

---

---

# 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 seven hundred fifty  
5 thousand residents.

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

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

11 (1) Makes available for its entire useful life at least  
12 per cent of its dwelling units for rent to  
13 families whose incomes do not exceed eighty per cent  
14 of the county median income;

15 (2) Charges rent for every rental unit that does not  
16 exceed the maximum amount set by the corporation;

17 (3) Has at least rental units but not more than  
18 allowed by applicable zoning laws;



- 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 original project  
18 and complies 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 in  
6 section 206E-32; Kalaeloa community development district in  
7 section 206E-193; and Aloha Tower complex in 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 any  
10 dwelling unit in an eligible project that may be occupied by one  
11 or more resident managers or caretakers.

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 seven**  
2 **hundred fifty thousand residents.** This Act shall only apply in  
3 a county with at least seven hundred fifty thousand 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) Provide notice regarding the proposed project to the  
16 neighborhood board of the area in which the project is  
17 to be located; and

18 (2) If the proposed project is to be within a special  
19 management area or shoreline setback area, obtain any  
20 necessary special management area use permit,  
21 shoreline setback variance, or other approval required



1 under parts II or III of chapter 205A, Hawaii Revised  
2 Statutes.

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

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

13 This section shall not exempt a proposed eligible project  
14 from complying with:

15 (1) The county's building code, fire code, or other  
16 ordinance or rule establishing minimum health and  
17 safety requirements;

18 (2) Structure height limit of the underlying county  
19 zoning; or

20 (3) Any applicable requirement under chapters 174, 342B to  
21 342H, 342J, 342L, or 342P, Hawaii Revised Statutes.



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

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

14 No later than ninety days from receipt of the application,  
15 the county department shall submit to the county council the  
16 preliminary plans and specifications, along with a  
17 recommendation of approval or disapproval of the proposed  
18 project. If the developer has agreed to a revision of the  
19 preliminary plans and specifications, the county department  
20 shall submit the revised preliminary plans and specifications.  
21 If the developer has not agreed to any revision, the county



1 department shall submit the preliminary plans and specifications  
2 in the form submitted with the application.

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

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

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

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

19 (g) Upon approval by the county council of the eligible  
20 project, the preliminary plans and specifications, with the  
21 requested exemptions, shall be deemed the final plans and  
22 specifications. The final plans and specifications shall



1 constitute the planning, zoning, construction, and subdivision  
2 standards for the project.

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

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

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 4. **Eligible project; Hawaii housing finance and**  
21 **development corporation jurisdiction.** (a) The developer of a  
22 proposed eligible project that is forfeited to the jurisdiction



1 of the corporation pursuant to section 3(d) or (e) may apply to  
2 the corporation for approval of the proposed project. The  
3 application shall be accompanied by the preliminary plans and  
4 specifications for the proposed project and a reasonable fee set  
5 by the corporation.

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

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

18 For the purpose of any state law or county ordinance, the  
19 relevant county officer may certify maps and plans of the land  
20 on which the project is situated as having complied with  
21 applicable laws and ordinances relating to consolidation or  
22 subdivision of land. If the relevant county officer refuses or



1 fails to certify the maps or plans within a reasonable time as  
2 determined by the corporation, the corporation's executive  
3 director may perform the duty. The certified maps and plans  
4 shall be accepted for registration or recordation by the land  
5 court and bureau of conveyances.

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

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

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

17 **SECTION 5. Required connection of approved eligible**  
18 **project to county infrastructure; required acceptance of offsite**  
19 **infrastructure constructed to county standards.** (a) If an  
20 eligible project is approved by the county under section 3 or  
21 the corporation under section 4, the county shall allow the  
22 project to connect to county-owned infrastructure, including



1 water, wastewater, drainage, and highway systems, upon the  
2 payment of any applicable connection fee that may be charged by  
3 the county.

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

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

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

19 SECTION 7. **Eligible project on public non-ceded land; set**  
20 **aside to corporation, nominal lease rent.** If an approved  
21 eligible project is to be developed on public non-ceded land,  
22 the land shall be set aside to the corporation without the



1 approval of the board of land and natural resources as required  
2 by section 171-11, Hawaii Revised Statutes. The corporation  
3 shall make the land available to the developer of the eligible  
4 project at a lease rent of \$1 per year for the useful life of  
5 the project.

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

14 SECTION 9. **Regulatory agreement with developer of eligible**  
15 **project.** (a) The developer of an eligible project approved by  
16 the county council under section 3 or the corporation under  
17 section 4 shall enter into a regulatory agreement with the  
18 corporation before the developer commences any work at the site  
19 of the project. The regulatory agreement shall set forth the  
20 obligations and responsibilities of the developer with respect  
21 to the project and shall be consistent with this Act. The  
22 regulatory agreement shall include penalties that may be imposed



1 on the developer of the eligible project for failure to comply  
2 with the regulatory agreement. The regulatory agreement shall  
3 run with the land on which the eligible project is situated and  
4 shall be binding upon the developer and any subsequent owner.

5 The corporation shall monitor and enforce the terms and  
6 conditions of the regulatory agreement.

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

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

17 SECTION 11. **Act superior to conflicting law.** This Act  
18 shall be superior to any conflicting law, except any collective  
19 bargaining or labor protection law or any law that protects  
20 against adverse effects to health, safety, and the environment.

21 SECTION 12. **Task force.** (a) There is created an  
22 affordable housing inventory advisory task force to be placed



1 within the Hawaii housing finance and development corporation  
2 for administrative purposes.

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

5 (1) The governor shall appoint, not subject to section  
6 26-34, Hawaii Revised Statutes:

7 (A) Two state legislators; provided that one shall be  
8 appointed upon the recommendation of the senate  
9 president and one shall be appointed upon the  
10 recommendation of the speaker of the house of  
11 representatives;

12 (B) Two elected officials from any of the counties;  
13 and

14 (C) One resident of the State; and

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

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

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

20 (C) A planning and zoning professional, who shall  
21 have a minimum of ten years of experience in the  
22 field;



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

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

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

9 (c) The task force shall submit to the governor and the  
10 legislature a report, along with any proposed legislation, not  
11 later than twenty days prior to the opening of the 2008 regular  
12 session. The report shall include:

13 (1) An estimate of the existing and potential supply of  
14 all categories of affordable housing within the State;  
15 and

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

18 SECTION 13. **Appropriation to county.** There is  
19 appropriated out of the general revenues of the State of Hawaii  
20 the sum of \$1 or so much thereof as may be necessary for fiscal  
21 year 2007-2008 and the same sum or so much thereof as may be  
22 necessary for fiscal year 2008-2009 for a grant-in-aid to a



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

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

14 SECTION 14. There is appropriated out of the general  
 15 revenues of the State of Hawaii the sum of \$ or so  
 16 much thereof as may be necessary for fiscal year 2007-2008 and  
 17 the same sum or so much thereof as may be necessary for fiscal  
 18 year 2008-2009 for the purpose of subsidizing per cent of  
 19 any applicable county demanded impact fees resulting from the  
 20 implementation of this Act.

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



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

8           The sums appropriated shall be expended by the Hawaii  
9 housing finance and development corporation for the purpose of  
10 this Act.

11          SECTION 16. **Effective date and repeal.** This Act shall  
12 take effect on July 1, 2550, and shall be repealed on December  
13 31, 2012; provided that:

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

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

20           Such an application shall remain subject to this Act  
21 until decided. If the eligible project is approved,  
22 the review and issuance of the grading, building, and



1 other county ministerial permits and the certificate  
2 of occupancy shall be subject to this Act; and  
3 (3) The repeal shall not affect any grading, building, or  
4 other ministerial permit application for an approved  
5 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. (SD2)

