

Honolulu, Hawaii

FEB 14 2020

RE: S.B. No. 3104
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirtieth State Legislature
Regular Session of 2020
State of Hawaii

Sir:

Your Committees on Housing and Water and Land, to which was referred S.B. No. 3104 entitled:

"A BILL FOR AN ACT RELATING TO LAND DEVELOPMENT,"

beg leave to report as follows:

The purpose and intent of this measure is to provide solutions to expeditiously develop housing for working families in the State by reducing the administrative procedures needed to develop affordable housing and increasing funding to affordable housing projects.

Your Committees received testimony in support of this measure from the Office of Senator Brian Schatz; Hawaii Housing Finance and Development Corporation; Hawaii Public Housing Authority; Department of Land and Natural Resources; Office of Planning; University of Hawaii; State Land Use Commission; Chamber of Commerce Hawaii; Maui Chamber of Commerce; Kohala Coast Resort Association; Aloha United Way, Inc.; Hawai'i Association of Realtors; Homestead Community Development Corporation; Catholic Charities Hawai'i; Hawaii Appleseed Center for Law & Economic Justice; Kamehameha Schools; Building Industry Association of Hawaii; Pacific Resource Partnership; Hawaii Regional Council of Carpenters; Aloha Business Bitz, Inc.; West Maui Taxpayers Association, Inc.; and fourteen individuals. Your Committees received testimony in opposition to this measure from the Office of Hawaiian Affairs; Kihei Community Association; South Maui



Citizens for Responsible Growth; Young Progressives Demanding Action; Ka Lāhui Hawai'i Political Action Committee; Faith Action for Community Equity; Sierra Club; and thirty-eight individuals. Your Committees received comments on this measure from the Office of the Ombudsman; Tax Foundation of Hawaii; Department of Agriculture; Society for Hawaiian Archaeology; Hawaiian Community Assets, Inc.; Hawai'i Community Lending, Inc.; Historic Hawai'i Foundation; and Imua Alliance.

Your Committees find that the State's population has declined each year over the past three years, an unprecedented situation that has not happened since Hawaii became a state in 1959. Your Committees also find that a significant portion of this population loss can be attributed to the State's high cost of living and lack of affordable dwellings. Moreover, housing costs continue to rise, keeping homeownership outside the reach of many Hawaii residents. This measure provides solutions to expeditiously develop housing for working families in the State by:

- (1) Authorizing the Hawaii Housing Finance and Development Corporation to lease real property for a period not to exceed 99 years for the development of certain projects that include affordable housing. Requires the Hawaii Housing Finance and Development Corporation to submit a report to the Legislature that identifies all state lands that may be developed for multi-unit dwellings;
- (2) Authorizing the issuance of \$200,000,000 in general obligation bonds, with the proceeds used for the establishment of infrastructure to support the development of housing on lands near the University of Hawaii West Oahu campus;
- (3) Authorizing the issuance of \$75,000,000 in general obligation bonds, with the proceeds used for affordable housing infrastructure in counties with a resident population of 500,000 or less;
- (4) Authorizing a state or county department or agency to petition the appropriate county land use decision-making authority, rather than the Land Use Commission, for a change in the boundary of a district involving land



areas between 15 acres and 25 acres where the majority of the development will be for affordable housing;

- (5) Authorizing the State Historic Preservation Division to delegate the responsibility of historic preservation project reviews to the impacted county;
- (6) Establishing the Office of the Housing Ombudsman; and
- (7) Removing the existing statutory cap on the amount of conveyance tax revenues that are deposited into the rental housing revolving fund each fiscal year.

Your Committees note that this measure, and its amendments, is the product of voluminous and thoughtful input from several state agencies, interest groups, and individuals. Even though not all the proposed amendments received by your Committees were incorporated into this measure, your Committees would like to recognize a few salient issues raised in testimony.

Your Committees note that several groups, including the Office of Hawaiian Affairs, Young Progressives Demanding Action, Imua Alliance, Hawaii Appleseed Center for Law and Economic Justice, Hawaiian Community Assets, Hawai'i Community Lending, Faith Action for Community Equity, and Sierra Club of Hawai'i testified that this measure currently allows half of the units contemplated by this measure are to be priced at market rates and half at 140 percent of area median income. According to federal guidelines, 140 percent of area median income is \$870,000, which less than ten percent of Hawaii households can afford. Your Committees further note that according to those same guidelines, a family of one at 80 percent of area median income can afford housing priced at \$347,000 and a family of eight at 80 percent of area median income can afford housing priced at \$654,800. Your Committees believe that prices of \$400,000 or below are reasonable.

Your Committees also recognizes the testimony of the Office of Hawaiian Affairs, that the Land Use Commission's district boundary amendment process is an important mechanism to mitigate adverse impacts to public trust resources and native Hawaiian rights. Your Committees further note the Office of Hawaiian



Affair's testimony that extremely long-term leases may generate a sense of entitlement in the property.

Your Committees further note the testimony of the Society for Archaeology, who expressed concerns of who will pay for third-party review of historic preservation projects, as well as concerns of actual and appearances of conflicts of interests. Your Committees additionally note their testimony that third-party reviewers should possess qualifications prescribed by the Secretary of the Interior under the National Historic Preservation Act.

Your Committees furthermore note the testimony of the Historic Hawaii Foundation, who suggested existing programs and authorities, including the Certified Local Government program, and the provision of adequate professional staffing and resources at both the State and County levels could be possible solutions to conducting historic preservation reviews.

Your Committees also note the testimony from Hawaiian Community Assets, who recommend that the Hawaii Housing Finance and Development Corporation use existing law, namely section 201H-57, Hawaii Revised Statutes, to provide ninety-nine year leases to nonprofit community land trusts and/or nonprofit developers targeting the housing needs of ALICE (asset limited, income constrained, employed) households.

Finally, your Committees note the testimony provided by several state agencies, nonprofit organizations, and interest groups that describe ways this measure, which is large in scope, can be improved.

Accordingly, your Committees have amended this measure by:

- (1) Requiring the Hawaii Housing Finance and Development Corporation to submit a program to the Legislature by December 31, 2020, which addresses various concerns raised by the testifiers to this measure, including the steps necessary to end the State's housing shortage;
- (2) Adding a provision to require the Hawaii Housing Finance and Development Corporation to follow section 171-64.7, Hawaii Revised Statutes when disposing of land set aside



to the Hawaii Housing Finance and Development Corporation in order to prevent alienation of the fee interest in state lands;

- (3) Clarifying that the "majority of development" refers to the square footage of the development;
- (4) Replacing, in certain parts of the measure, the term "affordable housing" with the requirement that housing units be sold to Hawaii residents who are owner-occupants who own no other real property, in perpetuity;
- (5) Authorizing the Housing Advocate to set aside lands from a state agency to a housing agency, i.e., the Hawaii Housing Finance and Development Corporation, the Hawaii Public Housing Authority, or the Department of Hawaiian Home Lands, subject to legislative approval;
- (6) Amending section 205-3.1, Hawaii Revised Statutes, to clarify that county authority does not extend to conservation districts and that district boundary amendments will be limited to lands contiguous to the urban district;
- (7) Adding a provision that requires the corporation to transfer to the Department of Hawaiian Home Lands or the Office of Hawaiian Affairs, units within residential projects developed on certain state lands;
- (8) Deleting the amendments to section 201H-9, Hawaii Revised Statutes, and replacing them with amendments to section 171-2, Hawaii Revised Statutes;
- (9) Broadening the appropriation language to provide the Hawaii Housing Finance and Development Corporation greater flexibility to fund regional infrastructure projects;
- (10) Appropriating funds for the Hawaii Housing Finance and Development Corporation in order to hire three full time project manager positions;
- (11) Deleting extraneous language;



- (12) Changing the title of the Housing Ombudsman to the Housing Advocate;
- (13) Eliminating certain requirements of the Housing Advocate that would create administrative burdens and interfere with federal laws;
- (14) Excluding from district boundary reclassification, lands that are proposed to be parceled;
- (15) Deleting the provision amending the special permit process, as it does not impact district boundary amendments;
- (16) Amending the measure to add enforcement powers and penalties to the Land Use Commission;
- (17) Amending the measure to allow the Office of Hawaiian Affairs to participate in the Department of Land and Natural Resource's delegation of its responsibility to review historic preservation projects;
- (18) Adding language that exempts important agricultural lands and soil with particular classifications from certain district boundary amendments;
- (19) Adding language that specifies that the affordable housing infrastructure built with the \$275,000,000 in appropriations will be used specifically for developments in which the majority of square footage is housing to be occupied by Hawaii residents who are owner-occupants and who own no other real estate, in perpetuity;
- (20) Inserting an effective date of July 1, 3000, to encourage further discussion; and
- (21) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the records of votes of the members of your Committees on Housing and Water and Land that are attached to this



report, your Committees are in accord with the intent and purpose of S.B. No. 3104, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 3104, S.D. 1, and be referred to your Committee on Ways and Means.

Respectfully submitted on behalf of the members of the Committees on Housing and Water and Land,



KALALI I KAHELE, Chair

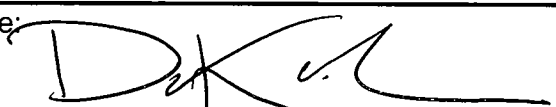


STANLEY CHANG, Chair



The Senate
Thirtieth Legislature
State of Hawai'i

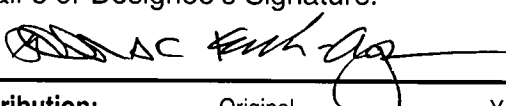
Record of Votes
Committee on Housing
HOU

Bill / Resolution No.:*	Committee Referral:	Date:		
SB 3104	HOU/WTL, WAM	2-11-20		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is:				
<input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
CHANG, Stanley (C)	✓			
KANUHA, Dru Mamo (VC)	✓			
MORIWAKI, Sharon Y.	✓			
THIELEN, Laura H.	✓			
FEVELLA, Kurt				✓
TOTAL	4			1
Recommendation:				
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
				
Distribution:				
Original	Yellow	Pink	Goldenrod	
File with Committee Report	Clerk's Office	Drafting Agency	Committee File Copy	

*Only one measure per Record of Votes

The Senate
Thirtieth Legislature
State of Hawai'i

Record of Votes
Committee on Water and Land
WTL

Bill / Resolution No.:* SB 3104	Committee Referral: HOU/WTL, WAM	Date: 2/12/20		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
KAHELE, Kaiali'i (C)	X			
KEITH-AGARAN, Gilbert S.C. (VC)		X		
NISHIHARA, Clarence K.	X			
RIVIERE, Gil		X		
FEVELLA, Kurt	X			
TOTAL	3	2		
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes