
A BILL FOR AN ACT

RELATING TO AFFORDABLE HOUSING.

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

1 PART I

2 SECTION 1. The legislature finds that the shortage of
3 safe, decent, and sanitary housing has been a persistent problem
4 in Hawaii for decades. Almost 50 years ago, in 1970, the Hawaii
5 state legislature recognized the need to address the severe
6 shortfall of affordable housing and passed H.B. No. 397, as
7 amended, which was enacted into law as Act 105, Session Laws of
8 Hawaii 1970, and codified as chapter 359A, Hawaii Revised
9 Statutes. This enabling legislation expanded the powers of the
10 then Hawaii Housing Authority to provide for-sale affordable
11 housing units to the general public, in addition to providing
12 affordable rental housing units. This legislation was the
13 predecessor to what is today known as the Hawaii housing finance
14 and development corporation.

15 In Act 105, the legislature noted "a critical shortage of
16 housing units for lower and middle income residents" and
17 emphasized the importance of affordable housing to the fabric of



1 society. Act 105 also cited studies indicating that the high
2 cost of housing is the result of multiple factors, including
3 "the cost and availability of land, the cost of development, the
4 cost and availability of financing, the cost added by government
5 regulation, the cost and availability of labor and materials,
6 the inflationary state of the economy", and "conflicting
7 priorities in our pluralistic society".

8 The legislature further finds that, almost a half century
9 after Act 105, the shortage of affordable housing still exists
10 and has grown to crisis proportions. With the limited amount of
11 developable land and the lack of needed infrastructure, we find
12 median prices for single family homes on Oahu hovering at around
13 \$750,000. Recent studies show a need for 60,000 housing units
14 by the year 2020. It is necessary, therefore, for the
15 legislature to take steps to preserve existing affordable
16 housing units for as long as possible. This has not been the
17 case in recent years relative to government-assisted or mandated
18 affordable housing units. Because of the lack of financial or
19 other resources, government agencies have often opted to waive
20 their right of first refusal to repurchase housing units that
21 are sold within the designated restriction period.



1 The intent of this Act is to create a pool of affordable
2 housing units that will remain permanently affordable through
3 the purchase and management of the units by the housing trust.

4 The purpose of this Act is to:

5 (1) Authorize the Hawaii community development authority
6 to waive a right to repurchase a reserved or workforce
7 unit and transfer the right of repurchase to a
8 qualified nonprofit housing trust;

9 (2) Authorize the counties to waive their right of first
10 refusal to repurchase certain privately-developed
11 affordable housing units and transfer that right of
12 repurchase to a qualified nonprofit housing trust;

13 (3) Authorize the Hawaii housing finance and development
14 corporation to waive its first option to repurchase
15 certain real property and transfer the right of
16 repurchase to a qualified nonprofit housing trust;

17 (4) Amend the means of calculating the maximum price for
18 the Hawaii housing finance and development
19 corporation's first option to purchase real property;

20 (5) Amend the low-income housing tax credit so that
21 federal at-risk rules, deductions limited to amount at



1 risk, and passive activity loss limitations do not
2 apply relative to investments in buildings and
3 projects claiming credit; and

4 (6) Appropriate funds to establish one full-time
5 equivalent (1.00 FTE) position to oversee the low-
6 income housing tax credit.

7 PART II

8 SECTION 2. Chapter 206E, Hawaii Revised Statutes, is
9 amended by adding a new section to be appropriately designated
10 and to read as follows:

11 "§206E- Reserved and workforce housing units; transfer
12 to qualified nonprofit housing trust. (a) Notwithstanding any
13 law to the contrary, the authority may authorize a designated
14 qualified nonprofit housing trust to administer the covenants
15 and rules related to the reserved housing and workforce housing
16 programs. Additionally, the authority may waive its right to
17 repurchase a reserved or workforce housing unit during the
18 restriction period and may transfer that right of repurchase to
19 a qualified nonprofit housing trust for the purpose of
20 maintaining the reserved or workforce housing unit as an
21 affordable housing unit. If the repurchase rights are



1 transferred to a qualified nonprofit housing trust, the
 2 restrictions prescribed in this chapter or in rules adopted by
 3 the authority shall be automatically extinguished and shall not
 4 attach in subsequent transfers of title; provided further that
 5 the qualified nonprofit housing trust shall establish new
 6 buyback restrictions for the purpose of maintaining the unit as
 7 affordable for as long as practicable, or as otherwise required
 8 by the authority.

9 (b) A qualified nonprofit housing trust shall report the
 10 status and use of its housing units to the authority by November
 11 30 of each calendar year."

12 SECTION 3. Section 46-15.1, Hawaii Revised Statutes, is
 13 amended to read as follows:

14 "§46-15.1 Housing; county powers. (a) [Any]
 15 Notwithstanding any law to the contrary [notwithstanding], any
 16 county shall have and may exercise the same powers, subject to
 17 applicable limitations, as those granted the Hawaii housing
 18 finance and development corporation pursuant to chapter 201H
 19 insofar as those powers may be reasonably construed to be
 20 exercisable by a county for the purpose of developing,
 21 constructing, and providing low- and moderate-income housing;



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

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



1 qualified borrower by a private lender who is unable
2 otherwise to lend the borrower sufficient funds at
3 reasonable rates in the purchase of residential
4 property; and

5 (9) Sell or lease completed dwelling units.

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

9 (b) Each county shall recognize housing units developed by
10 the department of Hawaiian home lands and issue affordable
11 housing credits to the department of Hawaiian home lands. The
12 credits shall be transferable and shall be issued on a one-
13 credit for one-unit basis, unless the housing unit is eligible
14 for additional credits as provided by adopted county ordinances,
15 rules, or any memoranda of agreement between a county and the
16 department of Hawaiian home lands. In the event that credits
17 are transferred by the department of Hawaiian home lands,
18 twenty-five per cent of any monetary proceeds from the transfer
19 shall be used by the department of Hawaiian home lands to
20 develop units for rental properties. Credits shall be issued
21 for each single-family residence, multi-family unit, other



1 residential unit, whether for purposes of sale or rental, or if
2 allowed under the county's affordable housing programs, vacant
3 lot, developed by the department of Hawaiian home lands. The
4 credits may be applied county-wide within the same county in
5 which the credits were earned to satisfy affordable housing
6 obligations imposed by the county on market-priced residential
7 and non-residential developments. County-wide or project-
8 specific requirements for housing class, use, or type; or
9 construction time for affordable housing units shall not impair,
10 restrict, or condition the county's obligation to apply the
11 credits in full satisfaction of all county requirements, whether
12 by rule, ordinance, or particular zoning conditions of a
13 project. Notwithstanding any provisions herein to the contrary,
14 the department may enter into a memorandum of agreement with the
15 county of Kauai to establish, modify, or clarify the conditions
16 for the issuance, transfer, and redemption of the affordable
17 housing credits in accordance with county affordable housing
18 ordinances or rules. Notwithstanding any provisions herein to
19 the contrary, the department may enter into a memorandum of
20 agreement with the city and county of Honolulu to establish,
21 modify, or clarify the conditions for the issuance, transfer,



1 and redemption of the affordable housing credits in accordance
2 with county affordable housing ordinances or rules. At least
3 half of the affordable housing credits issued by the city and
4 county of Honolulu shall be subject to a memorandum of agreement
5 pursuant to this subsection.

6 For purposes of this section, "affordable housing
7 obligation" means the requirement imposed by a county,
8 regardless of the date of its imposition, to develop vacant
9 lots, single-family residences, multi-family residences, or any
10 other type of residence for sale or rent to individuals within a
11 specified income range.

12 (c) [~~Any~~] Notwithstanding any law to the contrary
13 [~~notwithstanding~~], any county may:

14 (1) Authorize and issue bonds under chapter 47 and chapter
15 49 to provide moneys to carry out the purposes of this
16 section or section 46-15.2, including the satisfaction
17 of any guarantees made by the county pursuant to this
18 section;

19 (2) Appropriate moneys of the county to carry out the
20 purposes of this section;



- 1 (3) Obtain insurance and guarantees from the State or the
2 United States, or grants from either;
- 3 (4) Designate, after holding a public hearing on the
4 matter and with the approval of the respective
5 council, any lands owned by it for the purposes of
6 this section;
- 7 (5) Provide interim construction loans to partnerships of
8 which it is a partner and to developers whose projects
9 qualify for federally assisted project mortgage
10 insurance, or other similar programs of federal
11 assistance for persons of low and moderate income; and
- 12 (6) Adopt rules pursuant to chapter 91 as are necessary to
13 carry out the purposes of this section.
- 14 (d) Notwithstanding any law to the contrary, a county may
15 waive its right to repurchase a privately-developed affordable
16 housing unit built pursuant to a unilateral agreement or similar
17 instrument, and may transfer that right of repurchase to a
18 qualified nonprofit housing trust for the purpose of maintaining
19 the unit as affordable for as long as required by the county
20 program.



1 For the purposes of this subsection, "qualified nonprofit
2 housing trust" means a corporation, association, or other duly
3 chartered organization that is registered and in good standing
4 with the State; that is recognized by the Internal Revenue
5 Service as a charitable or otherwise tax-exempt organization
6 under section 501(c)(3) of the Internal Revenue Code of 1986, as
7 amended; and that has the capacity, resources, and mission to
8 carry out the purposes of this section as determined by the
9 county in which the housing unit is located.

10 (e) A qualified nonprofit housing trust shall report the
11 status and use of its housing units to its respective county by
12 November 30 of each calendar year.

13 [~~(d)~~] (f) The provisions of this section shall be construed
14 liberally so as to effectuate the purpose of this section in
15 facilitating the development, construction, and provision of
16 low- and moderate-income housing by the various counties.

17 [~~(e)~~] (g) For purposes of this section, "low and moderate
18 income housing" means any housing project that meets the
19 definition of "low- and moderate-income housing project" in
20 section 39A-281."



1 SECTION 4. Section 201H-1, Hawaii Revised Statutes, is
2 amended by adding a new definition to be appropriately inserted
3 and to read as follows:

4 "Qualified nonprofit housing trust" means a corporation,
5 association, or other duly chartered organization that is
6 registered and in good standing with the State; is recognized by
7 the Internal Revenue Service as a charitable or otherwise tax-
8 exempt organization under section 501(c)(3) of the Internal
9 Revenue Code of 1986, as amended; and has the capacity,
10 resources, and mission to carry out the purposes of this chapter
11 as determined by the corporation."

12 SECTION 5. Section 206E-2, Hawaii Revised Statutes, is
13 amended by adding three new definitions to be appropriately
14 inserted and to read as follows:

15 "Qualified nonprofit housing trust" means a corporation,
16 association, or other duly chartered organization that is
17 registered and in good standing with the State; is recognized by
18 the Internal Revenue Service as a charitable or otherwise tax-
19 exempt organization under section 501(c)(3) of the Internal
20 Revenue Code of 1986, as amended; and has the capacity and
21 resources as determined by the authority to carry out the



1 requirements of the reserved housing and workforce housing
2 programs.

3 "Reserved housing" means housing designated for residents
4 in the low-income or moderate-income ranges who meet such
5 eligibility requirements as the authority may adopt by rule.

6 "Workforce housing" means new residential projects where at
7 least seventy-five per cent of the residential units are set
8 aside for purchase or rent for residents in the low-income or
9 moderate-income ranges who meet such eligibility requirements as
10 the authority may adopt by rules and that do not require
11 financial assistance for design and construction from federal,
12 state, or county government agencies."

13 SECTION 6. Section 201H-47, Hawaii Revised Statutes, is
14 amended to read as follows:

15 **"§201H-47 Real property; restrictions on transfer; waiver**
16 **of restrictions.** (a) The following restrictions shall apply to
17 the transfer of real property developed and sold under this
18 chapter, whether in fee simple or leasehold:

19 (1) For a period of ten years after the purchase, whether
20 by lease, assignment of lease, deed, or agreement of
21 sale, if the purchaser wishes to transfer title to the



1 real property, the corporation shall have the first
2 option to purchase the real property at a price that
3 shall not exceed the sum of:

4 (A) The original cost to the purchaser, as defined in
5 rules adopted by the corporation;

6 (B) The cost of any improvements added by the
7 purchaser, as defined in rules adopted by the
8 corporation; [~~and~~]

9 (C) Simple interest on the original cost and capital
10 improvements to the purchaser at the rate of one
11 per cent a year; and

12 (D) The corporation's share of net appreciation in
13 the real property, as determined under rules
14 adopted pursuant to chapter 91, when applicable;

15 (2) The corporation may purchase the real property either:

16 (A) By conveyance free and clear of all mortgages and
17 liens; or

18 (B) By conveyance subject to existing mortgages and
19 liens.

20 If the real property is conveyed in the manner
21 provided in subparagraph (A), it shall be conveyed to



1 the corporation only after all mortgages and liens are
2 released. If the real property is conveyed in the
3 manner provided in subparagraph (B), the corporation
4 shall acquire the property subject to any first
5 mortgage created for the purpose of securing the
6 payment of a loan of funds expended solely for the
7 purchase of the real property by the seller; and any
8 mortgage or lien created for any other purpose
9 provided that the corporation has previously consented
10 to it in writing.

11 The corporation's interest created by this
12 section shall constitute a statutory lien on the real
13 property and shall be superior to any other mortgage
14 or lien except for:

15 (i) Any first mortgage created for the purpose
16 of securing the payment of a loan of funds
17 expended solely for the purchase of the real
18 property by the seller;

19 (ii) Any mortgage insured or held by a federal
20 housing agency; and



1 (iii) Any mortgage or lien created for any other
 2 purpose; provided that the corporation has
 3 previously consented to it in writing.

4 The amount paid by the corporation to the seller shall
 5 be the difference,, if any, between the purchase price
 6 determined by paragraph (1) (A) to (C), and the total
 7 of the outstanding principal balances of the mortgages
 8 and liens assumed by the corporation;

9 (3) A purchaser may refinance real property developed and
 10 sold under this chapter; provided that the purchaser
 11 shall not refinance the real property within ten years
 12 from the date of purchase for an amount in excess of
 13 the purchase price as determined by paragraph (1) (A)
 14 to (C); provided further that the purchaser shall
 15 obtain the corporation's written consent if any
 16 restriction on the transfer of the real property
 17 remains applicable;

18 (4) After the end of the tenth year from the date of
 19 initial purchase or execution of an agreement of sale,
 20 the purchaser may sell the real property and sell or
 21 assign the property free from any price restrictions;



1 provided that the purchaser shall be required to pay
2 to the corporation the sum of:

3 (A) The balance of any mortgage note, agreement of
4 sale, or other amount owing to the corporation;

5 (B) Any subsidy or deferred sales price made by the
6 corporation in the acquisition, development,
7 construction, and sale of the real property, and
8 any other amount expended by the corporation not
9 counted as costs under section 201H-45 but
10 charged to the real property by good accounting
11 practice as determined by the corporation whose
12 books shall be prima facie evidence of the
13 correctness of the costs;

14 (C) Interest on the subsidy or deferred sales price,
15 if applicable, and any other amount expended at
16 the rate of seven per cent a year computed as to
17 the subsidy or deferred sales price, if
18 applicable, from the date of purchase or
19 execution of the agreement of sale, and as to any
20 amount expended, from the date of expenditure;
21 provided that the computed interest shall not



1 extend beyond thirty years from the date of
2 purchase or execution of the agreement of sale of
3 the real property. If any proposed sale or
4 transfer will not generate an amount sufficient
5 to pay the corporation the sum as computed under
6 this paragraph, the corporation shall have the
7 first option to purchase the real property at a
8 price that shall not exceed the sum as computed
9 under paragraphs (1) and (2); and

10 (D) The corporation's share of appreciation in the
11 real property as determined under rules adopted
12 pursuant to chapter 91, when applicable;

13 (5) Notwithstanding any provision in this section to the
14 contrary, pursuant to rules adopted by the
15 corporation, the subsidy or deferred sales price
16 described in paragraph (4) (B) and any interest accrued
17 pursuant to paragraph (4) (C) may be paid, in part or
18 in full, at any time; and

19 (6) Notwithstanding any provision in this section to the
20 contrary, the corporation's share of appreciation in
21 the real property described in paragraph (4) (D) :



1 (A) Shall apply when the sales price of the real
 2 property that is developed and sold under this
 3 chapter is less than the then-current,
 4 unencumbered, fair market value of the real
 5 property as determined by a real property
 6 appraisal obtained prior to the closing of the
 7 sale;

8 (B) Shall be a restriction that runs with the land
 9 until it is paid in full and released by the
 10 corporation, or extinguished pursuant to
 11 subsection ~~[(e)+]~~ (f); and

12 (C) May be paid, in part or in full, at any time
 13 after recordation of the sale.

14 (b) If the corporation waives its first option to
 15 repurchase the real property provided in subsection (a), a
 16 qualified nonprofit housing trust shall have the option to
 17 purchase the real property at the price and in the manner set
 18 forth in subsection (a).

19 ~~[(b)+]~~ (c) For a period of ten years after the purchase,
 20 whether by lease, assignment of lease, deed, or agreement of
 21 sale, if the purchaser wishes to transfer title to the real



1 property, and if the corporation or the qualified nonprofit
2 housing trust selected by the corporation does not exercise the
3 option to purchase the real property as provided in subsection
4 (a) [~~7~~] or (b) within a reasonable amount of time, then the
5 corporation shall require the purchaser to sell the real
6 property to a "qualified resident" as defined in section 201H-
7 32, and upon the terms that preserve the intent of this section
8 and sections 201H-49 and 201H-50, and in accordance with rules
9 adopted by the corporation.

10 [~~e~~] (d) The corporation may waive the restrictions
11 prescribed in [~~subsection~~] subsections (a) [~~or (b)~~] through (c)
12 if:

- 13 (1) The purchaser wishes to transfer title to the real
14 property by devise or through the laws of descent to a
15 family member who would otherwise qualify under rules
16 established by the corporation;
- 17 (2) The sale or transfer of the real property would be at
18 a price and upon terms that preserve the intent of
19 this section without the necessity of the State
20 repurchasing the real property; provided that, in this
21 case, the purchaser shall sell the real property and



1 sell or assign the real property to a person who is a
2 "qualified resident" as defined in section 201H-32;
3 and provided further that the purchaser shall pay to
4 the corporation its share of appreciation in the real
5 property as determined in rules adopted pursuant to
6 chapter 91, when applicable; or

7 (3) The sale or transfer is of real property subject to a
8 sustainable affordable lease as defined in section
9 516-1.

10 [~~d~~] (e) The corporation may release the restrictions
11 prescribed in [~~subsection~~] subsections (a) [~~or (b)~~] through (c)
12 if the real property is financed under a federally subsidized
13 mortgage program and the restrictions would jeopardize the
14 federal government's ability to recapture any interest credit
15 subsidies provided to the homeowner.

16 [~~e~~] (f) The restrictions prescribed in this section and
17 sections 201H-49 to 201H-51 shall be automatically extinguished
18 and shall not attach in subsequent transfers of title when a
19 qualified nonprofit housing trust becomes the owner of the real
20 property pursuant to subsection (b); or a mortgage holder or
21 other party becomes the owner of the real property pursuant to a



1 mortgage foreclosure, foreclosure under power of sale, or a
2 conveyance in lieu of foreclosure after a foreclosure action is
3 commenced; provided that the mortgage is the initial purchase
4 money mortgage, or that the corporation consented to and agreed
5 to subordinate the restrictions to the mortgage when originated,
6 if the mortgage is not the initial purchase money mortgage; or
7 when a mortgage is assigned to a federal housing agency. Any
8 law to the contrary notwithstanding, a mortgagee under a
9 mortgage covering real property or leasehold interest encumbered
10 by the first option to purchase in favor of the corporation,
11 prior to commencing mortgage foreclosure proceedings, shall
12 notify the corporation in writing of:

- 13 (1) Any default of the mortgagor under the mortgage within
14 ninety days after the occurrence of the default; and
15 (2) Any intention of the mortgagee to foreclose the
16 mortgage under chapter 667 forty-five days prior to
17 commencing mortgage foreclosure proceedings;

18 provided that the mortgagee's failure to provide written notice
19 to the corporation shall not affect the mortgage holder's rights
20 under the mortgage. The corporation shall be a party to any
21 foreclosure action, and shall be entitled to its share of



1 appreciation in the real property as determined under this
 2 chapter in lien priority when the payment is applicable, and if
 3 foreclosure occurs within the ten-year period after the
 4 purchase, the corporation shall also be entitled to all proceeds
 5 remaining in excess of all customary and actual costs and
 6 expenses of transfer pursuant to default, including liens and
 7 encumbrances of record; provided that the person in default
 8 shall be entitled to an amount that shall not exceed the sum of
 9 amounts determined pursuant to subsection (a) (1) (B) and (C).

10 [~~f~~] (g) The provisions of this section shall be
 11 incorporated in any deed, lease, agreement of sale, or any other
 12 instrument of conveyance issued by the corporation. In any sale
 13 by the corporation of real property for which a subsidy or
 14 deferred sales price was made by the corporation, the amount of
 15 the subsidy or deferred sales price described in subsection
 16 (a) (4) (B), a description of the cost items that constitute the
 17 subsidy or deferred sales price, and the conditions of the
 18 subsidy or deferred sales price shall be clearly stated at the
 19 beginning of the contract document issued by the corporation.
 20 In any sale in which the corporation's share of appreciation in
 21 real property is a restriction, the terms of the shared



1 appreciation equity program shall be clearly stated and included
2 as an exhibit in any deed, lease, agreement of sale, or any
3 other instrument of conveyance.

4 ~~[(g)]~~ (h) This section need not apply to market-priced units
5 in an economically integrated housing project, except as
6 otherwise determined by the developer of the units; provided
7 that preference shall be given to qualified residents in the
8 initial sale of market-priced units.

9 ~~[(h)]~~ (i) The corporation is authorized to waive any of the
10 restrictions set forth in this section in order to comply with
11 or conform to requirements set forth in federal law or
12 regulations governing mortgage insurance or guarantee programs
13 or requirements set forth by federally chartered secondary
14 mortgage market participants.

15 (j) Notwithstanding any law to the contrary, if real
16 property is purchased by a qualified nonprofit housing trust
17 pursuant to subsection (b), the housing trust shall establish
18 new buyback restrictions for the purpose of maintaining the unit
19 as affordable for as long as practicable, or as otherwise
20 required by the corporation.



1 with respect to credits that were used to reduce state
2 income taxes [~~and~~

3 ~~(5) Application of at risk rules shall be made under~~
4 ~~section 42(k),~~

5 ~~of the Internal Revenue Code]."~~

6 2. By amending subsection (i) to read:

7 "(i) The credit allowed under this section shall be
8 claimed against net income tax liability for the taxable year.
9 For the purpose of deducting this tax credit, net income tax
10 liability means net income tax liability reduced by all other
11 credits allowed the taxpayer under this chapter.

12 A tax credit under this section that exceeds the taxpayer's
13 income tax liability may be used as a credit against the
14 taxpayer's income tax liability in subsequent years until
15 exhausted. All claims for a tax credit under this section shall
16 be filed on or before the end of the twelfth month following the
17 close of the taxable year for which the credit may be claimed.
18 Failure to properly and timely claim the credit shall constitute
19 a waiver of the right to claim the credit. A taxpayer may claim
20 a credit under this section only if the building or project is a



1 qualified low-income housing building or a qualified low-income
2 housing project under section 42 of the Internal Revenue Code.

3 Section 42(k) (with respect to application of at-risk
4 rules), section 465 (with respect to deductions limited to
5 amount at risk), and section 469 (with respect to passive
6 activity losses and credits limited) of the Internal Revenue
7 Code shall not be applied [in] with respect to investments in
8 buildings and projects claiming the credit under this section."

9 SECTION 8. There is appropriated out of the general
10 revenues of the State of Hawaii the sum of \$ or so much
11 thereof as may be necessary for fiscal year 2017-2018 and the
12 same sum or so much thereof as may be necessary for fiscal year
13 2018-2019 to establish one full-time equivalent (1.00 FTE)
14 position in the Hawaii housing finance and development
15 corporation to oversee the low-income housing tax credit
16 program.

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

20 PART IV



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

3 SECTION 10. This Act does not affect rights and duties
4 that matured, penalties that were incurred, and proceedings that
5 were begun before its effective date.

6 SECTION 11. This Act shall take effect on January 1, 2050;
7 provided that:

8 (1) Part III of this Act shall apply to qualified low-
9 income buildings awarded credits beginning after
10 December 31, 2017;

11 (2) The amendments made in section 7 of this Act shall not
12 be repealed when section 235-110.8, Hawaii Revised
13 Statutes, is reenacted on December 31, 2021, pursuant
14 to section 4 of Act 129, Session Laws of Hawaii 2016;
15 and

16 (3) Section 8 of this Act shall take effect on July 1,
17 2017.



Report Title:

Affordable Housing Units; Transfer; Low-Income Housing Tax Credit; Qualified Nonprofit Housing Trusts

Description:

Authorizes qualified nonprofit housing trusts to repurchase affordable units developed with government assistance when a government entity waives its first right of refusal to repurchase the unit. Authorizes counties to waive a first right of refusal to repurchase a privately-developed affordable housing unit built pursuant to a unilateral agreement or similar instrument. Specifies that certain provisions of the Internal Revenue Code related to at-risk rules, deductions, and passive activity loss limitations do not apply with respect to the State Low-income Housing Tax Credit. Appropriates funds to establish one position to oversee the Low-Income Housing Tax Credit Program. (SB1244 HD2)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

