safety Board recommended that all fifty  
3 states adopt a Blood Alcohol Concentration (BAC) cutoff of 0.05  
4 compared to the 0.08 standard. According to the National  
5 Transportation Safety Board, lowering the rate to 0.05 would  
6 save about five hundred to eight hundred lives annually.

7           According to the National Transportation Safety Board, a  
8 driver with a BAC of 0.05 would be affected by exaggerated  
9 behavior, loss of small-muscle control and eye focus, impaired  
10 judgment, lowered alertness, and release of inhibition. This  
11 would result in reduced coordination, reduced ability to track  
12 moving objects, difficulty steering, and reduced response to  
13 emergency driving situations.

14           The legislature further finds that lowering the threshold  
15 of BAC cutoff to 0.05 would save lives, prevent catastrophic  
16 injuries, and decrease medical costs.

17

.B. NO.          

1 The purpose of this Act is to lower the threshold of blood-  
2 alcohol content for the offense of operating a vehicle while  
3 under the influence of an intoxicant.

4 SECTION 2. Section 291E-3, Hawaii Revised Statutes, is  
5 amended to read as follows:

6 "§291E-3 Evidence of intoxication. (a) In any criminal  
7 prosecution for a violation of section 291E-61 or 291E-61.5 or  
8 in any proceeding under part III:

- 9 (1) [~~.08~~] .05 or more grams of alcohol per one hundred  
10 milliliters or cubic centimeters of the person's  
11 blood;
- 12 (2) [~~.08~~] .05 or more grams of alcohol per two hundred ten  
13 liters of the person's breath; or
- 14 (3) The presence of one or more drugs in an amount  
15 sufficient to impair the person's ability to operate a  
16 vehicle in a careful and prudent manner,  
17 within three hours after the time of the alleged violation as  
18 shown by chemical analysis or other approved analytical  
19 techniques of the person's blood, breath, or urine shall be  
20 competent evidence that the person was under the influence of an  
21 intoxicant at the time of the alleged violation.

.B. NO.          

1           (b) In any criminal prosecution for a violation of section  
2 291E-61 or 291E-61.5, the amount of alcohol found in the  
3 defendant's blood or breath within three hours after the time of  
4 the alleged violation as shown by chemical analysis or other  
5 approved analytical techniques of the defendant's blood or  
6 breath shall be competent evidence concerning whether the  
7 defendant was under the influence of an intoxicant at the time  
8 of the alleged violation and shall give rise to the following  
9 presumptions:

10           (1) If there were [~~.05~~] .02 or less grams of alcohol per  
11 one hundred milliliters or cubic centimeters of  
12 defendant's blood or [~~.05~~] .02 or less grams of  
13 alcohol per two hundred ten liters of defendant's  
14 breath, it shall be presumed that the defendant was  
15 not under the influence of alcohol at the time of the  
16 alleged violation; and

17           (2) If there were in excess of [~~.05~~] .02 grams of alcohol  
18 per one hundred milliliters or cubic centimeters of  
19 defendant's blood or [~~.05~~] .02 grams of alcohol per  
20 two hundred ten liters of defendant's breath, but less  
21 than [~~.08~~] .05 grams of alcohol per one hundred  
22 milliliters or cubic centimeters of defendant's blood

.B. NO.          

1           or [~~.08~~] .05 grams of alcohol per two hundred ten  
2           liters of defendant's breath, that fact may be  
3           considered with other competent evidence in  
4           determining whether the defendant was under the  
5           influence of alcohol at the time of the alleged  
6           violation, but shall not of itself give rise to any  
7           presumption.

8           (c) Nothing in this section shall be construed as limiting  
9           the introduction, in any criminal proceeding for a violation  
10          under section 291E-61 or 291E-61.5 or in any proceeding under  
11          part III, of relevant evidence of a person's alcohol  
12          concentration or drug content obtained more than three hours  
13          after an alleged violation; provided that the evidence is  
14          offered in compliance with the Hawaii rules of evidence."

15          SECTION 3. Section 291E-61, Hawaii Revised Statutes, is  
16          amended by amending subsection (a) to read as follows:

17          "(a) A person commits the offense of operating a vehicle  
18          under the influence of an intoxicant if the person operates or  
19          assumes actual physical control of a vehicle:

20                 (1) While under the influence of alcohol in an amount  
21                 sufficient to impair the person's normal mental

.B. NO.          

1           faculties or ability to care for the person and guard  
2           against casualty;

3           (2) While under the influence of any drug that impairs the  
4           person's ability to operate the vehicle in a careful  
5           and prudent manner;

6           (3) With [~~0.08~~] 0.05 or more grams of alcohol per two  
7           hundred ten liters of breath; or

8           (4) With [~~0.8~~] 0.05 or more grams of alcohol per one  
9           hundred milliliters or cubic centimeters of blood."

10          SECTION 4. Section 291E-61.5, Hawaii Revised Statutes, is  
11          amended by amending subsection (a) to read as follows:

12          "(a) A person commits the offense of habitually operating a  
13          vehicle under the influence of an intoxicant if:

14           (1) The person is a habitual operator of a vehicle while  
15           under the influence of an intoxicant; and

16           (2) The person operates or assumes actual physical control  
17           of a vehicle:

18           (A) While under the influence of alcohol in an amount  
19           sufficient to impair the person's normal mental  
20           faculties or ability to care for the person and  
21           guard against casualty;

\_\_\_\_.B. NO.\_\_\_\_

1 (B) While under the influence of any drug that  
2 impairs the person's ability to operate the  
3 vehicle in a careful and prudent manner;

4 (C) With [~~0.8~~] 0.05 or more grams of alcohol per two  
5 hundred ten liters of breath; or

6 (D) With [~~0.8~~] 0.05 or more grams of alcohol per one  
7 hundred milliliters or cubic centimeters of  
8 blood."

9 SECTION 5. 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 6. Statutory material to be repealed is bracketed  
13 and stricken. New statutory material is underscored.

14 SECTION 7. This Act shall take effect upon its approval.

15 INTRODUCED BY: \_\_\_\_\_

16

17 paf:dmr:21-282a

# Resolution

No. \_\_\_\_\_

APPROVING FOR INCLUSION IN THE 2022  
MAUI COUNTY COUNCIL LEGISLATIVE  
PACKAGE A STATE BILL TO ESTABLISH A  
GREEN FEE SURCHARGE ON TRANSIENT  
ACCOMMODATIONS

WHEREAS, each year, Maui County's reefs, oceans, beaches, and forests provide unmeasurable value to the economy, supporting the wellbeing of our resident community and visitors alike; and

WHEREAS, these ecosystems are vital to the County's visitor industry and the resident community's cultural identity; and

WHEREAS, our County's vital ecosystems and the resources they harbor continue to decline, due to the lack of adequate investment in conservation approaches and rising pressures of climate change; and

WHEREAS, the COVID-19 pandemic provides the County with an opportunity to build back the tourism sector more sustainably; and

WHEREAS, a visitor green fee could result in economic and environmental benefits, while also providing sustainable and comprehensive funding for green job growth beyond initial federal stimulus relief; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That the proposed State bill, attached as Exhibit "A," to establish a green fee surcharge on transient accommodations, is approved for inclusion in the 2022 Maui County Council Legislative Package; and
2. That certified copies of this Resolution be transmitted to the Mayor.

\_\_\_\_.B. NO. \_\_\_\_\_

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# A BILL FOR AN ACT

RELATING TO ENVIRONMENTAL PROTECTION.

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

1           SECTION 1. Each year, Hawaii's reefs, oceans, beaches, and  
2 forests provide billions of dollars in value to the economy,  
3 supporting the wellbeing of our resident community and visitors  
4 alike. These ecosystems are vital to the State's visitor industry  
5 and the resident community's cultural identity.

6           Our State's vital ecosystems and the resources they harbor  
7 continue to decline, due to the lack of adequate investment in  
8 proven and effective conservation approaches and rising pressures  
9 of climate change. Data demonstrates growing concern that  
10 tourism's positive contribution to the economy may not outweigh  
11 the impact that visitors have on the environment. In 2019, ten  
12 million visitors enjoyed the benefits of Hawaii's ecosystems and  
13 natural environment. The increased demand on our natural resources  
14 requires the creation of innovative conservation financing  
15 mechanisms focused on reversing the decline in our ecosystems and  
16 the associated risks for our visitor industry and resident  
17 community.

\_\_\_\_.B. NO. \_\_\_\_\_

1           The COVID-19 pandemic provides the State with an opportunity  
2 to build back the tourism sector more sustainably. A visitor green  
3 fee could provide sustainable and comprehensive funding for green  
4 job growth beyond initial federal stimulus relief. As the  
5 frequency of natural disasters and exogenous shocks increase, the  
6 legislature finds that diversification and green job growth is  
7 invaluable to Hawaii's economic stability, ability to withstand  
8 shocks, and reverse brain drain.

9           Innovative financing mechanisms, such as green fees, are  
10 trending around the globe as triple bottom-line solutions to better  
11 manage visitor impacts on ecosystems and natural resources. Green  
12 fees vary from \$1 per night to a \$100 set entrance fee and may be  
13 referred to as eco-taxes; tourist taxes; green taxes; and  
14 environmental, conservation, and tourism levies. In general,  
15 green fees require mandatory payments made by visitors to  
16 government or public-private entities for the explicit purpose of  
17 supporting conservation and natural resource management. Green  
18 fees are typically bundled with a robust conservation fund and  
19 associated management system, along with visitor education and  
20 engagement strategies, as part of a jurisdiction's conservation  
21 strategy.

22           These green fees will provide various economic benefits to  
23 the State. Other jurisdictions have found that green stimulus

\_\_\_\_.B. NO. \_\_\_\_\_

1 yields a higher economic multiplier effect. Similarly, studies  
2 show impressive returns on conservation investment; for example,  
3 The Nature Conservancy's efforts at the Waikamoi Preserve will  
4 generate a forty-six per cent return on investment over the one-  
5 hundred-year planning period, with a net present value of  
6 \$19,100,000.

7 Green fees will provide environmental benefits through the  
8 funded conservation efforts, including the prevention of four  
9 thousand three hundred tons per year of sediment from washing into  
10 the ocean and the recharge of 32.5 billion gallons over the next  
11 one hundred years. In addition to watershed conservation, other  
12 environmental benefits could include fire road installation, dune  
13 restoration, integrated marine monitoring, coral reef restoration,  
14 and recreation and trail maintenance.

15 These environmental benefits advance the natural resource  
16 management targets established as part of the Aloha+ Challenge,  
17 which is the government, business, and community partnership  
18 committing to community-based goals across six priority areas:  
19 clean energy transportation; local agriculture; natural resource  
20 management; solid waste reduction; green workforce and education;  
21 and smart sustainable communities. The goals set under the Aloha+  
22 Challenge and other environmental initiatives, such as the Hawaii  
23 climate change mitigation and adaptation initiative, enacted as

\_\_\_\_.B. NO. \_\_\_\_\_

1 chapter 225P, Hawaii Revised Statutes, will be advanced by the  
2 implementation of a pilot visitor green fee program that will fund  
3 a conservation workforce and under the guidance of an advisory  
4 committee to ensure fair implementation.

5 The purpose of this Act is to:

6 (1) Establish the conservation workforce special fund with  
7 the explicit commitment of funding a conservation workforce and  
8 advancing the Aloha+ Challenge Natural Resource Management  
9 Targets;

10 (2) Form a public-private advisory committee focused on  
11 designing the management and governance structure and funding  
12 criteria that safeguards the special fund's fidelity towards  
13 conservation; and

14 (3) Establish a ten-year pilot visitor green fee to go into  
15 effect July 1, 2022.

16 SECTION 2. Chapter 171, Hawaii Revised Statutes, is amended  
17 by adding two new sections to part I to be appropriately designated  
18 and to read as follows:

19 "**§171-A Conservation workforce special fund.** (a) There is  
20 established in the state treasury the conservation workforce  
21 special fund into which shall be deposited:

22 (1) All revenues under section 237D- ;

\_\_\_\_.B. NO. \_\_\_\_\_

1           (2)    Appropriations made by the legislature to the  
2 special fund; and

3           (3)    Grants and gifts made to the special fund.

4           (b)    Funds in the special may be expended by the department  
5 for workforce programs and services with the explicit aim of  
6 meeting the goals of the Aloha+ Challenge natural resource  
7 management targets and the International Union for Conservation of  
8 Nature's 30by30 goals of:

9           (1)    Increasing freshwater capacity by one hundred  
10 million gallons per day in comparison to the January 1, 2016,  
11 baseline;

12           (2)    Having thirty per cent of Hawaii's marine waters  
13 under active management by 2030;

14           (3)    Implementing the biosecurity plan to address  
15 priority invasive species by 2030; and

16           (4)    Increasing the percentage of threatened and  
17 endangered native species managed in Hawaii by 2030.

18 Funds may also support the maintenance or restoration of beaches,  
19 parks, and trails.

20           **§171-B Conservation advisory committee.** (a) The department  
21 and the office of planning, in consultation with the department of  
22 budget and finance and Hawaii tourism authority, shall convene an  
23 advisory committee within the department. The advisory committee

\_\_\_\_.B. NO. \_\_\_\_\_

1 shall consist of three or more odd number members who shall  
2 comprise conservationists, tourism industry leaders, and youth  
3 advisors. The department shall have the authority to appoint  
4 members to the advisory committee and to fill any vacancies. The  
5 members shall serve on a volunteer basis.

6 (b) The advisory committee shall develop a funding criteria  
7 and transparency and governance framework to ensure that  
8 management of the conservation workforce special fund established  
9 pursuant to section 171-A safeguards the fidelity of the special  
10 fund towards natural resource management and conservation job  
11 growth."

12 SECTION 3. Chapter 237D, Hawaii Revised Statutes, is amended  
13 by adding a new section to be appropriately designated and to read  
14 as follows:

15 **"§237D- Green fee surcharge.** (a) In addition to the  
16 taxes imposed pursuant to section 237D-2, beginning on July 1,  
17 2022, and thereafter; there is levied and shall be assessed and  
18 collected a green fee surcharge of \$20 per night on the lodging  
19 accommodations facility of each individual in temporary residence  
20 at that facility for as many nights as that individual is in  
21 residence at that facility; provided that a transient  
22 accommodations broker, travel agency, and tour packager who  
23 arranges transient accommodations at noncommissioned negotiated

\_\_\_ .B. NO. \_\_\_

1 contract rates and every operator shall not pay the surcharge on  
2 the same guest more than once in any three hundred and sixty-five  
3 day period and, in such cases, shall not charge the guest for the  
4 amount of the surcharge.

5 (b) The amount of this nightly fee will be reviewed yearly  
6 by administration and Legislature in order to balance revenue  
7 generated, effect on the visitor industry, public sentiment, and  
8 environmental impact.

9 (c) This fee will be raised or lowered by \$5 to \$10 yearly,  
10 in order to achieve the desired balance.

11 (d) Administration and Legislature will be advised by report  
12 of a determination of the desirable number of yearly visitors made  
13 each year by the 20 member State Climate Commission. This  
14 Commission is comprised of the Chair of DLNR, Chair of HTA,  
15 Director of DBEDT, Director of Office of Planning, CEO of OHA,  
16 Chair of Hawaiian Homes Commission, Chair Board of Education,  
17 Director of Department of Agriculture, Director of Department of  
18 Health, Director of Department of Transportation, Director of  
19 Honolulu Planning and Permitting, Director of Maui Planning  
20 Department, Director of County Hawaii Planning Department,  
21 Director of Kauai Planning Department, Chair of Senate Committee  
22 on Agriculture and Environment, Chair of Senate Committee on Land  
23 and Water, Chair of House Committee on Energy and Environmental

\_\_\_\_.B. NO. \_\_\_\_\_

1 Protection, Chair of House Committee on Land and Water, the  
2 Adjutant General and the Manager of Coastal Zone Management  
3 Program.

4 (e) Notwithstanding sections 237-2(e) and 237D-6.5, the  
5 revenues collected pursuant to this section shall be deposited  
6 quarterly into the conservation workforce special fund established  
7 pursuant to section 171-A."

8 SECTION 4. New statutory material is underscored.

9 SECTION 5. This Act shall take effect on July 1, 2022;  
10 provided that this Act shall be repealed on June 30, 2032.

11 INTRODUCED BY: \_\_\_\_\_

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14 great:misc:004areso02\_TVA\_Exhibit A:ske

# Resolution

No. \_\_\_\_\_

APPROVING FOR INCLUSION IN THE 2022  
MAUI COUNTY COUNCIL LEGISLATIVE  
PACKAGE A STATE BILL TO ASSESS A  
CLIMATE CHANGE MITIGATION IMPACT FEE  
FOR TOURISM-RELATED VEHICLES

WHEREAS, tourism has a significant impact on Hawaii's environment and public services; and

WHEREAS, a 2019 report from the Travel Foundation, Cornell University, and EplerWood International, "Destinations at Risk: The Invisible Burden of Tourism," states destinations must uncover and account for tourism's hidden costs, referred to as the "invisible burden," to protect and manage vital destination assets worldwide; and

WHEREAS, according to the report, failing to do so puts ecosystems, cultural wonders, and community life at increasing risk and places the tourism industry on a weak foundation; and

WHEREAS, to ensure the quality of life of residents, the health of the environment, and continued value for the visitor experience, management efforts to maintain the State's infrastructure and environment are imperative; and

WHEREAS, fees with an environmental focus and that are designed to manage the impacts of tourism on climate change and the environment are essential to the State's management efforts; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That the proposed State bill, attached as Exhibit "A," to assess a climate change mitigation impact fee for tourism-related vehicles, is approved for inclusion in the 2022 Maui County Council Legislative Package; and
2. That certified copies of this Resolution be transmitted to the Mayor.

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# A BILL FOR AN ACT

RELATING TO CLIMATE CHANGE MITIGATION.

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

1           SECTION 1. Tourism, as the State's primary industry, has a  
2 significant impact on Hawaii's environment and public services. A  
3 2019 report, "Destinations at Risk: The Invisible Burden of  
4 Tourism", commissioned by the Travel Foundation and co-published  
5 with Cornell University's Centre for Sustainable Global Enterprise  
6 and EplerWood International, describes how destinations must  
7 uncover and account for tourism's hidden costs, referred to as the  
8 "invisible burden", to protect and manage vital destination assets  
9 worldwide. According to the report, failing to do so puts  
10 ecosystems, cultural wonders, and community life at increasing  
11 risk and places the tourism industry on a weak foundation.

12           The impacts of cars, buses, shuttles, and other road vehicles,  
13 which emit carbon dioxide and other greenhouse gases, contribute  
14 to climate change. To ensure the quality of life of residents,  
15 the health of the environment, and continued value for the visitor  
16 experience, management efforts to maintain the State's  
17 infrastructure and environment are imperative.

1 Fees with an environmental focus and that are designed to  
2 manage the impacts of tourism on climate change and the environment  
3 are essential to the State's management efforts.

4 The purpose of this Act is to assess a climate change  
5 mitigation impact fee for persons renting, leasing, or utilizing  
6 tourism-related vehicles in the State to be used toward protecting  
7 Hawaii's natural resources and environment, which are essential to  
8 the quality of life of residents and the State's tourism-based  
9 economy.

10 SECTION 2. Chapter 171, Hawaii Revised Statutes, is amended  
11 by adding two new sections to be appropriately designated and to  
12 read as follows:

13 **"§171-A Climate change mitigation impact fee.** (a) Beginning  
14 July 1, 2022, every rental motor vehicle customer shall pay to the  
15 department a climate change mitigation impact fee for renting,  
16 leasing, or utilizing a rental motor vehicle.

17 (b) The climate change mitigation impact fee shall be  
18 assessed to each rental motor vehicle customer at a charge of \$  
19 per day, or any portion of a day, that the rental motor vehicle is  
20 rented or leased by the rental motor vehicle customer.

21 (c) All fees collected pursuant to subsection (a) shall be  
22 deposited to the credit of the general fund; provided that  
23 beginning July 1, 2024, all fees collected pursuant to subsection

\_\_\_\_.B. NO. \_\_\_\_\_

1 (a) shall be deposited to the credit of the climate change  
2 mitigation special fund established pursuant to section 171-B.

3 (d) The department shall establish rules pursuant to chapter  
4 91 necessary for the collection of climate change mitigation impact  
5 fees.

6 (e) For the purposes of this section, "rental motor vehicle"  
7 means:

8 (1) Any gas powered vehicle that is rented or leased or  
9 offered for rent or lease in the State, whether for personal or  
10 commercial use, for a period of six months or less;

11 (2) Any vehicle, including vans, minibuses, and buses  
12 used for the purpose of transporting persons or luggage for  
13 pleasure or sightseeing trips, or transporting persons to pleasure  
14 or sightseeing cruises or destinations; and

15 (3) A moped as defined in section 286-2; provided that  
16 the moped is rented or leased by a rental motor vehicle customer.

17 "Rental motor vehicle" does not include any vehicle that is  
18 used solely for the purposes of transporting individuals to and  
19 from a place of work or a public or private school or of  
20 transporting persons with disabilities.

21 **§171-B Climate change mitigation special fund.** (a) There  
22 is established in the state treasury a special fund to be known as

1 the climate change mitigation special fund into which shall be  
2 deposited, beginning July 1, 2024:

3 (1) All fees collected pursuant to section 171-A;

4 (2) Appropriations made by the legislature for deposit  
5 into the special fund; and

6 (3) Donations and contributions made by private  
7 individuals or organizations for deposit into the special fund.

8 (b) Moneys in the climate change mitigation special fund  
9 shall be used by the department for:

10 (1) Climate change mitigation;

11 (2) Environmental management and planning;

12 (3) Environmental conservation;

13 (4) Management and protection of natural resources and  
14 ecosystems;

15 (5) Environmental awareness and education; and

16 (6) Sustainable tourism practices."

17 SECTION 3. In codifying the new sections added by section 2  
18 of this Act, the revisor of statutes shall substitute appropriate  
19 section numbers for the letters used in designating the new  
20 sections in this Act.

21 SECTION 4. New statutory material is underscored.

22 SECTION 5. This Act shall take effect on July 1, 2050.

\_\_\_\_.B. NO. \_\_\_\_\_

1 INTRODUCED BY: \_\_\_\_\_

2

3 paf:kmat:21-281a

# Resolution

No. \_\_\_\_\_

APPROVING FOR INCLUSION IN THE 2022  
MAUI COUNTY COUNCIL LEGISLATIVE  
PACKAGE A STATE BILL RELATING TO  
TRANSIENT ACCOMMODATIONS HOSTING  
PLATFORMS

WHEREAS, illegal and unregulated transient accommodations have caused detrimental impacts to the State's housing supply; and

WHEREAS, it is therefore important to allow the counties to regulate transient accommodation hosting platforms to prevent further proliferation of illegal transient accommodations and preserve residential housing;

WHEREAS, House Bill 504 and Senate Bill 643, both of which are now pending, would fulfill this purpose; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That House Bill 504 and Senate Bill 643, attached as Exhibits "A" and "B," respectively, relating to transient accommodations hosting platforms, are approved for inclusion in the 2022 Maui County Council Legislative Package; and
2. That certified copies of this Resolution be transmitted to the Mayor.

---

## A BILL FOR AN ACT

RELATING TO TRANSIENT ACCOMMODATIONS HOSTING PLATFORMS.

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

1           SECTION 1. The legislature finds that illegal and  
2 unregulated transient accommodations have caused detrimental  
3 impacts to the State's housing supply. Accordingly, the purpose  
4 of this Act is to allow the counties to regulate transient  
5 accommodation hosting platforms, thereby preventing further  
6 proliferation of illegal transient accommodations and preserving  
7 residential housing.

8           SECTION 2. Section 46-1.5, Hawaii Revised Statutes, is  
9 amended to read as follows:

10           "**§46-1.5 General powers and limitation of the counties.**

11 Subject to general law, each county shall have the following  
12 powers and shall be subject to the following liabilities and  
13 limitations:

14           (1) Each county shall have the power to frame and adopt a  
15 charter for its own self-government that shall  
16 establish the county executive, administrative, and  
17 legislative structure and organization, including but



# H.B. NO. 504

1 not limited to the method of appointment or election  
2 of officials, their duties, responsibilities, and  
3 compensation, and the terms of their office;

4 (2) Each county shall have the power to provide for and  
5 regulate the marking and lighting of all buildings and  
6 other structures that may be obstructions or hazards  
7 to aerial navigation, so far as may be necessary or  
8 proper for the protection and safeguarding of life,  
9 health, and property;

10 (3) Each county shall have the power to enforce all claims  
11 on behalf of the county and approve all lawful claims  
12 against the county, but shall be prohibited from  
13 entering into, granting, or making in any manner any  
14 contract, authorization, allowance payment, or  
15 liability contrary to the provisions of any county  
16 charter or general law;

17 (4) Each county shall have the power to make contracts and  
18 to do all things necessary and proper to carry into  
19 execution all powers vested in the county or any  
20 county officer;

21 (5) Each county shall have the power to:



- 1 (A) Maintain channels, whether natural or artificial,  
2 including their exits to the ocean, in suitable  
3 condition to carry off storm waters;
- 4 (B) Remove from the channels, and from the shores and  
5 beaches, any debris that is likely to create an  
6 unsanitary condition or become a public nuisance;  
7 provided that, to the extent any of the foregoing  
8 work is a private responsibility, the  
9 responsibility may be enforced by the county in  
10 lieu of the work being done at public expense;
- 11 (C) Construct, acquire by gift, purchase, or by the  
12 exercise of eminent domain, reconstruct, improve,  
13 better, extend, and maintain projects or  
14 undertakings for the control of and protection  
15 against floods and flood waters, including the  
16 power to drain and rehabilitate lands already  
17 flooded;
- 18 (D) Enact zoning ordinances providing that lands  
19 deemed subject to seasonable, periodic, or  
20 occasional flooding shall not be used for  
21 residence or other purposes in a manner as to



- 1                   endanger the health or safety of the occupants  
2                   thereof, as required by the Federal Flood  
3                   Insurance Act of 1956 (chapter 1025, Public Law  
4                   1016); and  
5                   (E) Establish and charge user fees to create and  
6                   maintain any stormwater management system or  
7                   infrastructure;  
8                   (6) Each county shall have the power to exercise the power  
9                   of condemnation by eminent domain when it is in the  
10                  public interest to do so;  
11                  (7) Each county shall have the power to exercise  
12                  regulatory powers over business activity as are  
13                  assigned to them by chapter 445 or other general law;  
14                  (8) Each county shall have the power to fix the fees and  
15                  charges for all official services not otherwise  
16                  provided for;  
17                  (9) Each county shall have the power to provide by  
18                  ordinance assessments for the improvement or  
19                  maintenance of districts within the county;  
20                  (10) Except as otherwise provided, no county shall have the  
21                  power to give or loan credit to, or in aid of, any



1 person or corporation, directly or indirectly, except  
2 for a public purpose;

3 (11) Where not within the jurisdiction of the public  
4 utilities commission, each county shall have the power  
5 to regulate by ordinance the operation of motor  
6 vehicle common carriers transporting passengers within  
7 the county and adopt and amend rules the county deems  
8 necessary for the public convenience and necessity;

9 (12) Each county shall have the power to enact and enforce  
10 ordinances necessary to prevent or summarily remove  
11 public nuisances and to compel the clearing or removal  
12 of any public nuisance, refuse, and uncultivated  
13 undergrowth from streets, sidewalks, public places,  
14 and unoccupied lots. In connection with these powers,  
15 each county may impose and enforce liens upon the  
16 property for the cost to the county of removing and  
17 completing the necessary work where the property  
18 owners fail, after reasonable notice, to comply with  
19 the ordinances. The authority provided by this  
20 paragraph shall not be self-executing, but shall  
21 become fully effective within a county only upon the



1 enactment or adoption by the county of appropriate and  
2 particular laws, ordinances, or rules defining "public  
3 nuisances" with respect to each county's respective  
4 circumstances. The counties shall provide the  
5 property owner with the opportunity to contest the  
6 summary action and to recover the owner's property;

7 (13) Each county shall have the power to enact ordinances  
8 deemed necessary to protect health, life, and  
9 property, and to preserve the order and security of  
10 the county and its inhabitants on any subject or  
11 matter not inconsistent with, or tending to defeat,  
12 the intent of any state statute where the statute does  
13 not disclose an express or implied intent that the  
14 statute shall be exclusive or uniform throughout the  
15 State;

16 (14) Each county shall have the power to:

17 (A) Make and enforce within the limits of the county  
18 all necessary ordinances covering all:

- 19 (i) Local police matters;
- 20 (ii) Matters of sanitation;
- 21 (iii) Matters of inspection of buildings;



# H.B. NO. 504

- 1                   (iv) Matters of condemnation of unsafe
- 2                         structures, plumbing, sewers, dairies, milk,
- 3                         fish, and morgues; and
- 4                   (v) Matters of the collection and disposition of
- 5                         rubbish and garbage;
- 6           (B) Provide exemptions for homeless facilities and
- 7                 any other program for the homeless authorized by
- 8                 part XVII of chapter 346, for all matters under
- 9                 this paragraph;
- 10           (C) Appoint county physicians and sanitary and other
- 11                 inspectors as necessary to carry into effect
- 12                 ordinances made under this paragraph, who shall
- 13                 have the same power as given by law to agents of
- 14                 the department of health, subject only to
- 15                 limitations placed on them by the terms and
- 16                 conditions of their appointments; and
- 17           (D) Fix a penalty for the violation of any ordinance,
- 18                 which penalty may be a misdemeanor, petty
- 19                 misdemeanor, or violation as defined by general
- 20                 law;



- 1       (15) Each county shall have the power to provide public  
2               pounds; to regulate the impounding of stray animals  
3               and fowl, and their disposition; and to provide for  
4               the appointment, powers, duties, and fees of animal  
5               control officers;
- 6       (16) Each county shall have the power to purchase and  
7               otherwise acquire, lease, and hold real and personal  
8               property within the defined boundaries of the county  
9               and to dispose of the real and personal property as  
10              the interests of the inhabitants of the county may  
11              require, except that:
- 12             (A) Any property held for school purposes may not be  
13               disposed of without the consent of the  
14               superintendent of education;
- 15             (B) No property bordering the ocean shall be sold or  
16               otherwise disposed of; and
- 17             (C) All proceeds from the sale of park lands shall be  
18               expended only for the acquisition of property for  
19               park or recreational purposes;
- 20       (17) Each county shall have the power to provide by charter  
21               for the prosecution of all offenses and to prosecute



# H.B. NO. 504

- 1           for offenses against the laws of the State under the  
2           authority of the attorney general of the State;
- 3       (18) Each county shall have the power to make  
4           appropriations in amounts deemed appropriate from any  
5           moneys in the treasury, for the purpose of:
- 6           (A) Community promotion and public celebrations;
- 7           (B) The entertainment of distinguished persons as may  
8           from time to time visit the county;
- 9           (C) The entertainment of other distinguished persons,  
10          as well as, public officials when deemed to be in  
11          the best interest of the community; and
- 12          (D) The rendering of civic tribute to individuals  
13          who, by virtue of their accomplishments and  
14          community service, merit civic commendations,  
15          recognition, or remembrance;
- 16       (19) Each county shall have the power to:
- 17          (A) Construct, purchase, take on lease, lease,  
18          sublease, or in any other manner acquire, manage,  
19          maintain, or dispose of buildings for county  
20          purposes, sewers, sewer systems, pumping  
21          stations, waterworks, including reservoirs,



1 wells, pipelines, and other conduits for  
2 distributing water to the public, lighting  
3 plants, and apparatus and appliances for lighting  
4 streets and public buildings, and manage,  
5 regulate, and control the same;

6 (B) Regulate and control the location and quality of  
7 all appliances necessary to the furnishing of  
8 water, heat, light, power, telephone, and  
9 telecommunications service to the county;

10 (C) Acquire, regulate, and control any and all  
11 appliances for the sprinkling and cleaning of the  
12 streets and the public ways, and for flushing the  
13 sewers; and

14 (D) Open, close, construct, or maintain county  
15 highways or charge toll on county highways;  
16 provided that all revenues received from a toll  
17 charge shall be used for the construction or  
18 maintenance of county highways;

19 (20) Each county shall have the power to regulate the  
20 renting, subletting, and rental conditions of property  
21 for places of abode by ordinance;



- 1           (21) Unless otherwise provided by law, each county shall  
2           have the power to establish by ordinance the order of  
3           succession of county officials in the event of a  
4           military or civil disaster;
- 5           (22) Each county shall have the power to sue and be sued in  
6           its corporate name;
- 7           (23) Each county shall have the power to:
- 8                 (A) Establish and maintain waterworks and sewer  
9                 works;
- 10                (B) Implement a sewer monitoring program that  
11                includes the inspection of sewer laterals that  
12                connect to county sewers, when those laterals are  
13                located on public or private property, after  
14                providing a property owner not less than ten  
15                calendar days' written notice, to detect leaks  
16                from laterals, infiltration, and inflow, any  
17                other law to the contrary notwithstanding;
- 18                (C) Compel an owner of private property upon which is  
19                located any sewer lateral that connects to a  
20                county sewer to inspect that lateral for leaks,



- 1           infiltration, and inflow and to perform repairs  
2           as necessary;
- 3           (D) Collect rates for water supplied to consumers and  
4           for the use of sewers;
- 5           (E) Install water meters whenever deemed expedient;  
6           provided that owners of premises having vested  
7           water rights under existing laws appurtenant to  
8           the premises shall not be charged for the  
9           installation or use of the water meters on the  
10          premises; and
- 11          (F) Take over from the State existing waterworks  
12          systems, including water rights, pipelines, and  
13          other appurtenances belonging thereto, and sewer  
14          systems, and to enlarge, develop, and improve the  
15          same;
- 16          (G) For purposes of subparagraphs (B) and (C):
- 17           (i) "Infiltration" means groundwater, rainwater,  
18           and saltwater that enters the county sewer  
19           system through cracked, broken, or defective  
20           sewer laterals; and



1 (ii) "Inflow" means non-sewage entering the  
2 county sewer system via inappropriate or  
3 illegal connections;

4 (24) (A) Each county may impose civil fines, in addition  
5 to criminal penalties, for any violation of  
6 county ordinances or rules after reasonable  
7 notice and requests to correct or cease the  
8 violation have been made upon the violator. Any  
9 administratively imposed civil fine shall not be  
10 collected until after an opportunity for a  
11 hearing under chapter 91. Any appeal shall be  
12 filed within thirty days from the date of the  
13 final written decision. These proceedings shall  
14 not be a prerequisite for any civil fine or  
15 injunctive relief ordered by the circuit court;

16 (B) Each county by ordinance may provide for the  
17 addition of any unpaid civil fines, ordered by  
18 any court of competent jurisdiction, to any  
19 taxes, fees, or charges, with the exception of  
20 fees or charges for water for residential use and  
21 sewer charges, collected by the county. Each



1 county by ordinance may also provide for the  
2 addition of any unpaid administratively imposed  
3 civil fines, which remain due after all judicial  
4 review rights under section 91-14 are exhausted,  
5 to any taxes, fees, or charges, with the  
6 exception of water for residential use and sewer  
7 charges, collected by the county. The ordinance  
8 shall specify the administrative procedures for  
9 the addition of the unpaid civil fines to the  
10 eligible taxes, fees, or charges and may require  
11 hearings or other proceedings. After addition of  
12 the unpaid civil fines to the taxes, fees, or  
13 charges, the unpaid civil fines shall not become  
14 a part of any taxes, fees, or charges. The  
15 county by ordinance may condition the issuance or  
16 renewal of a license, approval, or permit for  
17 which a fee or charge is assessed, except for  
18 water for residential use and sewer charges, on  
19 payment of the unpaid civil fines. Upon  
20 recordation of a notice of unpaid civil fines in  
21 the bureau of conveyances, the amount of the



1 civil fines, including any increase in the amount  
2 of the fine which the county may assess, shall  
3 constitute a lien upon all real property or  
4 rights to real property belonging to any person  
5 liable for the unpaid civil fines. The lien in  
6 favor of the county shall be subordinate to any  
7 lien in favor of any person recorded or  
8 registered prior to the recordation of the notice  
9 of unpaid civil fines and senior to any lien  
10 recorded or registered after the recordation of  
11 the notice. The lien shall continue until the  
12 unpaid civil fines are paid in full or until a  
13 certificate of release or partial release of the  
14 lien, prepared by the county at the owner's  
15 expense, is recorded. The notice of unpaid civil  
16 fines shall state the amount of the fine as of  
17 the date of the notice and maximum permissible  
18 daily increase of the fine. The county shall not  
19 be required to include a social security number,  
20 state general excise taxpayer identification  
21 number, or federal employer identification number



1 on the notice. Recordation of the notice in the  
2 bureau of conveyances shall be deemed, at such  
3 time, for all purposes and without any further  
4 action, to procure a lien on land registered in  
5 land court under chapter 501. After the unpaid  
6 civil fines are added to the taxes, fees, or  
7 charges as specified by county ordinance, the  
8 unpaid civil fines shall be deemed immediately  
9 due, owing, and delinquent and may be collected  
10 in any lawful manner. The procedure for  
11 collection of unpaid civil fines authorized in  
12 this paragraph shall be in addition to any other  
13 procedures for collection available to the State  
14 and county by law or rules of the courts;

15 (C) Each county may impose civil fines upon any  
16 person who places graffiti on any real or  
17 personal property owned, managed, or maintained  
18 by the county. The fine may be up to \$1,000 or  
19 may be equal to the actual cost of having the  
20 damaged property repaired or replaced. The  
21 parent or guardian having custody of a minor who



1 places graffiti on any real or personal property  
2 owned, managed, or maintained by the county shall  
3 be jointly and severally liable with the minor  
4 for any civil fines imposed hereunder. Any such  
5 fine may be administratively imposed after an  
6 opportunity for a hearing under chapter 91, but  
7 such a proceeding shall not be a prerequisite for  
8 any civil fine ordered by any court. As used in  
9 this subparagraph, "graffiti" means any  
10 unauthorized drawing, inscription, figure, or  
11 mark of any type intentionally created by paint,  
12 ink, chalk, dye, or similar substances;

13 (D) At the completion of an appeal in which the  
14 county's enforcement action is affirmed and upon  
15 correction of the violation if requested by the  
16 violator, the case shall be reviewed by the  
17 county agency that imposed the civil fines to  
18 determine the appropriateness of the amount of  
19 the civil fines that accrued while the appeal  
20 proceedings were pending. In its review of the



1 amount of the accrued fines, the county agency  
2 may consider:  
3 (i) The nature and egregiousness of the  
4 violation;  
5 (ii) The duration of the violation;  
6 (iii) The number of recurring and other similar  
7 violations;  
8 (iv) Any effort taken by the violator to correct  
9 the violation;  
10 (v) The degree of involvement in causing or  
11 continuing the violation;  
12 (vi) Reasons for any delay in the completion of  
13 the appeal; and  
14 (vii) Other extenuating circumstances.  
15 The civil fine that is imposed by administrative  
16 order after this review is completed and the  
17 violation is corrected shall be subject to  
18 judicial review, notwithstanding any provisions  
19 for administrative review in county charters;  
20 (E) After completion of a review of the amount of  
21 accrued civil fine by the county agency that



1           imposed the fine, the amount of the civil fine  
2           determined appropriate, including both the  
3           initial civil fine and any accrued daily civil  
4           fine, shall immediately become due and  
5           collectible following reasonable notice to the  
6           violation. If no review of the accrued civil fine  
7           is requested, the amount of the civil fine, not  
8           to exceed the total accrual of civil fine prior  
9           to correcting the violation, shall immediately  
10          become due and collectible following reasonable  
11          notice to the violator, at the completion of all  
12          appeal proceedings; and

13          (F) If no county agency exists to conduct appeal  
14          proceedings for a particular civil fine action  
15          taken by the county, then one shall be  
16          established by ordinance before the county shall  
17          impose the civil fine;

18          (25) Any law to the contrary notwithstanding, any county  
19          mayor, by executive order, may exempt donors, provider  
20          agencies, homeless facilities, and any other program  
21          for the homeless under part XVII of chapter 346 from



1 real property taxes, water and sewer development fees,  
2 rates collected for water supplied to consumers and  
3 for use of sewers, and any other county taxes,  
4 charges, or fees; provided that any county may enact  
5 ordinances to regulate and grant the exemptions  
6 granted by this paragraph;

7 (26) Any county may establish a captive insurance company  
8 pursuant to article 19, chapter 431; [~~and~~]

9 (27) Each county shall have the power to enact and enforce  
10 ordinances regulating towing operations~~[ ]~~; and

11 (28) Notwithstanding any other law to the contrary, any  
12 county may adopt an ordinance regulating the operation  
13 of hosting platforms that provide booking services for  
14 transient accommodation operators conducting business  
15 within the county.

16 For purposes of this paragraph:

17 "Booking service" means any reservation or  
18 payment service provided by a person who facilitates a  
19 transient accommodations transaction between a  
20 prospective transient user and a host.



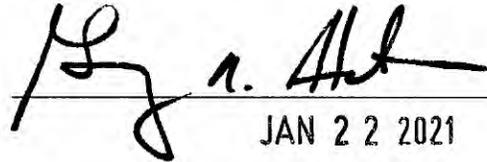
1                   "Hosting platform" means a person who  
2                   participates in the transient accommodations business  
3                   by collecting or receiving a fee, directly or  
4                   indirectly through an agent or intermediary, for  
5                   conducting a booking service transaction using any  
6                   medium of facilitation."

7           SECTION 3. Statutory material to be repealed is bracketed  
8 and stricken. New statutory material is underscored.

9           SECTION 4. This Act shall take effect upon its approval.

10

INTRODUCED BY:

  
JAN 22 2021



# H.B. NO. 504

**Report Title:**

Transient Accommodations; Booking Services; Hosting Platforms;  
County Regulation

**Description:**

Authorizes the counties to adopt an ordinance regulating the operation of hosting platforms that provide booking services for transient accommodation operators.

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



THE SENATE  
THIRTY-FIRST LEGISLATURE, 2021  
STATE OF HAWAII

S.B. NO. 643

JAN 22 2021

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# A BILL FOR AN ACT

RELATING TO TRANSIENT ACCOMMODATIONS HOSTING PLATFORMS.

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

1           SECTION 1. The legislature finds that illegal and  
2 unregulated transient accommodations have caused detrimental  
3 impacts to the State's housing supply. Accordingly, the purpose  
4 of this Act is to allow the counties to regulate transient  
5 accommodation hosting platforms, thereby preventing further  
6 proliferation of illegal transient accommodations and preserving  
7 residential housing.

8           SECTION 2. Section 46-1.5, Hawaii Revised Statutes, is  
9 amended to read as follows:

10           "**§46-1.5 General powers and limitation of the counties.**

11 Subject to general law, each county shall have the following  
12 powers and shall be subject to the following liabilities and  
13 limitations:

14           (1) Each county shall have the power to frame and adopt a  
15 charter for its own self-government that shall  
16 establish the county executive, administrative, and  
17 legislative structure and organization, including but



# S.B. NO. 643

1 not limited to the method of appointment or election  
2 of officials, their duties, responsibilities, and  
3 compensation, and the terms of their office;

4 (2) Each county shall have the power to provide for and  
5 regulate the marking and lighting of all buildings and  
6 other structures that may be obstructions or hazards  
7 to aerial navigation, so far as may be necessary or  
8 proper for the protection and safeguarding of life,  
9 health, and property;

10 (3) Each county shall have the power to enforce all claims  
11 on behalf of the county and approve all lawful claims  
12 against the county, but shall be prohibited from  
13 entering into, granting, or making in any manner any  
14 contract, authorization, allowance payment, or  
15 liability contrary to the provisions of any county  
16 charter or general law;

17 (4) Each county shall have the power to make contracts and  
18 to do all things necessary and proper to carry into  
19 execution all powers vested in the county or any  
20 county officer;

21 (5) Each county shall have the power to:



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- 1 (A) Maintain channels, whether natural or artificial,  
2 including their exits to the ocean, in suitable  
3 condition to carry off storm waters;
- 4 (B) Remove from the channels, and from the shores and  
5 beaches, any debris that is likely to create an  
6 unsanitary condition or become a public nuisance;  
7 provided that, to the extent any of the foregoing  
8 work is a private responsibility, the  
9 responsibility may be enforced by the county in  
10 lieu of the work being done at public expense;
- 11 (C) Construct, acquire by gift, purchase, or by the  
12 exercise of eminent domain, reconstruct, improve,  
13 better, extend, and maintain projects or  
14 undertakings for the control of and protection  
15 against floods and flood waters, including the  
16 power to drain and rehabilitate lands already  
17 flooded;
- 18 (D) Enact zoning ordinances providing that lands  
19 deemed subject to seasonable, periodic, or  
20 occasional flooding shall not be used for  
21 residence or other purposes in a manner as to



1           endanger the health or safety of the occupants  
2           thereof, as required by the Federal Flood  
3           Insurance Act of 1956 (chapter 1025, Public Law  
4           1016); and

5           (E) Establish and charge user fees to create and  
6           maintain any stormwater management system or  
7           infrastructure;

8           (6) Each county shall have the power to exercise the power  
9           of condemnation by eminent domain when it is in the  
10          public interest to do so;

11          (7) Each county shall have the power to exercise  
12          regulatory powers over business activity as are  
13          assigned to them by chapter 445 or other general law;

14          (8) Each county shall have the power to fix the fees and  
15          charges for all official services not otherwise  
16          provided for;

17          (9) Each county shall have the power to provide by  
18          ordinance assessments for the improvement or  
19          maintenance of districts within the county;

20          (10) Except as otherwise provided, no county shall have the  
21          power to give or loan credit to, or in aid of, any



1 person or corporation, directly or indirectly, except  
2 for a public purpose;

3 (11) Where not within the jurisdiction of the public  
4 utilities commission, each county shall have the power  
5 to regulate by ordinance the operation of motor  
6 vehicle common carriers transporting passengers within  
7 the county and adopt and amend rules the county deems  
8 necessary for the public convenience and necessity;

9 (12) Each county shall have the power to enact and enforce  
10 ordinances necessary to prevent or summarily remove  
11 public nuisances and to compel the clearing or removal  
12 of any public nuisance, refuse, and uncultivated  
13 undergrowth from streets, sidewalks, public places,  
14 and unoccupied lots. In connection with these powers,  
15 each county may impose and enforce liens upon the  
16 property for the cost to the county of removing and  
17 completing the necessary work where the property  
18 owners fail, after reasonable notice, to comply with  
19 the ordinances. The authority provided by this  
20 paragraph shall not be self-executing, but shall  
21 become fully effective within a county only upon the



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1 enactment or adoption by the county of appropriate and  
2 particular laws, ordinances, or rules defining "public  
3 nuisances" with respect to each county's respective  
4 circumstances. The counties shall provide the  
5 property owner with the opportunity to contest the  
6 summary action and to recover the owner's property;

7 (13) Each county shall have the power to enact ordinances  
8 deemed necessary to protect health, life, and  
9 property, and to preserve the order and security of  
10 the county and its inhabitants on any subject or  
11 matter not inconsistent with, or tending to defeat,  
12 the intent of any state statute where the statute does  
13 not disclose an express or implied intent that the  
14 statute shall be exclusive or uniform throughout the  
15 State;

16 (14) Each county shall have the power to:

17 (A) Make and enforce within the limits of the county  
18 all necessary ordinances covering all:

19 (i) Local police matters;

20 (ii) Matters of sanitation;

21 (iii) Matters of inspection of buildings;



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- 1                   (iv) Matters of condemnation of unsafe
- 2                         structures, plumbing, sewers, dairies, milk,
- 3                         fish, and morgues; and
- 4                   (v) Matters of the collection and disposition of
- 5                         rubbish and garbage;
- 6           (B) Provide exemptions for homeless facilities and
- 7                 any other program for the homeless authorized by
- 8                 part XVII of chapter 346, for all matters under
- 9                 this paragraph;
- 10           (C) Appoint county physicians and sanitary and other
- 11                 inspectors as necessary to carry into effect
- 12                 ordinances made under this paragraph, who shall
- 13                 have the same power as given by law to agents of
- 14                 the department of health, subject only to
- 15                 limitations placed on them by the terms and
- 16                 conditions of their appointments; and
- 17           (D) Fix a penalty for the violation of any ordinance,
- 18                 which penalty may be a misdemeanor, petty
- 19                 misdemeanor, or violation as defined by general
- 20                 law;



1           (15) Each county shall have the power to provide public  
2                   pounds; to regulate the impounding of stray animals  
3                   and fowl, and their disposition; and to provide for  
4                   the appointment, powers, duties, and fees of animal  
5                   control officers;

6           (16) Each county shall have the power to purchase and  
7                   otherwise acquire, lease, and hold real and personal  
8                   property within the defined boundaries of the county  
9                   and to dispose of the real and personal property as  
10                  the interests of the inhabitants of the county may  
11                  require, except that:

12                   (A) Any property held for school purposes may not be  
13                          disposed of without the consent of the  
14                          superintendent of education;

15                   (B) No property bordering the ocean shall be sold or  
16                          otherwise disposed of; and

17                   (C) All proceeds from the sale of park lands shall be  
18                          expended only for the acquisition of property for  
19                          park or recreational purposes;

20           (17) Each county shall have the power to provide by charter  
21                   for the prosecution of all offenses and to prosecute



1 for offenses against the laws of the State under the  
2 authority of the attorney general of the State;

3 (18) Each county shall have the power to make  
4 appropriations in amounts deemed appropriate from any  
5 moneys in the treasury, for the purpose of:

- 6 (A) Community promotion and public celebrations;
- 7 (B) The entertainment of distinguished persons as may  
8 from time to time visit the county;
- 9 (C) The entertainment of other distinguished persons,  
10 as well as, public officials when deemed to be in  
11 the best interest of the community; and
- 12 (D) The rendering of civic tribute to individuals  
13 who, by virtue of their accomplishments and  
14 community service, merit civic commendations,  
15 recognition, or remembrance;

16 (19) Each county shall have the power to:

- 17 (A) Construct, purchase, take on lease, lease,  
18 sublease, or in any other manner acquire, manage,  
19 maintain, or dispose of buildings for county  
20 purposes, sewers, sewer systems, pumping  
21 stations, waterworks, including reservoirs,



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1 wells, pipelines, and other conduits for  
2 distributing water to the public, lighting  
3 plants, and apparatus and appliances for lighting  
4 streets and public buildings, and manage,  
5 regulate, and control the same;

6 (B) Regulate and control the location and quality of  
7 all appliances necessary to the furnishing of  
8 water, heat, light, power, telephone, and  
9 telecommunications service to the county;

10 (C) Acquire, regulate, and control any and all  
11 appliances for the sprinkling and cleaning of the  
12 streets and the public ways, and for flushing the  
13 sewers; and

14 (D) Open, close, construct, or maintain county  
15 highways or charge toll on county highways;  
16 provided that all revenues received from a toll  
17 charge shall be used for the construction or  
18 maintenance of county highways;

19 (20) Each county shall have the power to regulate the  
20 renting, subletting, and rental conditions of property  
21 for places of abode by ordinance;



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- 1           (21) Unless otherwise provided by law, each county shall  
2           have the power to establish by ordinance the order of  
3           succession of county officials in the event of a  
4           military or civil disaster;
- 5           (22) Each county shall have the power to sue and be sued in  
6           its corporate name;
- 7           (23) Each county shall have the power to:
- 8                (A) Establish and maintain waterworks and sewer  
9                works;
- 10              (B) Implement a sewer monitoring program that  
11              includes the inspection of sewer laterals that  
12              connect to county sewers, when those laterals are  
13              located on public or private property, after  
14              providing a property owner not less than ten  
15              calendar days' written notice, to detect leaks  
16              from laterals, infiltration, and inflow, any  
17              other law to the contrary notwithstanding;
- 18              (C) Compel an owner of private property upon which is  
19              located any sewer lateral that connects to a  
20              county sewer to inspect that lateral for leaks,



- 1           infiltration, and inflow and to perform repairs  
2           as necessary;
- 3           (D) Collect rates for water supplied to consumers and  
4           for the use of sewers;
- 5           (E) Install water meters whenever deemed expedient;  
6           provided that owners of premises having vested  
7           water rights under existing laws appurtenant to  
8           the premises shall not be charged for the  
9           installation or use of the water meters on the  
10          premises; and
- 11          (F) Take over from the State existing waterworks  
12          systems, including water rights, pipelines, and  
13          other appurtenances belonging thereto, and sewer  
14          systems, and to enlarge, develop, and improve the  
15          same;
- 16          (G) For purposes of subparagraphs (B) and (C):
- 17           (i) "Infiltration" means groundwater, rainwater,  
18           and saltwater that enters the county sewer  
19           system through cracked, broken, or defective  
20           sewer laterals; and



1 (ii) "Inflow" means non-sewage entering the  
2 county sewer system via inappropriate or  
3 illegal connections;

4 (24) (A) Each county may impose civil fines, in addition  
5 to criminal penalties, for any violation of  
6 county ordinances or rules after reasonable  
7 notice and requests to correct or cease the  
8 violation have been made upon the violator. Any  
9 administratively imposed civil fine shall not be  
10 collected until after an opportunity for a  
11 hearing under chapter 91. Any appeal shall be  
12 filed within thirty days from the date of the  
13 final written decision. These proceedings shall  
14 not be a prerequisite for any civil fine or  
15 injunctive relief ordered by the circuit court;

16 (B) Each county by ordinance may provide for the  
17 addition of any unpaid civil fines, ordered by  
18 any court of competent jurisdiction, to any  
19 taxes, fees, or charges, with the exception of  
20 fees or charges for water for residential use and  
21 sewer charges, collected by the county. Each



1 county by ordinance may also provide for the  
2 addition of any unpaid administratively imposed  
3 civil fines, which remain due after all judicial  
4 review rights under section 91-14 are exhausted,  
5 to any taxes, fees, or charges, with the  
6 exception of water for residential use and sewer  
7 charges, collected by the county. The ordinance  
8 shall specify the administrative procedures for  
9 the addition of the unpaid civil fines to the  
10 eligible taxes, fees, or charges and may require  
11 hearings or other proceedings. After addition of  
12 the unpaid civil fines to the taxes, fees, or  
13 charges, the unpaid civil fines shall not become  
14 a part of any taxes, fees, or charges. The  
15 county by ordinance may condition the issuance or  
16 renewal of a license, approval, or permit for  
17 which a fee or charge is assessed, except for  
18 water for residential use and sewer charges, on  
19 payment of the unpaid civil fines. Upon  
20 recordation of a notice of unpaid civil fines in  
21 the bureau of conveyances, the amount of the



1 civil fines, including any increase in the amount  
2 of the fine which the county may assess, shall  
3 constitute a lien upon all real property or  
4 rights to real property belonging to any person  
5 liable for the unpaid civil fines. The lien in  
6 favor of the county shall be subordinate to any  
7 lien in favor of any person recorded or  
8 registered prior to the recordation of the notice  
9 of unpaid civil fines and senior to any lien  
10 recorded or registered after the recordation of  
11 the notice. The lien shall continue until the  
12 unpaid civil fines are paid in full or until a  
13 certificate of release or partial release of the  
14 lien, prepared by the county at the owner's  
15 expense, is recorded. The notice of unpaid civil  
16 fines shall state the amount of the fine as of  
17 the date of the notice and maximum permissible  
18 daily increase of the fine. The county shall not  
19 be required to include a social security number,  
20 state general excise taxpayer identification  
21 number, or federal employer identification number



1 on the notice. Recordation of the notice in the  
2 bureau of conveyances shall be deemed, at such  
3 time, for all purposes and without any further  
4 action, to procure a lien on land registered in  
5 land court under chapter 501. After the unpaid  
6 civil fines are added to the taxes, fees, or  
7 charges as specified by county ordinance, the  
8 unpaid civil fines shall be deemed immediately  
9 due, owing, and delinquent and may be collected  
10 in any lawful manner. The procedure for  
11 collection of unpaid civil fines authorized in  
12 this paragraph shall be in addition to any other  
13 procedures for collection available to the State  
14 and county by law or rules of the courts;

15 (C) Each county may impose civil fines upon any  
16 person who places graffiti on any real or  
17 personal property owned, managed, or maintained  
18 by the county. The fine may be up to \$1,000 or  
19 may be equal to the actual cost of having the  
20 damaged property repaired or replaced. The  
21 parent or guardian having custody of a minor who



1 places graffiti on any real or personal property  
2 owned, managed, or maintained by the county shall  
3 be jointly and severally liable with the minor  
4 for any civil fines imposed hereunder. Any such  
5 fine may be administratively imposed after an  
6 opportunity for a hearing under chapter 91, but  
7 such a proceeding shall not be a prerequisite for  
8 any civil fine ordered by any court. As used in  
9 this subparagraph, "graffiti" means any  
10 unauthorized drawing, inscription, figure, or  
11 mark of any type intentionally created by paint,  
12 ink, chalk, dye, or similar substances;

13 (D) At the completion of an appeal in which the  
14 county's enforcement action is affirmed and upon  
15 correction of the violation if requested by the  
16 violator, the case shall be reviewed by the  
17 county agency that imposed the civil fines to  
18 determine the appropriateness of the amount of  
19 the civil fines that accrued while the appeal  
20 proceedings were pending. In its review of the



- 1 amount of the accrued fines, the county agency  
2 may consider:
- 3 (i) The nature and egregiousness of the  
4 violation;
  - 5 (ii) The duration of the violation;
  - 6 (iii) The number of recurring and other similar  
7 violations;
  - 8 (iv) Any effort taken by the violator to correct  
9 the violation;
  - 10 (v) The degree of involvement in causing or  
11 continuing the violation;
  - 12 (vi) Reasons for any delay in the completion of  
13 the appeal; and
  - 14 (vii) Other extenuating circumstances.
- 15 The civil fine that is imposed by administrative  
16 order after this review is completed and the  
17 violation is corrected shall be subject to  
18 judicial review, notwithstanding any provisions  
19 for administrative review in county charters;
- 20 (E) After completion of a review of the amount of  
21 accrued civil fine by the county agency that



1           imposed the fine, the amount of the civil fine  
2           determined appropriate, including both the  
3           initial civil fine and any accrued daily civil  
4           fine, shall immediately become due and  
5           collectible following reasonable notice to the  
6           violator. If no review of the accrued civil fine  
7           is requested, the amount of the civil fine, not  
8           to exceed the total accrual of civil fine prior  
9           to correcting the violation, shall immediately  
10          become due and collectible following reasonable  
11          notice to the violator, at the completion of all  
12          appeal proceedings; and

13          (F) If no county agency exists to conduct appeal  
14          proceedings for a particular civil fine action  
15          taken by the county, then one shall be  
16          established by ordinance before the county shall  
17          impose the civil fine;

18          (25) Any law to the contrary notwithstanding, any county  
19          mayor, by executive order, may exempt donors, provider  
20          agencies, homeless facilities, and any other program  
21          for the homeless under part XVII of chapter 346 from



1 real property taxes, water and sewer development fees,  
2 rates collected for water supplied to consumers and  
3 for use of sewers, and any other county taxes,  
4 charges, or fees; provided that any county may enact  
5 ordinances to regulate and grant the exemptions  
6 granted by this paragraph;

7 (26) Any county may establish a captive insurance company  
8 pursuant to article 19, chapter 431; ~~and~~

9 (27) Each county shall have the power to enact and enforce  
10 ordinances regulating towing operations[-]; and

11 (28) Notwithstanding any other law to the contrary, any  
12 county may adopt an ordinance regulating the operation  
13 of hosting platforms that provide booking services for  
14 transient accommodation operators conducting business  
15 within the county.

16 For purposes of this paragraph:

17 "Booking service" means any reservation or  
18 payment service provided by a person who facilitates a  
19 transient accommodations transaction between a  
20 prospective transient user and a host.



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1                   "Hosting platform" means a person who  
2                   participates in the transient accommodations business  
3                   by collecting or receiving a fee, directly or  
4                   indirectly through an agent or intermediary, for  
5                   conducting a booking service transaction using any  
6                   medium of facilitation."

7                   SECTION 3. Statutory material to be repealed is bracketed  
8 and stricken. New statutory material is underscored.

9                   SECTION 4. This Act shall take effect upon its approval.

10

INTRODUCED BY: 



# S.B. NO. 643

**Report Title:**

Transient Accommodations; Booking Services; Hosting Platforms;  
County Regulation

**Description:**

Authorizes the counties to adopt an ordinance regulating the operation of hosting platforms that provide booking services for transient accommodation operators.

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

