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# A BILL FOR AN ACT

RELATING TO HOUSING.

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

1 PART I

2 SECTION 1. The legislature finds that the shortage of  
3 affordable housing in Hawaii cannot be solved by any single  
4 action. Both the state and counties must employ a multifaceted  
5 approach to a multifarious problem.

6 Government must provide an adequate amount of financial  
7 incentives to encourage the construction of affordable housing  
8 projects by private developers. The government must also  
9 provide an expedited permitting process to allow immediate  
10 construction of new dwelling units while providing for proper  
11 environmental and cultural resources protection. Therefore, the  
12 legislature also finds that new construction of these affordable  
13 housing units should be focused on existing urban areas to allay  
14 regulatory and environmental concerns. To focus development on  
15 existing urban areas, support to expand existing infrastructure  
16 capacity must be provided to county governments to take  
17 advantage of underutilized urban zoned areas.





1 five hundred thousand shall develop an expedited approval  
2 process to increase the amount of affordable and workforce for-  
3 sale housing projects and affordable rental housing projects.  
4 Counties with populations below five hundred thousand may  
5 develop an expedited approval process under this part. The  
6 expedited process shall, at a minimum, require:

7 (1) Standards and guidelines that do not compromise public  
8 health and safety;

9 (2) That no less than twenty-five per cent of the units in  
10 a for-sale development shall be affordable to  
11 households with incomes at or below one hundred forty  
12 per cent of the area median family income as  
13 determined by the United States Department of Housing  
14 and Urban Development, and shall have at least one-  
15 bedroom;

16 (3) That no less than twenty-five per cent of the units in  
17 a for-sale development shall be affordable to  
18 households with incomes at or below one hundred forty  
19 per cent of the area median family income as  
20 determined by the United States Department of Housing  
21 and Urban Development, and shall have at least two-  
22 bedrooms;



- 1 (4) That buyer resale of units under paragraphs (2) and  
2 (3) shall be subject to equity sharing, of which  
3 twenty per cent of net revenues shall be paid to the  
4 Hawaii housing finance and development corporation;
- 5 (5) That rental projects maintain affordability of a  
6 certain number of units in the form of credits equal  
7 to at least fifty per cent of the total number of  
8 units, as described in section 46-F;
- 9 (6) Opportunities for mixed-use development;
- 10 (7) That projects shall consist of at least fifteen units;  
11 and
- 12 (8) Projects to offer its for-sale dwelling units only to  
13 homebuyers that are residents of the State who have  
14 not owned a home within the previous three years.

15 **§46-C Requirements prior to application.** Applications for  
16 projects under this part shall meet the following requirements  
17 prior to submittal to the county:

- 18 (1) An environmental assessment and environmental impact  
19 statement under chapter 343 shall be completed, if  
20 required;
- 21 (2) A study under section 6E-8 shall be completed, if  
22 required;



1 (3) A permit under chapter 195D shall be obtained, if  
2 required; and

3 (4) A permit under chapter 205A shall be obtained, if  
4 required.

5 **§46-D County approval; time limits.** (a) The county  
6 agencies responsible for approving the planning and permitting  
7 of the projects under this part, including any necessary time  
8 extensions, shall approve or disapprove the project within  
9 forty-five days of the date an accepted application by the  
10 county was received for processing.

11 (b) The expedited approval process developed by the  
12 counties, including possible time extensions on required  
13 deadlines, shall occur over a period no longer than one-year  
14 from the initial application date. The process shall include  
15 all county permits and other approvals necessary for the project  
16 to proceed.

17 (c) The legislative body of the county shall have forty-  
18 five days after the initial approval from the county agencies.

19 (d) Upon approval of a project, the county agency  
20 responsible for issuing building permits, subdivision  
21 application, and other ministerial permits and approvals, shall



1 have one year upon receipt of the application to complete its  
2 review of a building permit application.

3 (e) If the time limits under subsections (a) through (d)  
4 have elapsed and the required actions have not been taken by the  
5 respective county bodies, the counties shall automatically  
6 forfeit jurisdiction over the application to the Hawaii housing  
7 finance and development corporation.

8 **§46-E Projects on lands owned by the State.**

9 Notwithstanding sections 10-13.6 and 171-18, State owned public  
10 non-ceded lands shall be made available to the Hawaii housing  
11 finance and development corporation, without the approval of the  
12 board of land and natural resources, for purposes of developing  
13 rental projects under this part. The Hawaii housing finance and  
14 development corporation shall make the land available for the  
15 development of eligible projects at a lease rent of \$1 per year  
16 for thirty years.

17 **§46-F Rental housing projects; affordability credits.**

18 (a) Rental housing projects that meet the requirements of  
19 this part shall maintain affordability credits equal to fifty  
20 per cent of the total number of units in the project for  
21 households with incomes at or below eighty per cent of the area



1 median income as determined by the United States Department of  
2 Housing and Urban Development.

3 (b) Points shall be earned as follows:

4 (1) Construction of rental units affordable to households  
5 with incomes between sixty and eighty per cent of the  
6 area median income shall earn 2.0 credits per unit;  
7 and

8 (2) Construction of rental units affordable to households  
9 with incomes less than sixty per cent of the area  
10 median income shall earn 3.0 credits per unit.

11 (c) Rental housing projects under this part shall remain  
12 affordable for the foreseeable life of the project.

13 **§46-G Statutory waivers.** Applications for housing  
14 projects under this part shall be exempt from all statutes,  
15 charter provisions, ordinances and rules of any state or county  
16 government agency relating to planning, land use, zoning, and  
17 other permits required for the development of residential  
18 housing; provided that the housing projects:

19 (1) Comply with the requirements set forth in this part;  
20 and



1 (2) Shall not be exempt from construction standards for  
2 subdivisions, applicable county building codes, and  
3 other construction standards for dwelling units.

4 Nothing in this part shall be construed to waive any labor or  
5 collective bargaining laws."

6 PART III

7 STATE-EXPEDITED APPROVAL FOR AFFORDABLE AND WORKFORCE HOUSING  
8 PILOT PROJECT

9 SECTION 3. Chapter 201H, Hawaii Revised Statutes, is  
10 amended by adding a new section to be appropriately designated  
11 and to read as follows:

12 "§201H- Expedited approval for affordable, workforce  
13 and rental housing; exemption from statutes, ordinances, charter  
14 provisions, and rules. (a) The expedited process under this  
15 section shall only be available to applications for projects  
16 where the county has forfeited jurisdiction to the corporation  
17 pursuant to part of chapter 46.

18 (b) In coordination with the counties, the corporation  
19 shall develop an expedited approval process on behalf of the  
20 State, with an eligible developer, or any government assistance  
21 program in the development of affordable, workforce and rental  
22 housing projects that shall be exempt from all statutes,



1 ordinances, charter provisions, and rules of any government  
2 agency relating to planning, zoning, construction standards for  
3 subdivisions, development and improvement of land, and the  
4 construction of dwelling units thereon; provided that:

5 (1) The corporation finds the housing project is  
6 consistent with the purpose and intent of this  
7 chapter, and meets minimum requirements of health and  
8 safety;

9 (2) The development of the proposed housing project does  
10 not contravene any safety standards, tariffs, or rates  
11 and fees approved by the public utilities commission  
12 for public utilities or of the various boards of water  
13 supply authorized under chapter 54;

14 (3) If applicable, the requirements of chapter 343,  
15 section 6E-8, chapter 195D, and chapter 205A, have  
16 been met prior to the submittal of the application;  
17 and

18 (4) The corporation may give final approval to proceed  
19 with the project without consent of the county in  
20 which the project is located; provided further that  
21 the corporation conducts public hearings pursuant to  
22 chapter 92.





1 accordance with this section. The legislature finds that the  
2 provisions of this section satisfy the requirements of section  
3 37-52.4.

4 (b) The county infrastructure capacity construction loan  
5 revolving fund shall consist of moneys:

6 (1) Received by the department of budget and finance from  
7 counties for the repayment of loan principal and  
8 payment of simple interest; provided that simple  
9 interest charged to a county for a loan shall be  
10 per cent below the prevailing market rate at the time  
11 the loan is made but in no event shall exceed  
12 per cent;

13 (2) Appropriated by the legislature into the fund from  
14 surplus revenues derived from prior fiscal years;

15 (3) Appropriate federal grants and subsidies to the State  
16 or counties, if any; and

17 (4) Voluntary contributions.

18 (c) The department of budget and finance shall expend  
19 moneys in this fund to make loans to counties for the costs, in  
20 whole or in part, of infrastructure improvements that would  
21 increase the carrying capacity of infrastructure facilities,  
22 including sewer, water, drainage, and roads. Eligible costs



1 shall be limited to construction and materials, excluding the  
2 initial costs of planning, engineering, and feasibility studies.  
3 No loan shall be made for maintenance costs, such as increasing  
4 the life of the facility, unless the construction would  
5 simultaneously increase the carrying capacity of the facility.  
6 No loan shall be made for mass transit or for electrical  
7 utilities. Loans shall be made only for capital improvement  
8 projects that support developments where a majority of the units  
9 built are affordable workforce and rental housing.

10 (d) The department of budget and finance shall comply with  
11 section 37-47. The department shall adopt rules in accordance  
12 with chapter 91 for the purposes of this section."

13 PART V

14 ACCEPTANCE OF INFRASTRUCTURE

15 SECTION 6. "§46- Required acceptance of affordable,  
16 workforce and rental housing infrastructure dedicated to  
17 counties. The county shall accept dedication and allow a  
18 project constructed under chapter 201H- to connect its  
19 infrastructure to the county's infrastructure, including but not  
20 limited to its water, sewer, and drainage systems, upon the  
21 payment of the applicable meter and connection fees and utility  
22 costs; provided that the infrastructure conforms to county



1 building codes; and provided further that the dedicated  
2 infrastructure is certified to be in compliance by either the  
3 county inspector responsible for accepting dedicated  
4 infrastructure, or a third-party licensed building inspector."

5 SECTION 7. There is appropriated out of the general  
6 revenues of the State of Hawaii the sum of \$ for fiscal  
7 year 2007-2008 and the same sum for fiscal year 2008-2009 for  
8 deposit into the county infrastructure capacity construction  
9 loan revolving fund.

10 PART VI

11 INCENTIVES

12 SECTION 8. Chapter 235, Hawaii Revised Statutes, is  
13 amended by adding a new section to be appropriately designated  
14 and to read as follows:

15 "§235- New markets tax credit. (a) Section 45D (with  
16 respect to new markets tax credit) of the Internal Revenue Code  
17 shall be operative for the purposes of this chapter, except as  
18 otherwise provided in this section.

19 (b) Each taxpayer subject to the tax imposed by this  
20 chapter who holds a qualified equity investment on a credit  
21 allowance date of that investment, which occurs during the  
22 taxable year, may claim a credit against the taxpayer's net



1 income tax liability for the taxable year. The amount of the  
2 credit shall be deductible from the taxpayer's net income tax  
3 liability, if any, imposed by this chapter for the taxable year  
4 in which the credit is properly claimed on a timely basis.

5 (c) The amount of the credit shall be equal to the  
6 applicable percentage of the amount paid to the qualified  
7 community development entity for the investment at its original  
8 issue. As used in this section, "applicable percentage" means:

9 (1) \_\_\_\_\_ per cent with respect to the first three credit  
10 allowance dates; and

11 (2) \_\_\_\_\_ per cent with respect to the remainder of the  
12 credit allowance dates.

13 (d) The total amount of credits taken under this section  
14 shall not exceed \$ \_\_\_\_\_ per taxable year. An application for  
15 a new markets tax credit shall be submitted to the director of  
16 taxation on forms established by the director of taxation prior  
17 to the use of the credit. The allocation of tax credits under  
18 this section shall be made by the director of taxation to  
19 qualified community development entities on a first-come, first-  
20 served basis.



1       (e) For the purpose of deducting this tax credit, "net  
2 income tax liability" means net income tax liability reduced by  
3 all other credits allowed to the taxpayer under this chapter.

4       (f) A tax credit under this section that exceeds the  
5 taxpayer's net income tax liability may be used as a credit  
6 against the taxpayer's income tax liability in subsequent years  
7 until exhausted.

8       (g) All claims for a tax credit under this section shall  
9 be filed on or before the end of the twelfth month following the  
10 close of the taxable year for which the credit may be claimed.  
11 Failure to properly and timely claim the credit shall constitute  
12 a waiver of the right to claim the credit.

13       (h) Section 469 (with respect to passive activity losses  
14 and credits limited) of the Internal Revenue Code shall be  
15 applied in claiming the credit under this section.

16       (i) The director of taxation may adopt rules under chapter  
17 91 and prepare any forms necessary to carry out this section."

18       SECTION 9. Section 235-2.3, Hawaii Revised Statutes, is  
19 amended by amending subsection (b) to read as follows:

20       "(b) The following Internal Revenue Code subchapters,  
21 parts of subchapters, sections, subsections, and parts of



1 subsections shall not be operative for the purposes of this  
2 chapter, unless otherwise provided:

3 (1) Subchapter A (sections 1 to 59A) (with respect to  
4 determination of tax liability), except section  
5 1(h)(2) (relating to net capital gain reduced by the  
6 amount taken into account as investment income),  
7 except sections 2(a), 2(b), and 2(c) (with respect to  
8 the definition of "surviving spouse" and "head of  
9 household"), except section 41 (with respect to the  
10 credit for increasing research activities), except  
11 section 42 (with respect to low-income housing  
12 credit), except section 45D (with respect to new  
13 markets tax credit; and except sections 47 and 48, as  
14 amended, as of December 31, 1984 (with respect to  
15 certain depreciable tangible personal property). For  
16 treatment, see sections 235-110.91, 235-110.7, [~~and~~  
17 235-110.8[+], and section 235- ;

18 (2) Section 78 (with respect to dividends received from  
19 certain foreign corporations by domestic corporations  
20 choosing foreign tax credit);

21 (3) Section 86 (with respect to social security and tier 1  
22 railroad retirement benefits);



- 1 (4) Section 103 (with respect to interest on state and  
2 local bonds). For treatment, see section 235-7(b);
- 3 (5) Section 114 (with respect to extraterritorial income).  
4 For treatment, any transaction as specified in the  
5 transitional rule for 2005 and 2006 as specified in  
6 the American Jobs Creation Act of 2004 section 101(d)  
7 and any transaction that has occurred pursuant to a  
8 binding contract as specified in the American Jobs  
9 Creation Act of 2004 section 101(f) are inoperative;
- 10 (6) Section 120 (with respect to amounts received under  
11 qualified group legal services plans). For treatment,  
12 see section 235-7(a)(9) to (11);
- 13 (7) Section 122 (with respect to certain reduced uniformed  
14 services retirement pay). For treatment, see section  
15 235-7(a)(3);
- 16 (8) Section 135 (with respect to income from United States  
17 savings bonds used to pay higher education tuition and  
18 fees). For treatment, see section 235-7(a)(1);
- 19 (9) Subchapter B (sections 141 to 150) (with respect to  
20 tax exemption requirements for state and local bonds);



- 1 (10) Section 151 (with respect to allowance of deductions  
2 for personal exemptions). For treatment, see section  
3 235-54;
- 4 (11) Section 179B (with respect to expensing of capital  
5 costs incurred in complying with Environmental  
6 Protection Agency sulphur regulations);
- 7 (12) Section 181 (with respect to special rules for certain  
8 film and television productions);
- 9 (13) Section 196 (with respect to deduction for certain  
10 unused investment credits);
- 11 (14) Section 199 (with respect to the U.S. production  
12 activities deduction);
- 13 (15) Section 222 (with respect to qualified tuition and  
14 related expenses);
- 15 (16) Sections 241 to 247 (with respect to special  
16 deductions for corporations). For treatment, see  
17 section 235-7(c);
- 18 (17) Section 280C (with respect to certain expenses for  
19 which credits are allowable). For treatment, see  
20 section 235-110.91;
- 21 (18) Section 291 (with respect to special rules relating to  
22 corporate preference items);



- 1 (19) Section 367 (with respect to foreign corporations);
- 2 (20) Section 501(c)(12), (15), (16) (with respect to exempt  
3 organizations);
- 4 (21) Section 515 (with respect to taxes of foreign  
5 countries and possessions of the United States);
- 6 (22) Subchapter G (sections 531 to 565) (with respect to  
7 corporations used to avoid income tax on  
8 shareholders);
- 9 (23) Subchapter H (sections 581 to 597) (with respect to  
10 banking institutions), except section 584 (with  
11 respect to common trust funds). For treatment, see  
12 chapter 241;
- 13 (24) Section 642(a) and (b) (with respect to special rules  
14 for credits and deductions applicable to trusts). For  
15 treatment, see sections 235-54(b) and 235-55;
- 16 (25) Section 646 (with respect to tax treatment of electing  
17 Alaska Native settlement trusts);
- 18 (26) Section 668 (with respect to interest charge on  
19 accumulation distributions from foreign trusts);
- 20 (27) Subchapter L (sections 801 to 848) (with respect to  
21 insurance companies). For treatment, see sections  
22 431:7-202 and 431:7-204;



- 1 (28) Section 853 (with respect to foreign tax credit  
2 allowed to shareholders). For treatment, see section  
3 235-55;
- 4 (29) Subchapter N (sections 861 to 999) (with respect to  
5 tax based on income from sources within or without the  
6 United States), except sections 985 to 989 (with  
7 respect to foreign currency transactions). For  
8 treatment, see sections 235-4, 235-5, and 235-7(b),  
9 and 235-55;
- 10 (30) Section 1042(g) (with respect to sales of stock in  
11 agricultural refiners and processors to eligible farm  
12 cooperatives);
- 13 (31) Section 1055 (with respect to redeemable ground  
14 rents);
- 15 (32) Section 1057 (with respect to election to treat  
16 transfer to foreign trust, etc., as taxable exchange);
- 17 (33) Sections 1291 to 1298 (with respect to treatment of  
18 passive foreign investment companies);
- 19 (34) Subchapter Q (sections 1311 to 1351) (with respect to  
20 readjustment of tax between years and special  
21 limitations);



- 1 (35) Subchapter R (sections 1352 to 1359) (with respect to  
2 election to determine corporate tax on certain  
3 international shipping activities using per ton rate);
- 4 (36) Subchapter U (sections 1391 to 1397F) (with respect to  
5 designation and treatment of empowerment zones,  
6 enterprise communities, and rural development  
7 investment areas). For treatment, see chapter 209E;
- 8 (37) Subchapter W (sections 1400 to 1400C) (with respect to  
9 District of Columbia enterprise zone);
- 10 (38) Section 14000 (with respect to education tax  
11 benefits);
- 12 (39) Section 1400P (with respect to housing tax benefits);
- 13 (40) Section 1400R (with respect to employment relief); and
- 14 (41) Section 1400T (with respect to special rules for  
15 mortgage revenue bonds)."

16 PART VII

17 SECTION 10. The Hawaii housing finance and development  
18 corporation and the city and county of Honolulu shall enter into  
19 a memorandum of understanding relating to the implementation of  
20 this Act and streamlining acceptance of project related  
21 infrastructure dedicated to the county which shall be executed  
22 prior to December 31, 2007. If the memorandum of understanding



1 is not executed prior to December 31, 2007, the county shall not  
2 be eligible to receive moneys under the county infrastructure  
3 capacity construction loan revolving fund. The county shall be  
4 eligible to receive moneys under the county infrastructure  
5 capacity construction loan revolving fund upon entering into the  
6 memorandum of understanding as described above.

7 SECTION 11. Statutory material to be repealed is bracketed  
8 and stricken. New statutory material is underscored.

9 SECTION 12. This Act shall take effect on July 1, 2066.



**Report Title:**

Affordable Housing Pilot Project; Expedited Process

**Description:**

Creates an affordable housing pilot project to be implemented by the counties. Transfers the project to the Hawaii Housing Finance and Development Corporation, if the counties do not accept it. Appropriates funds. (HB1001 HD1)

