
A BILL FOR AN ACT

RELATING TO AFFORDABLE HOUSING.

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

1 SECTION 1. The purpose of this Act is to encourage the
2 development of affordable rental housing units by streamlining
3 the review and approval of affordable housing projects and
4 providing financing incentives.

5 SECTION 2. Chapter 237, Hawaii Revised Statutes, is
6 amended by adding a new section to be appropriately designated
7 and to read as follows:

8 "~~§237-~~ Affordable housing development exemption. (a)

9 There shall be an exemption from the taxes imposed by this
10 chapter for the development of affordable housing. The Hawaii
11 housing finance and development corporation may certify for
12 exemption any qualified person involved with the planning,
13 design, financing, construction, or marketing of affordable
14 housing units developed by a private developer upon receipt of
15 an application; provided that in the case of projects involving
16 the development of market-price as well as affordable housing
17 units, the exemption under this section shall apply exclusively



1 to the units developed as affordable housing units as defined in
2 subsection (e).

3 (b) All claims for exemption shall be filed with and
4 certified by the Hawaii housing finance and development
5 corporation and forwarded to the department of taxation. The
6 Hawaii housing finance and development corporation shall not be
7 considered a governmental contracting party when it approves any
8 claim for exemption for the purposes of section 104-2.

9 (c) The exemption under this section shall apply to all
10 amounts received by any certified person for the planning,
11 design, financing, construction, or marketing in the State of
12 affordable housing units as described in subsection (a), and on
13 which actual construction has started between July 1, 2007, and
14 December 31, 2008, and which is completed by June 30, 2010, as
15 verified by the Hawaii housing finance and development
16 corporation; provided that the exemption shall not be applied
17 until verification by the Hawaii housing finance and development
18 corporation has been completed; provided further that in the
19 event that the developer is delayed or hindered from completing
20 the project by reason of floods, earthquakes (or other acts of
21 nature), strikes, lockouts, inability to procure materials,
22 electrical power failures, riots, insurrection, war, civil or



1 criminal proceedings, injunctions, writs, appeals, stays, or
2 other reason of a like nature, that is not the fault of, or
3 capable of being prevented by the developer, then the June 30,
4 2010 completion deadline may be extended for a period equivalent
5 to the period of the delay. In the event of a delay, the
6 developer shall submit verification of the date of commencement
7 as well as the date of cessation of any of the delaying events,
8 to the Hawaii housing finance and development corporation for
9 verification.

10 (d) The exemption shall apply only to projects containing
11 the first two thousand five hundred affordable housing units
12 that are certified and completed by June 30, 2010. The amount
13 of the exemption shall not exceed \$4,000 in taxes exempted per
14 affordable housing unit.

15 (e) For the purposes of this section:

16 "Actual construction" means the date that the first permit
17 is issued for the development of the project, including permits
18 for off-site improvements that may be required by the county
19 zoning or land use agency.

20 "Affordable housing units" means housing units that are
21 sold or rented at rates affordable to households earning up to
22 one hundred forty per cent of the area median income as



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

3 "Completion" means the date of the notice of completion for
4 the affordable housing unit or the building or buildings that
5 the affordable housing unit is located within.

6 (f) The provisions of this section shall apply to property
7 subject to chapter 238."

8 SECTION 3. Section 201H-3, Hawaii Revised Statutes, is
9 amended by amending subsection (a) to read as follows:

10 "(a) There is created a board of directors of the Hawaii
11 housing finance and development corporation consisting of nine
12 members, of whom six shall be public members appointed by the
13 governor as provided in section 26-34. At least four of the
14 public members shall have knowledge and expertise in public or
15 private financing and development of affordable housing. Public
16 members shall be appointed from each of the counties of
17 Honolulu, Hawaii, Maui, and Kauai[-]; provided that each member
18 from the counties shall be a person appointed from a list of
19 nominees submitted by the continuum of care system of each
20 county. Each county continuum of care system shall submit three
21 nominees. For purposes of this section, "continuum of care
22 system" shall have the same meaning that it does in Title 24,



1 Code of Federal Regulations, section 586.5. At least one public
2 member shall represent community advocates for low-income
3 housing, affiliated with private nonprofit organizations that
4 serve the residents of low-income housing. The public members
5 of the board shall serve four-year staggered terms; provided
6 that the initial appointments shall be as follows:

- 7 (1) Two members to be appointed for four years;
- 8 (2) Two members to be appointed for three years; and
- 9 (3) Two members to be appointed for two years.

10 The director of business, economic development, and tourism and
11 the director of finance, or their designated representatives, and
12 a representative of the governor's office, shall be ex officio
13 voting members. The corporation shall be headed by the board."

14 SECTION 4. Section 201H-36, Hawaii Revised Statutes, is
15 amended by amending subsections (a) and (b) to read as follows:

16 "(a) In accordance with section 237-29, the corporation
17 may approve and certify for exemption from general excise taxes
18 any qualified person or firm involved with ~~[a]~~ the planning,
19 design, financing, construction, or marketing of a proposed
20 newly constructed, or moderately or substantially rehabilitated
21 project:

- 22 (1) Developed under this part;



1 (2) Developed under a government assistance program
2 approved by the corporation, including but not limited
3 to the United States Department of Agriculture 502
4 program and Federal Housing Administration 235
5 program;

6 (3) Developed under the sponsorship of a private nonprofit
7 organization providing home rehabilitation or new
8 homes for qualified families in need of decent, low-
9 cost housing; or

10 (4) Developed by a qualified person or firm to provide
11 affordable rental housing where at least fifty per
12 cent of the available units are for households with
13 incomes at or below eighty per cent of the area median
14 family income as determined by the United States
15 Department of Housing and Urban Development, of which
16 at least twenty per cent of the available units are
17 for households with incomes at or below sixty per cent
18 of the area median family income as determined by the
19 United States Department of Housing and Urban
20 Development.

21 (b) All claims for exemption under this section shall be
22 filed with and certified by the corporation and forwarded to the



1 department of taxation. Any claim for exemption that is filed
2 and approved, shall not be considered a subsidy for the purpose
3 of this part. The corporation shall not be considered a
4 contracting party when it approves any claim for exemption for
5 the purposes of section 104-2."

6 SECTION 5. Section 201H-41, Hawaii Revised Statutes, is
7 amended by amending subsection (a) to read as follows:

8 "(a) In any county, the corporation may develop or may
9 enter into agreements to develop housing projects with an
10 eligible developer if in the corporation's reasonable judgment a
11 project [~~is primarily designed for lower income housing.~~]
12 provides a reasonable number of lower income housing units. The
13 agreement may provide for the housing to be placed under the
14 control of the corporation, or to be sold by the corporation, or
15 to be sold to the corporation [~~as soon as the units are~~
16 ~~completed~~] or to be sold to an eligible purchaser, or rented to
17 an eligible renter, when the units are available for occupancy
18 and shall contain terms, conditions, and covenants as the
19 corporation, by rules, deems appropriate. Every agreement shall
20 provide for the developer or the general contractor to furnish a
21 performance bond in favor of the corporation, assuring the
22 timely and complete performance of the housing project[~~;~~];



1 provided that this requirement may be subordinated for purposes
2 of financing. Sureties on the bond shall be satisfactory to the
3 corporation."

4 SECTION 6. Section 201H-202, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "[+]§201H-202[+] **Rental housing trust fund.** (a) There is
7 established the rental housing trust fund to be administered by
8 the corporation.

9 (b) An amount from the fund, to be set by the corporation
10 and authorized by the legislature, may be used for
11 administrative expenses incurred by the corporation in
12 administering the fund; provided that fund moneys may not be
13 used to finance day-to-day administrative expenses of projects
14 allotted fund moneys.

15 (c) The following may be deposited into the fund:
16 appropriations made by the legislature, private contributions,
17 repayment of loans, interest, other returns, and moneys from
18 other sources.

19 (d) The fund shall be used to provide loans or grants for
20 the development, pre-development, construction, acquisition,
21 preservation, and substantial rehabilitation of rental housing
22 units. Permitted uses of the fund may include but are not



1 limited to planning, design, land acquisition, costs of options,
2 agreements of sale, downpayments, equity financing, capacity
3 building of nonprofit housing developers, or other housing
4 development services or activities as provided in rules adopted
5 by the corporation pursuant to chapter 91. The rules may
6 provide for a means of recapturing loans or grants made from the
7 fund if a rental housing project financed under the fund is
8 refinanced or sold at a later date. The rules may also provide
9 that moneys from the fund shall be leveraged with other
10 financial resources to the extent possible.

11 ~~[(e) Moneys available in the fund shall be used for the~~
12 ~~purpose of providing, in whole or in part, loans or grants for~~
13 ~~rental housing projects in the following order of priority:~~

14 ~~(1) Projects or units in projects that are allocated~~
15 ~~low income housing credits pursuant to the state~~
16 ~~housing credit ceiling under section 42(h) of the~~
17 ~~Internal Revenue Code of 1986, as amended, or projects~~
18 ~~or units in projects that are funded by programs of~~
19 ~~the United States Department of Housing and Urban~~
20 ~~Development and United States Department of~~
21 ~~Agriculture Rural Development wherein:~~



1 ~~(A) At least fifty per cent of the available units~~
2 ~~are for persons and families with incomes at or~~
3 ~~below eighty per cent of the median family income~~
4 ~~of which at least five per cent of the available~~
5 ~~units are for persons and families with incomes~~
6 ~~at or below thirty per cent of the median family~~
7 ~~income; and~~

8 ~~(B) The remaining units are for persons and families~~
9 ~~with incomes at or below one hundred per cent of~~
10 ~~the median family income;~~

11 ~~provided that the corporation may establish rules to~~
12 ~~ensure full occupancy of fund projects; and~~

13 ~~(2) Mixed-income rental projects or units in a~~
14 ~~mixed-income rental project wherein all of the available units~~
15 ~~are for persons and families with incomes at or below one~~
16 ~~hundred forty per cent of the median family income.]~~

17 (e) To the extent possible, at least five per cent of the
18 units developed from the fund allocated to construction shall be
19 reserved for persons or households with incomes at or below
20 thirty per cent of the median income.

21 (f) The corporation shall submit an annual report to the
22 legislature no later than twenty days prior to the convening of



1 each regular session describing the projects funded and, with
2 respect to rental housing projects targeted for persons and
3 families with incomes at or below thirty per cent of the median
4 family income, its efforts to develop those rental housing
5 projects, a description of proposals submitted for this target
6 group and action taken on the proposals, and any barriers to
7 developing housing units for this target group.

8 (g) For the purposes of this subpart, the applicable
9 median family income shall be the median family income for the
10 county or standard metropolitan statistical area in which the
11 project is located as determined by the United States Department
12 of Housing and Urban Development, as adjusted from time to time.

13 (h) The corporation may provide loans and grants under
14 this section; provided that the corporation shall establish
15 loan-to-value ratios to protect the fund from inordinate risk
16 and that under no circumstances shall the rules permit the
17 loan-to-value ratio to exceed one hundred per cent; and provided
18 further that the underwriting guidelines include a debt-coverage
19 ratio of not less than 1.0 to 1.

20 (i) For the period commencing July 1, 2005, through
21 June 30, 2007, the fund may be used to provide grants for rental
22 units set aside for persons and families with incomes at or



1 below thirty per cent of the median family income in any project
2 financed in whole or in part by the fund in proportion of those
3 units to the total number of units in the project. At the
4 conclusion of the period described in this subsection, the
5 corporation shall report to the legislature on the number and
6 use of grants provided and whether the grants were an effective
7 use of the funds for purposes of developing rental housing for
8 families at or below thirty per cent of the median family
9 income."

10 SECTION 7. Section 201H-203, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "[+]§201H-203[+] **Eligible applicants for funds.** Eligible
13 applicants for funds shall include nonprofit and for-profit
14 organizations, limited liability companies and partnerships,
15 partnerships, and government agencies, who are qualified in
16 accordance with rules adopted by the corporation pursuant to
17 chapter 91."

18 SECTION 8. Section 201H-204, Hawaii Revised Statutes, is
19 amended by amending subsections (a) and (b) to read as follows:

20 "(a) Activities eligible for assistance from the fund
21 shall include but not be limited to:



- 1 (1) New construction, rehabilitation, or preservation of
2 [~~low-income~~] rental housing units for persons and
3 families with incomes at or below one hundred forty
4 per cent of the median family income that meet the
5 criteria for eligibility described in subsection (c);
- 6 (2) The leveraging of moneys with the use of fund assets;
- 7 (3) Pre-development activity grants or loans to nonprofit
8 organizations; and
- 9 (4) Acquisition of rental housing units for the purpose of
10 preservation as [~~low-income or very low-income~~
11 ~~housing.~~] rental housing for persons and families with
12 incomes at or below one hundred forty per cent of the
13 median family income.
- 14 (b) [~~Preference shall be given to projects producing~~] An
15 eligible project shall produce units in at least one of the
16 following categories:
- 17 (1) Multifamily units;
- 18 (2) Attached single-family units;
- 19 (3) Apartments;
- 20 (4) Townhouses;
- 21 (5) Housing units above commercial or industrial space;
- 22 (6) Single room occupancy units;



- 1 (7) Accessory apartment units;
- 2 (8) Employee housing;
- 3 (9) United States Department of Housing and Urban
- 4 Development mixed finance development of public
- 5 housing units; and
- 6 (10) Other types of units meeting the criteria for
- 7 eligibility set forth in subsection (c)."

8 SECTION 9. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 10. This Act shall take effect upon its approval.

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INTRODUCED BY: *Bob K... ..*

JAN 22 2007



Report Title:

Affordable Housing; Exemption from General Excise Tax

Description:

Exempts affordable housing projects from the general excise tax and streamlines the review and approval of affordable housing projects.

