
A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. The legislature finds that whatever form of
2 mass transit that is adopted by the city and county of Honolulu
3 will have an impact reaching far beyond transportation issues
4 alone. Development of a new transportation system provides the
5 State and the city and county of Honolulu the opportunity to
6 maximize affordable housing facilities, and add to and improve
7 care of the elderly and related public functions as mass transit
8 development is planned between west Oahu and the University of
9 Hawaii at Manoa.

10 The legislature further finds that in areas with a
11 higher-than-average senior citizen population, which also lack
12 adequate long-term care facilities, there is an opportunity to
13 meet the objective of "aging-in-place" through creative
14 distribution of services, for example, aggregating services for
15 condominium building residents in close proximity to one
16 another, etc.



1 In areas with limited recreational spaces and facilities
2 for young people, public, private, and non-profit partnerships
3 can stimulate development of additional services, programs, and
4 facilities to serve at-risk youth, families with special needs,
5 and others, in a school, park, or church setting.

6 The purpose of this Act is to provide the means for the
7 State and the city and county of Honolulu to meet the needs for
8 affordable housing, care for the elderly, and services to
9 Hawaii's disadvantaged, which will be available as a result of
10 mixed-use transit-oriented joint development project
11 opportunities.

12 SECTION 2. Section 46-15.1, Hawaii Revised Statutes, is
13 amended by amending subsection (a) to read as follows:

14 "(a) Any law to the contrary notwithstanding, any county
15 shall have and may exercise the same powers, subject to
16 applicable limitations, as those granted the Hawaii housing
17 finance and development corporation pursuant to chapter 201H
18 insofar as those powers may be reasonably construed to be
19 exercisable by a county for the purpose of developing,
20 constructing, and providing low- and moderate-income housing;
21 provided that no county shall be empowered to cause the State to
22 issue general obligation bonds to finance a project pursuant to



1 this section; provided further that county projects shall be
2 granted an exemption from general excise or receipts taxes in
3 the same manner as projects of the Hawaii housing finance and
4 development corporation pursuant to section 201H-36; except that
5 no county shall be empowered to grant an exemption for a mixed-
6 use transit-oriented joint development project as defined in
7 section 201H-36(c); and provided further that section 201H-16
8 shall not apply to this section unless federal guidelines
9 specifically provide local governments with that authorization
10 and the authorization does not conflict with any state laws.
11 The powers shall include the power, subject to applicable
12 limitations, to:

- 13 (1) Develop and construct dwelling units, alone or in
14 partnership with developers;
- 15 (2) Acquire necessary land by lease, purchase, exchange,
16 or eminent domain;
- 17 (3) Provide assistance and aid to a public agency or other
18 person in developing and constructing new housing and
19 rehabilitating existing housing for elders of low- and
20 moderate-income, other persons of low- and moderate-
21 income, and persons displaced by any governmental



- 1 action, by making long-term mortgage or interim
2 construction loans available;
- 3 (4) Contract with any eligible bidders to provide for
4 construction of urgently needed housing for persons of
5 low- and moderate-income;
- 6 (5) Guarantee the top twenty-five per cent of the
7 principal balance of real property mortgage loans,
8 plus interest thereon, made to qualified borrowers by
9 qualified lenders;
- 10 (6) Enter into mortgage guarantee agreements with
11 appropriate officials of any agency or instrumentality
12 of the United States to induce those officials to
13 commit to insure or to insure mortgages under the
14 National Housing Act, as amended;
- 15 (7) Make a direct loan to any qualified buyer for the
16 downpayment required by a private lender to be made by
17 the borrower as a condition of obtaining a loan from
18 the private lender in the purchase of residential
19 property;
- 20 (8) Provide funds for a share, not to exceed fifty per
21 cent, of the principal amount of a loan made to a
22 qualified borrower by a private lender who is unable



1 otherwise to lend the borrower sufficient funds at
2 reasonable rates in the purchase of residential
3 property; and

4 (9) Sell or lease completed dwelling units.

5 For purposes of this section, a limitation is applicable to
6 the extent that it may reasonably be construed to apply to a
7 county."

8 SECTION 3. Section 201H-36, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "[~~f~~]**§201H-36**[~~}]~~ **Exemption from general excise taxes.** (a)

11 In accordance with section 237-29, the corporation may approve
12 and certify for exemption from general excise taxes any
13 qualified person or firm involved with a newly constructed, or
14 moderately or substantially rehabilitated project:

15 (1) Developed under this part;

16 (2) Developed under a government assistance program
17 approved by the corporation, including but not limited
18 to the United States Department of Agriculture 502
19 program and Federal Housing Administration 235
20 program;

21 (3) Developed under the sponsorship of a private nonprofit
22 organization providing home rehabilitation or new



- 1 homes for qualified families in need of decent, low-
2 cost housing; [e]
- 3 (4) Developed by a qualified person or firm to provide
4 affordable rental housing where at least fifty per
5 cent of the available units are for households with
6 incomes at or below eighty per cent of the area median
7 family income as determined by the United States
8 Department of Housing and Urban Development, of which
9 at least twenty per cent of the available units are
10 for households with incomes at or below sixty per cent
11 of the area median family income as determined by the
12 United States Department of Housing and Urban
13 Development[-];
- 14 Developed by a qualified person or firm to provide
15 affordable rental housing units within a mixed-use
16 transit-oriented joint development project approved by
17 the corporation; or
- 18 (6) Developed by a qualified person or firm to provide a
19 community health care facility within a mixed-use
20 transit-oriented joint development project approved by
21 the corporation.



1 (b) All claims for exemption under this section shall be
2 filed with and certified by the corporation and forwarded to the
3 department of taxation. Any claim for exemption that is filed
4 and approved[7] shall not be considered a subsidy for the
5 purpose of this part.

6 (c) For the purposes of this section:

7 "Community health care facility" means a health care
8 facility as defined in section 323D-2, that is leased or sold to
9 a person who is controlled by:

10 (1) A person who has received recognition of tax exempt
11 status or who is a subordinate person of a person who
12 has received a group exemption letter under Section
13 501(c)(3) of the Internal Revenue Code of 1986, as
14 amended;

15 (2) The State;

16 (3) Any political subdivision of the State;

17 (4) A county;

18 (5) A state agency or any instrumentality of the State; or

19 (6) A county agency or any instrumentality of a county.

20 "Mixed-use transit-oriented joint development project"

21 means a transit-oriented joint development project that:



- 1 (1) Combines residential development with any combination
2 of commercial and industrial development, including
3 the development of community health care facilities;
4 and
5 (2) Is approved by the county in which the project is
6 located.

7 "Moderate rehabilitation" means rehabilitation to upgrade a
8 dwelling unit to a decent, safe, and sanitary condition, or to
9 repair or replace major building systems or components in danger
10 of failure.

11 "Substantial rehabilitation":

- 12 (1) Means the improvement of a property to a decent, safe,
13 and sanitary condition that requires more than routine
14 or minor repairs or improvements. It may include but
15 is not limited to the gutting and extensive
16 reconstruction of a dwelling unit, or cosmetic
17 improvements coupled with the curing of a substantial
18 accumulation of deferred maintenance; and
19 (2) Includes renovation, alteration, or remodeling to
20 convert or adapt structurally sound property to the
21 design and condition required for a specific use, such
22 as conversion of a hotel to housing for elders.



1 (d) The corporation may establish, revise, charge, and
2 collect a reasonable service fee, as necessary, in connection
3 with its approvals and certifications under this section. The
4 fees shall be deposited into the dwelling unit revolving fund."

5 SECTION 4. Section 237-8.6, Hawaii Revised Statutes, is
6 amended by amending subsection (d) to read as follows:

7 "(d) No county surcharge on state tax shall be established
8 on any:

9 (1) Gross income or gross proceeds taxable under this
10 chapter at the one-half per cent tax rate;

11 (2) Gross income or gross proceeds taxable under this
12 chapter at the 0.15 per cent tax rate; or

13 (3) Transactions, amounts, persons, gross income, or gross
14 proceeds exempt from tax under this chapter[~~+~~];

15 provided that the surcharge on state tax shall be

16 assessed, levied, and collected on transactions,

17 amounts, persons, gross income, or gross proceeds

18 exempted under section 237-29 pursuant to section

19 201H-36(a)(5) and (6)."

20 SECTION 5. Section 237-29, Hawaii Revised Statutes, is

21 amended by amending its title and subsection (a) to read as

22 follows:



1 "§237-29 Exemptions for certified or approved housing or
2 community health care facility projects. (a) All gross income
3 received by any qualified person or firm for the planning,
4 design, financing, construction, sale, or lease in the State of
5 a housing or community health care facility project that has
6 been certified or approved under section 201H-36 shall be exempt
7 from general excise taxes."

8 SECTION 6. Section 238-2.6, Hawaii Revised Statutes, is
9 amended by amending subsection (c) to read as follows:

10 "(c) No county surcharge on state tax shall be established
11 upon any use taxable under this chapter at the one-half per cent
12 tax rate or upon any use that is not subject to taxation or that
13 is exempt from taxation under this chapter~~(-)~~; provided that the
14 surcharge on state tax shall be levied on the use of property,
15 services, or contracting that is not subject to taxation under
16 section 238-3(j) as a result of an exemption under section
17 237-29 pursuant to section 201H-36(a) (5) and (6)."

18 SECTION 9. It is the intent of the legislature that in
19 adopting rules pursuant to section 237-29(c), Hawaii Revised
20 Statutes, for the purpose of this Act, the director of taxation
21 and the Hawaii housing finance and development corporation shall
22 consult with the director of health and representatives of any



1 interested county in an effort to streamline the approval
2 process for mixed-use transit-oriented joint development
3 projects and maximize the coordination among federal, state, and
4 county governments with respect to the projects.

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

7 SECTION 9. This Act, upon its approval, shall apply to
8 taxable years beginning after December 31, 2007.



Report Title:

Taxation; County Authority; GET Exemptions; Fixed Guideway
Transportation System; Affordable Rental Housing; Community
Health Care Facility

Description:

Specifies that a county shall not grant an exemption from GET or receipt taxes for a mixed-use transit-oriented joint development project; exempts from GET a project developed to provide affordable rental housing or a community health care facility within a mixed-use transit-oriented joint development project.
(SB3165 SD2)

