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# 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 750,000 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 at least  
11 per cent of its dwelling units for rent to  
12 families whose incomes do not exceed eighty per cent  
13 of the county median income;
- 14 (2) Charges rent for every rental unit that does not  
15 exceed the maximum amount set by the corporation;
- 16 (3) Has at least , but not more than two hundred  
17 rental units available;



- 1 (4) Is located on not more than fifteen acres of land  
2 within the county's urban growth boundary;
- 3 (5) Is not on land classified as agricultural or  
4 conservation;
- 5 (6) Is not within the geographic area covered by a habitat  
6 conservation plan or safe harbor agreement approved  
7 under chapter 195D, part II, Hawaii Revised Statutes;
- 8 (7) Does not include any commercial, industrial, resort,  
9 or transient accommodation unit or use;
- 10 (8) Does not exceed the structure height limit of the  
11 underlying county zoning;
- 12 (9) Is designed and constructed to have a useful life of  
13 at least thirty years;
- 14 (10) Is pledged, after its useful life, to be renovated,  
15 reconstructed, or redeveloped in perpetuity into  
16 successive eligible projects which have at least the  
17 same number of rental units as the first project and  
18 comply with paragraphs (1) to (13);
- 19 (11) Is subject to a regulatory agreement with the  
20 corporation in accordance with federal section 8  
21 housing requirements;
- 22 (12) Is developed and operated by a non-profit entity; and



1 (13) Is dedicated to meeting the requirements of paragraphs  
2 (1) to (12).

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

8 "Rental unit" means a dwelling unit in an eligible project  
9 that is rented to a family. The term does not include the one  
10 dwelling unit in an eligible project that may be occupied by a  
11 resident manager or caretaker.

12 "Urban growth boundary" means the land designated under the  
13 county's general, development, or sustainable community plan as  
14 an urban growth, urban expansion, urban community, or urban  
15 fringe area; provided that the term shall not include land  
16 classified as agricultural or conservation.

17 "Useful life of an eligible project" means the duration  
18 that the project may be reasonably and economically repaired,  
19 refurbished, redeveloped, and maintained in a safe and habitable  
20 condition; provided that the duration shall not be less than  
21 thirty years.



1 SECTION 2. **Applicable only in county with at least 750,000**  
2 **residents.** This Act shall only apply in a county with at least  
3 750,000 residents.

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

12 (b) Before the developer of a proposed eligible project  
13 submits an application to the county under subsection (c), the  
14 developer shall:

- 15 (1) Notify the neighborhood board of the area in which the  
16 proposed project is to be located; and
- 17 (2) If the proposed project is to be within a special  
18 management area or shoreline setback area, obtain any  
19 necessary special management area use permit,  
20 shoreline setback variance, or other approval required  
21 under parts II or III of chapter 205A, Hawaii Revised  
22 Statutes.



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

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

11           This section shall not exempt a proposed eligible project  
12 from complying with:

- 13           (1) The county's building code, fire code, or other  
14 ordinance or rule establishing minimum health and  
15 safety requirements;
- 16           (2) Special management area requirements established  
17 pursuant to part II of chapter 205A, Hawaii Revised  
18 Statutes;
- 19           (3) Shoreline setback regulations established under part  
20 III of chapter 205A, Hawaii Revised Statutes, and any  
21 implementing county ordinance or rule;



- 1 (4) Structure height limit of the underlying county
- 2 zoning; or
- 3 (5) Any applicable requirement under chapters 174, 342B to
- 4 342H, 342J, 342L, or 342P, Hawaii Revised Statutes.
- 5 (d) The developer shall submit with the application the
- 6 preliminary plans and specifications for the proposed project,
- 7 including a list of requested exemptions.

8 The county department responsible for administering the  
9 zoning code shall accept the application from the developer upon  
10 payment by the developer of a reasonable processing fee  
11 established by the department. The county department shall  
12 review the developer's preliminary plans and specifications,  
13 with particular attention to the listed exemptions. During the  
14 review, the county department may request the developer to  
15 revise the preliminary plans and specifications, and the  
16 developer may agree or disagree with the request.

17 No later than ninety days from receipt of the application,  
18 the county department shall submit to the county council the  
19 preliminary plans and specifications, along with a  
20 recommendation of approval or disapproval of the proposed  
21 project. If the developer has agreed to a revision of the  
22 preliminary plans and specifications, the county department



1 shall submit the revised preliminary plans and specifications.  
2 If the developer has not agreed to any revision, the county  
3 department shall submit the preliminary plans and specifications  
4 in the form submitted with the application.

5 If the county department fails or refuses to submit the  
6 preliminary plans and specifications of the proposed project to  
7 the county council within the ninety day period, the proposed  
8 project shall be forfeited to the jurisdiction of the  
9 corporation on the ninety-first day.

10 (e) If the county department submits to the county council  
11 the preliminary plans and specifications of the proposed  
12 eligible project, the county council shall have forty-five days  
13 from receipt to act on the proposed eligible project.

14 If the county council does not express its approval or  
15 disapproval within the forty-five day period, the proposed  
16 eligible project and submitted preliminary plans and  
17 specifications shall be forfeited to the jurisdiction of the  
18 corporation on the forty-sixth day.

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

21 (g) Upon approval by the county council of the eligible  
22 project, the preliminary plans and specifications, with the



1 requested exemptions, shall be deemed the final plans and  
2 specifications. The final plans and specifications shall  
3 constitute the planning, zoning, construction, and subdivision  
4 standards for the project.

5 For the purpose of any state law or county ordinance, the  
6 responsible county officer may certify maps and plans of the  
7 land on which the project is situated as having complied with  
8 applicable laws and ordinances relating to consolidation or  
9 subdivision of land. The certified maps and plans shall be  
10 accepted for registration or recordation by the land court and  
11 bureau of conveyances.

12 (h) Once an eligible project is approved under this  
13 section, the county shall expedite the review of the grading  
14 permit, building permit, and other county ministerial permits  
15 for the project and shall not unreasonably delay or deny the  
16 issuance of such permits.

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

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



1           SECTION 4.   **Eligible project; Hawaii housing finance and**  
2 **development corporation jurisdiction.**   (a)   The developer of a  
3 proposed eligible project that is forfeited to the jurisdiction  
4 of the corporation pursuant to section 3(d) or (e) may apply to  
5 the corporation for approval of the proposed project.   The  
6 application shall be accompanied by the preliminary plans and  
7 specifications for the proposed project and a reasonable fee set  
8 by the corporation.

9           (b)   Within ninety days from receipt of the application,  
10 the corporation shall approve, approve with modification, or  
11 disapprove the proposed eligible project and preliminary plans  
12 and specifications.   Before making its decision, the corporation  
13 shall hold at least one public hearing on the proposed project  
14 pursuant to chapter 92, Hawaii Revised Statutes.

15           (c)   Upon approval by the corporation of the eligible  
16 project, the preliminary plans and specifications, with the  
17 requested exemptions, shall be deemed the final plans and  
18 specifications.   The final plans and specifications shall  
19 constitute the planning, zoning, construction, and subdivision  
20 standards for the project.

21           For the purpose of any state law or county ordinance, the  
22 relevant county officer may certify maps and plans of the land



1 on which the project is situated as having complied with  
2 applicable laws and ordinances relating to consolidation or  
3 subdivision of land. If the relevant county officer refuses or  
4 fails to certify the maps or plans within a reasonable time as  
5 determined by the corporation, the corporation's executive  
6 director may perform the duty. The certified maps and plans  
7 shall be accepted for registration or recordation by the land  
8 court and bureau of conveyances.

9 (d) Once an eligible project is approved under this  
10 section, the relevant county shall expedite the review of the  
11 grading permit, building permit, and other county ministerial  
12 permits necessary to construct the project. The relevant county  
13 shall issue such permits within one year from the approval of  
14 the eligible project by the corporation.

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

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

20 **SECTION 5. Required connection of approved eligible**  
21 **project to county infrastructure; required acceptance of offsite**  
22 **infrastructure constructed to county standards. (a) If an**



1 eligible project is approved by the county under section 3 or  
2 the corporation under section 4, the county shall allow the  
3 project to connect to county-owned infrastructure, including  
4 water, wastewater, drainage, and highway systems, upon the  
5 payment of any applicable connection fee that may be charged by  
6 the county.

7 (b) The county shall accept any offsite infrastructure  
8 constructed and dedicated by the developer of the eligible  
9 project if the infrastructure meets county standards set by  
10 ordinance or rule. This subsection shall apply whether the  
11 eligible project has been approved by the county under section 3  
12 or the corporation under section 4.

13 **SECTION 6. Eligible project; applicability of**  
14 **environmental review process and cultural review process.** (a)  
15 Chapter 343, Hawaii Revised Statutes, shall apply to a proposed  
16 eligible project that is a "proposed action" subject to section  
17 343-5, Hawaii Revised Statutes.

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



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

10           SECTION 8. **Eligible project on ceded land; set aside to**  
11 **corporation; nominal lease rent.** If an approved eligible  
12 project is to be developed on ceded land, fifty per cent of the  
13 rental-housing opportunities developed on the land shall be set  
14 aside for perpetual use by eligible beneficiaries of the office  
15 of Hawaiian affairs. The corporation shall make the land  
16 available the developer of the eligible project for a lease rent  
17 of \$1 per year for the useful life of the project.

18           SECTION 9. **Regulatory agreement with developer of eligible**  
19 **project.** (a) The developer of an eligible project approved by  
20 the county council under section 3 or the corporation under  
21 section 4 shall enter into a regulatory agreement with the  
22 corporation before the developer commences any work at the site



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

9 The corporation shall monitor and enforce the terms and  
 10 conditions of the regulatory agreement.

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

14 SECTION 10. **Expedited temporary rules.** The corporation  
 15 may adopt rules to implement this Act without regard to the  
 16 notice and public hearing requirements of section 91-3, Hawaii  
 17 Revised Statutes, or small business impact review requirements  
 18 of chapter 201M, Hawaii Revised Statutes. Rules adopted  
 19 pursuant to this section shall be repealed on December 31, 2012,  
 20 without necessity of any action by the corporation.

21 SECTION 11. **Act superior to conflicting law.** This Act  
 22 shall be superior to any conflicting law, except any collective



1 bargaining or labor protection law or any law that protects  
2 against adverse effects to health, safety, and the environment.

3 SECTION 12. **Task force.** (a) There is created an  
4 affordable housing inventory advisory task force to be placed  
5 within the Hawaii housing finance and development corporation  
6 for administrative purposes.

7 (b) The task force shall consist of eleven members based  
8 on the following requirements:

9 (1) The governor shall appoint, not subject to section  
10 26-34, Hawaii Revised Statutes:

11 (A) Two state legislators; provided that one shall be  
12 appointed upon the recommendation of the senate  
13 president and one shall be appointed upon the  
14 recommendation of the speaker of the house of  
15 representatives;

16 (B) Two elected officials from any of the counties;  
17 and

18 (C) One resident of the State; and

19 (2) Pursuant to section 26-34, the governor shall appoint:

20 (A) A real estate developer, who shall have a minimum  
21 of ten years of experience in the field;



1 (B) A real estate attorney, who shall have a minimum  
2 of ten years of experience in the field;

3 (C) A planning and zoning professional, who shall  
4 have a minimum of ten years of experience in the  
5 field;

6 (D) A real estate financing and banking professional,  
7 who shall have a minimum of ten years of  
8 experience in the field;

9 (E) An economist, who shall have a minimum of ten  
10 years of experience in the field; and

11 (F) The director of a nonprofit corporation dealing  
12 with housing issues, who shall have a minimum of  
13 ten years of experience in the field.

14 (c) The task force shall submit to the governor and the  
15 legislature its report, along with any proposed legislation, not  
16 later than twenty days prior to the opening of the 2008 regular  
17 session. The report shall include:

18 (1) An estimate of the existing and potential supply of  
19 all categories of affordable housing within that  
20 State; and

21 (2) An estimate of the existing and potential demand for  
22 all categories of affordable housing within the State.



1 SECTION 13. **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 a grant-in-aid to a  
6 county with at least 750,000 residents for contracting planners  
7 and engineers to expedite the processing and review of  
8 applications for the approval of proposed eligible projects and  
9 issuance of grading, building, and other ministerial permits for  
10 approved eligible projects. The Hawaii housing finance and  
11 development corporation shall establish a procedure for  
12 reimbursing the county for the cost of such contracted  
13 personnel. The grant-in-aid may also be used for the planning,  
14 design, and construction of offsite infrastructure to serve  
15 eligible projects constructed under this Act.

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

19 SECTION 14. There is appropriated out of the general  
20 revenues of the State of Hawaii the sum of \$ or so  
21 much thereof as may be necessary for fiscal year 2007-2008 and  
22 the same sum or so much thereof as may be necessary for fiscal



1 year 2008-2009 for the purpose of subsidizing up per cent  
2 of any applicable county demanded impact fees resulting from the  
3 implementation of this Act.

4 The sums appropriated shall be expended by the department  
5 of budget and finance for the purpose of this Act.

6 SECTION 15. **Appropriation to Hawaii housing finance and**  
7 **development corporation.** There is appropriated out of the  
8 general revenues of the State of Hawaii the sum of \$1 or so much  
9 thereof as may be necessary for fiscal year 2007-2008 and the  
10 same sum or so much thereof as may be necessary for fiscal year  
11 2008-2009 for the implementation of this Act by the Hawaii  
12 housing finance and development corporation.

13 The sums appropriated shall be expended by the Hawaii  
14 housing finance and development corporation for the purpose of  
15 this Act.

16 SECTION 16. **Effective date and repeal.** This Act shall  
17 take effect on July 1, 2550, and shall be repealed on December  
18 31, 2012; provided that:

19 (1) The repeal shall not affect the validity of any  
20 regulatory agreement entered into by a developer of an  
21 eligible project with the corporation or a county;



- 1           (2) The repeal shall not affect any application for review  
2           and approval of a proposed eligible project under  
3           section 3 or 4 that is pending on December 31, 2012.  
4           Such an application shall remain subject to this Act  
5           until decided. If the eligible project is approved,  
6           the review and issuance of the grading, building, and  
7           other county ministerial permits and the certificate  
8           of occupancy shall be subject to this Act; and
- 9           (3) The repeal shall not affect any grading, building, or  
10          other ministerial permit application for an approved  
11          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, the Hawaii housing finance and development corporation may review and make a decision on the proposed project. Makes the provisions applicable only to a county with at least 750,000 residents for a four-year period. Appropriates funds. (SD1)

