

JAN 19 2018

A BILL FOR AN ACT

RELATING TO HOUSING.

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

1 SECTION 1. The Hawaii Revised Statutes is amended by
2 adding a new chapter to be appropriately designated and to read
3 as follows:

4 "CHAPTER

5 OFFICE OF AFFORDABLE HOUSING FINANCE AND DEVELOPMENT

6 PART I. GENERAL PROVISIONS

7 § -1 Definitions. As used in this chapter:

8 "Affordable dwelling units" means housing dwelling units or
9 rental dwelling units that are affordable to families earning
10 eighty per cent or below of the applicable area median income.

11 "Director" means the director of the office of affordable
12 housing finance and development.

13 "Office" means the office of affordable housing finance and
14 development.

15 § -2 Office of affordable housing finance and
16 development; establishment; staff; responsibilities. (a) There
17 is established within the department of business, economic



1 development, and tourism an office of affordable housing finance
2 and development. The purpose of the office shall be to
3 facilitate the financing, planning, permitting, designing, and
4 building of affordable housing, either directly or in
5 partnership with other government agencies and the private
6 sector.

7 (b) The head of the office shall be known as the director
8 of the office of affordable housing finance and development.

9 The director shall:

10 (1) Have work experience or training related to financing,
11 planning, permitting, designing, and building
12 affordable housing;

13 (2) Be nominated by the governor and, by and with the
14 advice and consent of the senate, appointed by the
15 governor without regard to chapter 76;

16 (3) Be compensated at a salary level set by the governor;

17 (4) Be included in any benefit program generally
18 applicable to the officers and employees of the State;

19 (5) Retain such staff as may be necessary for the purposes
20 of this chapter pursuant to section -3; and



(6) Report to the director of business, economic development, and tourism and shall not be required to report directly to any other principal executive department.

(c) The office shall retain a chief counsel and two deputy attorneys appointed by the director. The chief counsel and each deputy attorney shall have at least five years of work experience in real property transaction, including experience in financing, banking, grants, or related practice areas.

§ -3 Powers; generally. Except as otherwise limited by this chapter, the office may:

(1) Sue and be sued;

(2) Have a seal and alter the same at pleasure;

(3) Make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions under this chapter;

(4) Make rules with respect to its projects, operations, properties, and facilities, which rules shall be in conformance with chapter 91;



- 1 (5) Through its director appoint officers, agents, and
2 employees, prescribe their duties and qualifications,
3 and fix their salaries, without regard to chapter 76;
- 4 (6) Acquire, reacquire, or contract to acquire or
5 reacquire by grant or purchase real, personal, or
6 mixed property or any interest therein; to own, hold,
7 clear, improve, and rehabilitate; and to sell, assign,
8 exchange, transfer, convey, lease, or otherwise
9 dispose of or encumber the same, without regard to any
10 other law to the contrary including chapter 171;
- 11 (7) Acquire or reacquire by condemnation real, personal,
12 or mixed property or any interest therein for the
13 purpose of developing or facilitating the development
14 of affordable dwelling units, without regard to any
15 other law to the contrary including chapter 171; and
- 16 (8) By itself, or in partnership with private developers
17 or other qualified persons, acquire, reacquire,
18 construct, reconstruct, rehabilitate, improve, alter,
19 or repair or provide for the construction,
20 improvement, alteration, or repair of affordable



dwelling units, without regard to any other law to the contrary including chapter 171.

§ -4 Fair housing law to apply. Notwithstanding any law to the contrary, the provisions of chapter 515 shall apply in administering this chapter.

§ -5 Review of office actions or decisions. Notwithstanding any law to the contrary, no action or decision of the office shall give rise to a contested case or agency hearing. Any person aggrieved by an action or decision of the office is entitled to judicial review thereof.

§ -6 Coordination with other government agencies. The office shall coordinate with other government agencies, including but not limited to the Hawaii housing finance and development corporation and Hawaii community development authority to facilitate the financing, planning, permitting, designing, and construction of affordable dwelling units.

§ -7 Affordable housing leases. (a) The office may negotiate transactions to lease parcels of real property acquired by the office pursuant to section -3 and without regard to any other law to the contrary including chapter 171; provided that:



(1) Leases entered into by the office shall have a term of no more than sixty-five years; and

(2) Any lease entered into by the office with a term greater than one year shall include at least one dwelling unit.

(b) If a parcel of property obtained by the office cannot be used for housing within thirty years, the office shall transfer that parcel of property to another state or county agency to be used for a public purpose. If no state or county agency agrees to receive the parcel of property within one hundred eighty days, the parcel of property shall be sold at public auction to the highest bidder, without regard to any other law to the contrary including chapter 171.

(c) The office may allow tenants to sublease parcels of property for residential purposes at the discretion of the office.

PART II. AFFORDABLE HOUSING DEVELOPMENT LOANS

§ -11 Affordable housing development loan program. (a)

There is established an affordable housing development loan program, which shall be a loan program as defined under section 39-51. The program shall be administered by the office in a



1 manner consistent with chapter 39, part III. The loan program
2 may include loans made, on terms approved by the office, to
3 private entities, whether corporations, partnerships, limited
4 liability companies, or other persons, that are capable,
5 authorized, and in good standing with the State to develop,
6 construct, or manage affordable dwelling units for lease or sale
7 to the public.

8 (b) The office shall adopt rules in accordance with
9 chapter 91 to establish pass/fail criteria for loan and
10 financing qualification.

11 § -12 Affordable housing development loans; fees. The
12 office may establish, revise, charge, and collect fees,
13 premiums, and charges as necessary, reasonable, or convenient
14 for the affordable housing development loan program. The fees,
15 premiums, and charges shall be deposited into the affordable
16 housing development loan revolving fund.

17 § -13 Affordable housing development; exemption from
18 statutes, ordinances, charter provisions, and rules. (a)
19 Projects approved by the office for participation in the
20 affordable housing development loan program shall be exempt from
21 all statutes, ordinances, charter provisions, and rules of any



1 government agency relating to planning, zoning, construction
2 standards for subdivisions, development and improvement of land,
3 and the construction of dwelling units thereon; provided that:

4 (1) At least fifty per cent of the dwelling units in the
5 housing project are affordable dwelling units;

6 (2) The office finds that the housing project is
7 consistent with the purpose and intent of this chapter
8 and meets minimum requirements of health and safety;

9 (3) The development of the proposed housing project does
10 not contravene any safety standards, tariffs, or rates
11 and fees approved by the public utilities commission
12 for public utilities or of the various boards of water
13 supply authorized under chapter 54;

14 (4) Unless the project is located in a community
15 development district created by the legislature under
16 chapter 206E, the legislative body of the county in
17 which the housing project is to be situated shall have
18 approved the project with or without modifications:

19 (A) The legislative body shall approve, approve with
20 modifications, or disapprove the project by
21 resolution within forty-five days after the



1 developer has submitted the preliminary plans and
2 specifications for the project to the legislative
3 body. If on the forty-sixth day a project is not
4 disapproved, it shall be deemed approved by the
5 legislative body;

6 (B) No action shall be prosecuted or maintained
7 against any county, its officials, or employees
8 on account of actions taken by them in reviewing,
9 approving, modifying, or disapproving the plans
10 and specifications; and

11 (C) The final plans and specifications for the
12 project shall be deemed approved by the
13 legislative body if the final plans and
14 specifications do not substantially deviate from
15 the preliminary plans and specifications. The
16 final plans and specifications for the project
17 shall constitute the zoning, building,
18 construction, and subdivision standards for that
19 project. For purposes of sections 501-85 and
20 502-17, the director of the office or the
21 responsible county official may certify maps and



1 plans of land connected with the project as
2 having complied with applicable laws and
3 ordinances relating to consolidation and
4 subdivision of lands, and the maps and plans
5 shall be accepted for registration or recordation
6 by the land court and registrar;

7 (5) The land use commission shall approve, approve with
8 modifications, or disapprove a boundary change within
9 forty-five days after the developer has submitted a
10 petition to the commission as provided in section 205-
11 4. If, on the forty-sixth day, the petition is not
12 disapproved, it shall be deemed approved by the
13 commission; and

14 (6) The Hawaii community development authority shall
15 approve, approve with modifications, or disapprove a
16 developer's proposal to develop lands under the
17 authority's control within forty-five days after the
18 developer has submitted a proposal to the authority as
19 provided in section 206E-5.6; provided that only one
20 hearing shall be required by the authority for
21 proposals submitted to the authority under this



1 section. If, on the forty-sixth day, the petition is
2 not disapproved, it shall be deemed approved by the
3 authority.

4 (b) For the purposes of this section, "developer" means an
5 entity that is developing, constructing, or managing a project
6 proposed for participation in the affordable housing development
7 loan program.

8 **§ -14 Affordable housing development loan revolving**

9 **fund.** (a) There is established the affordable housing
10 development loan revolving fund to be administered by the
11 office, into which shall be deposited:

12 (1) Legislative appropriations;

13 (2) Revenues from rental payments under leases entered
14 into pursuant to section -7;

15 (3) Revenues from repayment of loans made under the
16 affordable housing development loan program; and

17 (4) All moneys received and collected by the office not
18 otherwise pledged or obliged nor required by law to be
19 placed in any other special or revolving fund.

20 (b) Notwithstanding any law to the contrary, moneys in the
21 affordable housing development loan revolving fund shall be used



1 for affordable housing development loans pursuant to section
2 -11."

3 SECTION 2. Section 28-8.3, Hawaii Revised Statutes, is
4 amended as follows:

5 1. By amending subsection (a) to read:

6 "(a) No department of the State other than the attorney
7 general may employ or retain any attorney, by contract or
8 otherwise, for the purpose of representing the State or the
9 department in any litigation, rendering legal counsel to the
10 department, or drafting legal documents for the department;
11 provided that the foregoing provision shall not apply to the
12 employment or retention of attorneys:

13 (1) By the public utilities commission, the labor and
14 industrial relations appeals board, and the Hawaii
15 labor relations board;

16 (2) By any court or judicial or legislative office of the
17 State; provided that if the attorney general is
18 requested to provide representation to a court or
19 judicial office by the chief justice or the chief
20 justice's designee, or to a legislative office by the
21 speaker of the house of representatives and the



1 president of the senate jointly, and the attorney
2 general declines to provide such representation on the
3 grounds of conflict of interest, the attorney general
4 shall retain an attorney for the court, judicial, or
5 legislative office, subject to approval by the court,
6 judicial, or legislative office;

7 (3) By the legislative reference bureau;

8 (4) By any compilation commission that may be constituted
9 from time to time;

10 (5) By the real estate commission for any action involving
11 the real estate recovery fund;

12 (6) By the contractors license board for any action
13 involving the contractors recovery fund;

14 (7) By the office of Hawaiian affairs;

15 (8) By the department of commerce and consumer affairs for
16 the enforcement of violations of chapters 480 and
17 485A;

18 (9) As grand jury counsel;

19 (10) By the Hawaii health systems corporation, or its
20 regional system boards, or any of their facilities;

21 (11) By the auditor;



- (12) By the office of ombudsman;
- (13) By the insurance division;
- (14) By the University of Hawaii;
- (15) By the Kahoolawe island reserve commission;
- (16) By the division of consumer advocacy;
- (17) By the office of elections;
- (18) By the campaign spending commission;
- (19) By the Hawaii tourism authority, as provided in
section 201B-2.5;
- (20) By the division of financial institutions;
- (21) By the office of information practices; ~~[or]~~
- (22) By the office of affordable housing finance and
development; or
- ~~[(22)]~~ (23) By a department, if the attorney general, for
reasons deemed by the attorney general to be good and
sufficient, declines to employ or retain an attorney
for a department; provided that the governor waives
the provision of this section."

2. By amending subsection (c) to read:

"(c) Every attorney employed by any department on a full-
time basis, except an attorney employed by the public utilities



1 commission, the labor and industrial relations appeals board,
2 the Hawaii labor relations board, the office of Hawaiian
3 affairs, the Hawaii health systems corporation or its regional
4 system boards, the department of commerce and consumer affairs
5 in prosecution of consumer complaints, insurance division, the
6 division of consumer advocacy, the University of Hawaii, the
7 Hawaii tourism authority as provided in section 201B-2.5, the
8 office of information practices, the office of affordable
9 housing finance and development, or as grand jury counsel, shall
10 be a deputy attorney general."

11 SECTION 3. There is appropriated out of the general
12 revenues of the State of Hawaii the sum of \$ or so
13 much thereof as may be necessary for fiscal year 2018-2019 for
14 personnel and operating costs of the office of affordable
15 housing finance and development.

16 The sum appropriated shall be expended by the office of
17 affordable housing finance and development for the purposes of
18 this Act.

19 SECTION 4. 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 2018-2019 to be



1 deposited into the affordable housing development loan revolving
2 fund.

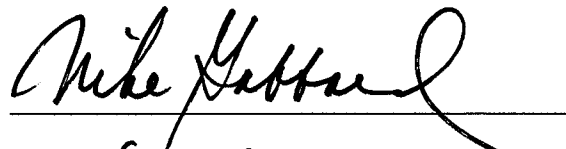
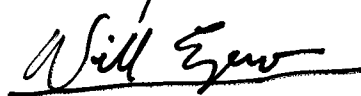



3 SECTION 5. There is appropriated out of the affordable
4 housing development loan revolving fund the sum of \$
5 or so much thereof as may be necessary for fiscal year 2018-2019
6 for the purpose of providing affordable housing development
7 loans.

8 The sum appropriated shall be expended by the office of
9 affordable housing finance and development for the purposes of
10 this Act.

11 SECTION 6. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 7. This Act shall take effect on July 1, 2018.

14 INTRODUCED BY:



S.B. NO. 2560

Report Title:

Affordable Housing; Office of Affordable Housing Finance and Development; Development Loans; Appropriation

Description:

Establishes the Office of Affordable Housing Finance and Development for the purpose of facilitating the financing, planning, permitting, designing, and construction of affordable housing. Establishes an affordable housing development loan program to provide financing for private developers who develop affordable housing projects. Appropriates moneys for personnel and operating costs of the Office of Affordable Housing Finance and Development and to fund affordable housing development loans.

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