
A BILL FOR AN ACT

RELATING TO HOUSING.

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

1 SECTION 1. **Definitions.** For the purpose of this Act:

2 "Corporation" means the Hawaii housing finance and
3 development corporation.

4 "County" means a county with at least 500,000 residents.

5 "County median income" means the median income in a county,
6 as determined by the United States Department of Housing and
7 Urban Development and adjusted for family size.

8 "Eligible project" means a rental housing project that
9 meets all of the following requirements:

10 (1) Makes available for its entire useful life:

11 (A) At least fifty per cent of its dwelling units for
12 rent to families whose incomes do not exceed
13 eighty per cent of the county median income; and

14 (B) The remainder of its dwelling units for rent to
15 families whose incomes do not exceed one hundred
16 forty per cent of the county median income;
17 except that a project may still be an "eligible
18 project" if one dwelling unit is occupied by a



- 1 resident manager or caretaker whose income
2 exceeds the limit of this paragraph;
- 3 (2) Charges rent for every rental unit that does not
4 exceed the maximum amount set by the corporation;
- 5 (3) Has available at least fifteen, but not more than two
6 hundred rental units;
- 7 (4) Is located on not more than fifteen acres of land
8 within the county's urban growth boundary;
- 9 (5) Is not on land classified agricultural, rural, or
10 conservation;
- 11 (6) Is not on ceded land;
- 12 (7) Is not within the geographic area covered by a habitat
13 conservation plan or safe harbor agreement approved
14 under chapter 195D, part II, Hawaii Revised Statutes;
- 15 (8) Does not include any commercial, industrial, resort,
16 or transient accommodation unit or use;
- 17 (9) Does not exceed the structure height limit of the
18 underlying county zoning;
- 19 (10) Is designed and constructed to have a useful life of
20 at least thirty years;
- 21 (11) Is pledged, after its useful life, to be renovated,
22 reconstructed, or redeveloped in perpetuity into



1 successive eligible projects which have at least the
2 same number of rental units as the first project and
3 comply with paragraphs (1) through (13);

4 (12) Is subject to a regulatory agreement with the
5 corporation as required by section 8; and

6 (13) Is dedicated to meeting the requirements of paragraphs
7 (1) through (12).

8 "Land under a county's zoning jurisdiction" means land
9 within the boundaries of a county, but outside the following:
10 conservation district; Kakaako community development district of
11 section 206E-32; Kalaeloa community development district of
12 section 206E-193; and Aloha Tower complex of section 206J-3.

13 "Rental unit" means a dwelling unit in an eligible project
14 that is rented to a family. The term does not include the one
15 dwelling unit in an eligible project that may be occupied by a
16 resident manager or caretaker.

17 "Urban growth boundary" means the land designated under the
18 county's general, development, or sustainable community plan as
19 an urban growth, urban expansion, urban community, or urban
20 fringe area; provided that the term shall not include land
21 classified as agricultural, rural, or conservation.



1 "Useful life of an eligible project" means the duration
2 that the project may be reasonably and economically repaired,
3 refurbished, redeveloped, and maintained in a safe and habitable
4 condition; provided that the duration shall not be less than
5 thirty years.

6 SECTION 2. **Applicable only in county with at least 500,000**
7 **residents.** This Act shall only apply in a county with at least
8 500,000 residents.

9 SECTION 3. **Eligible project; exemption from county**
10 **requirements.** (a) The developer of a proposed eligible project
11 on land under a county's zoning jurisdiction may choose to
12 proceed under this section instead of section 201H-38, Hawaii
13 Revised Statutes. If the developer so chooses, the county shall
14 review and approve or disapprove the proposed eligible project
15 under this section instead of section 201H-38, Hawaii Revised
16 Statutes.

17 (b) Before the developer of a proposed eligible project
18 submits an application to the county under subsection (c), the
19 developer shall:

20 (1) Notify the neighborhood board of the area in which the
21 proposed project is to be located; and



1 (2) If the proposed project is to be within a special
2 management area or shoreline setback area, obtain any
3 necessary special management area use permit,
4 shoreline setback variance, or other approval required
5 under chapter 205A, parts II or III, Hawaii Revised
6 Statutes.

7 The county shall not accept an application for a proposed
8 project if the developer has not complied with this subsection.

9 (c) If the developer of a proposed eligible project on
10 land under a county's zoning jurisdiction desires to have the
11 proposed project exempted from any county ordinance or rule
12 relating to planning, zoning, or construction standards for
13 subdivisions, development and improvement of land, or
14 construction of dwelling units thereon, the developer may submit
15 to the county an application for review and approval of the
16 proposed project in accordance with this section.

17 This section shall not exempt a proposed eligible project
18 from complying with:

19 (1) The county's building code, fire code, or other
20 ordinance or rule establishing minimum health and
21 safety requirements;



- 1 (2) Special management area requirements established
2 pursuant to chapter 205A, part II, Hawaii Revised
3 Statutes;
- 4 (3) Shoreline setback regulations established under
5 chapter 205A, part III, Hawaii Revised Statutes, and
6 any implementing county ordinance or rule;
- 7 (4) Structure height limit of the underlying county
8 zoning; or
- 9 (5) Any applicable requirement under chapters 174, 342B
10 through 342H, 342J, 342L, or 342P, Hawaii Revised
11 Statutes.

12 (d) The developer shall submit with the application the
13 preliminary plans and specifications for the proposed project,
14 including a list of requested exemptions.

15 The county department responsible for administering the
16 zoning code shall accept the application from the developer upon
17 payment by the developer of a reasonable processing fee
18 established by the department. The county department shall
19 review the developer's preliminary plans and specifications,
20 with particular attention to the listed exemptions. During the
21 review, the county department may request the developer to



1 revise the preliminary plans and specifications, and the
2 developer may agree or disagree with the request.

3 No later than forty-five days from receipt of the
4 application, the county department shall submit to the county
5 council the preliminary plans and specifications, along with a
6 recommendation of approval or disapproval of the proposed
7 project. If the developer has agreed to a revision of the
8 preliminary plans and specifications, the county department
9 shall submit the revised preliminary plans and specifications.
10 If the developer has not agreed to any revision, the county
11 department shall submit the preliminary plans and specifications
12 in the form submitted with the application.

13 If the county department fails or refuses to submit the
14 preliminary plans and specifications of the proposed project to
15 the county council within the forty-five day period, the
16 proposed project shall be forfeited to the jurisdiction of the
17 corporation on the forty-sixth day.

18 (e) If the county department submits to the county council
19 the preliminary plans and specifications of the proposed
20 eligible project, the county council shall have forty-five days
21 from receipt to act on the proposed eligible project.



1 If the county council does not express its approval or
2 disapproval within the forty-five day period, the proposed
3 eligible project and submitted preliminary plans and
4 specifications shall be forfeited to the jurisdiction of the
5 corporation on the forty-sixth day.

6 (f) The county council may approve the preliminary plans
7 and specifications with or without modification.

8 (g) Upon approval by the county council of the eligible
9 project, the preliminary plans and specifications, with the
10 requested exemptions, shall be deemed the final plans and
11 specifications. The final plans and specifications shall
12 constitute the planning, zoning, construction, and subdivision
13 standards for the project.

14 For the purpose of any state law or county ordinance, the
15 responsible county officer may certify maps and plans of the
16 land on which the project is situated as having complied with
17 applicable laws and ordinances relating to consolidation or
18 subdivision of land. The certified maps and plans shall be
19 accepted for registration or recordation by the land court and
20 bureau of conveyances.

21 (h) Once an eligible project is approved under this
22 section, the county shall expedite the review of the grading



1 permit, building permit, and other county ministerial permits
2 for the project and shall not unreasonably delay or deny the
3 issuance of such permits.

4 The county also shall not unreasonably delay or deny the
5 issuance of a certificate of occupancy for the project.

6 The county also shall not charge an unreasonable fee for
7 review of an application for a grading permit, building permit,
8 other county ministerial permit, or certificate of occupancy.

9 SECTION 4. **Eligible project; Hawaii housing finance and**
10 **development corporation jurisdiction.** (a) The developer of a
11 proposed eligible project that is forfeited to the jurisdiction
12 of the corporation pursuant to section 3(d) or (e) may apply to
13 the corporation for approval of the proposed project. The
14 application shall be accompanied by the preliminary plans and
15 specifications for the proposed project and a reasonable fee set
16 by the corporation.

17 (b) Within ninety days from receipt of the application,
18 the corporation shall approve, approve with modification, or
19 disapprove the proposed eligible project and preliminary plans
20 and specifications. Before making its decision, the corporation
21 shall hold at least one public hearing on the proposed project
22 pursuant to chapter 92, Hawaii Revised Statutes.



1 (c) Upon approval by the corporation of the eligible
2 project, the preliminary plans and specifications, with the
3 requested exemptions, shall be deemed the final plans and
4 specifications. The final plans and specifications shall
5 constitute the planning, zoning, construction, and subdivision
6 standards for the project.

7 For the purpose of any state law or county ordinance, the
8 relevant county officer may certify maps and plans of the land
9 on which the project is situated as having complied with
10 applicable laws and ordinances relating to consolidation or
11 subdivision of land. If the relevant county officer refuses or
12 fails to certify the maps or plans within a reasonable time as
13 determined by the corporation, the corporation's executive
14 director may perform the duty. The certified maps and plans
15 shall be accepted for registration or recordation by the land
16 court and bureau of conveyances.

17 (d) Once an eligible project is approved under this
18 section, the relevant county shall expedite the review of the
19 grading permit, building permit, and other county ministerial
20 permits necessary to construct the project. The relevant county
21 shall issue such permits within one year from the approval of
22 the eligible project by the corporation.



1 The county also shall not unreasonably delay or deny the
2 issuance of a certificate of occupancy for the project.

3 The county also shall not charge an unreasonable fee for
4 review of an application for a grading permit, building permit,
5 other county ministerial permit, or certificate of occupancy.

6 **SECTION 5. Required connection of approved eligible**
7 **project to county infrastructure; required acceptance of offsite**
8 **infrastructure constructed to county standards.** (a) If an
9 eligible project is approved by the county under section 3 or
10 corporation under section 4, the county shall allow the project
11 to connect to county-owned infrastructure, including water,
12 wastewater, drainage, and highway systems, upon the payment of
13 any applicable connection fee that may be charged by the county.

14 (b) The county shall accept any offsite infrastructure
15 constructed and dedicated by the developer of the eligible
16 project if the infrastructure meets county standards set by
17 ordinance or rule. This subsection shall apply whether the
18 eligible project has been approved by the county under section 3
19 or corporation under section 4.

20 **SECTION 6. Eligible project; applicability of**
21 **environmental review process and cultural review process.** (a)
22 Chapter 343, Hawaii Revised Statutes, shall apply to a proposed



1 eligible project that is a "proposed action" subject to section
2 343-5, Hawaii Revised Statutes.

3 (b) Section 6E-8, Hawaii Revised Statutes, shall apply to
4 any person who is the developer of a proposed eligible project,
5 including a private person, notwithstanding the language of that
6 section.

7 SECTION 7. **Eligible project on public non-ceded land; set**
8 **aside to corporation, nominal lease rent.** If an approved
9 eligible project is to be developed on public non-ceded land,
10 the land shall be set aside to the corporation without the
11 approval of the board of land and natural resources as required
12 by section 171-11, Hawaii Revised Statutes. The corporation
13 shall make the land available to the developer of the eligible
14 project at a lease rent of \$1 per year for the useful life of
15 the project.

16 SECTION 8. **Regulatory agreement with developer of eligible**
17 **project.** (a) The developer of an eligible project approved by
18 the county council under section 3 or corporation under section
19 4 shall enter into a regulatory agreement with the corporation
20 before the developer commences any work at the site of the
21 project. The regulatory agreement shall set forth the
22 obligations and responsibilities of the developer with respect



1 to the project and shall be consistent with this Act. The
2 regulatory agreement shall include penalties that may be imposed
3 on the developer of the eligible project for failure to comply
4 with the regulatory agreement. The regulatory agreement shall
5 run with the land on which the eligible project is situated and
6 shall be binding upon the developer and any subsequent owner.

7 The corporation shall monitor and enforce the terms and
8 conditions of the regulatory agreement.

9 (b) If a county council has approved an eligible project
10 under section 3, this section shall not prohibit the county from
11 entering into its own regulatory agreement with the developer.

12 SECTION 9. **Expedited temporary rules.** The corporation may
13 adopt rules to implement this Act without regard to the notice
14 and public hearing requirements of section 91-3, Hawaii Revised
15 Statutes, or small business impact review requirements of
16 chapter 201M, Hawaii Revised Statutes. Rules adopted pursuant
17 to this section shall be repealed on December 31, 2012, without
18 necessity of any action by the corporation.

19 SECTION 10. **Act superior to conflicting law.** This Act
20 shall be superior to any conflicting law, except any collective
21 bargaining or labor protection law or any law that protects
22 against adverse effects to health, safety, and the environment.



1 SECTION 11. **Appropriation to county.** There is
2 appropriated out of the general revenues of the State of Hawaii
3 the sum of \$1 or so much thereof as may be necessary for fiscal
4 year 2007-2008 and the same sum or so much thereof as may be
5 necessary for fiscal year 2008-2009 for grants-in-aid to a
6 county with at least 500,000 residents for contracting planners,
7 engineers, and other persons to expedite the processing and
8 review of applications for the approval of proposed eligible
9 projects and issuance of grading, building, and other
10 ministerial permits for approved eligible projects. The Hawaii
11 housing finance and development corporation shall establish a
12 procedure for reimbursing the county for the cost of such
13 contracted personnel. Such grants-in-aid may also be used for
14 the planning, design, and construction of offsite infrastructure
15 to serve eligible projects constructed under this Act.

16 The sum appropriated shall be expended by the Hawaii
17 housing finance and development corporation for the purpose of
18 this Act.

19 SECTION 12. **Appropriation to Hawaii housing finance and**
20 **development corporation.** There is appropriated out of the
21 general revenues of the State of Hawaii the sum of \$1 or so much
22 thereof as may be necessary for fiscal year 2007-2008 and the



1 same sum or so much thereof as may be necessary for fiscal year
2 2008-2009 for the implementation of this Act by the Hawaii
3 housing finance and development corporation.

4 The sum appropriated shall be expended by the Hawaii
5 housing finance and development corporation for the purpose of
6 this Act.

7 SECTION 13. **Effective date and repeal.** This Act shall
8 take effect on July 1, 2020, and shall be repealed on December
9 31, 2012; provided that:

10 (1) Sections 9 and 10 shall take effect on July 1, 2020;

11 (2) Sections 11 and 12 shall take effect on July 1, 2020;

12 (3) The repeal shall not affect the validity of any
13 regulatory agreement entered into by a developer of an
14 eligible project with the corporation or a county;

15 (4) The repeal shall not affect any application for review
16 and approval of a proposed eligible project under
17 section 3 or 4 that is pending on December 31, 2012.

18 Such an application shall remain subject to this Act
19 until decided. If the eligible project is approved,
20 the review and issuance of the grading, building, and
21 other county ministerial permits and the certificate
22 of occupancy shall be subject to this Act; and



1 (5) The repeal shall not affect any grading, building, or
2 other ministerial permit application for an approved
3 eligible project that is pending on December 31, 2012.



Report Title:

Affordable Rental Housing; Expedited Process

Description:

Provides an expedited process for county review and decision on planning, zoning, and construction exemptions sought by a developer of an affordable rental project. Provides, if the county fails or refuses to take action on the proposed project, for the Hawaii housing finance and development corporation to review and make a decision on the proposed project. Makes the provisions applicable only to a county with at least 500,000 residents for a four-year period. Appropriates funds. (HB1001 HD2)

