

JAN 21 2021

A BILL FOR AN ACT

RELATING TO HOUSING.

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

1 SECTION 1. Chapter 201H, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§201H- High-density housing development project
5 approval process; discretionary permit. (a) State and county
6 agencies shall issue a discretionary permit associated with any
7 high-density housing development project within sixty days from
8 the date of receipt of a permit application that is deemed to be
9 complete by the receiving state or county agency.

10 (b) A developer of a project described in this section may
11 submit an application for a discretionary permit for a high-
12 density housing development project and shall not be required to
13 obtain a conditional use permit if the development project
14 satisfies all of the following planning standards:

15 (1) The housing development project is a high-density
16 project;

1 (2) The development project is located within a county-
2 designated transit-oriented development zone;

3 (3) The dwelling units in the development project are
4 priced to be affordable for households having incomes
5 at or below one hundred per cent of the area median
6 income as determined by the United States Department
7 of Housing and Urban Development;

8 (4) The development project will not demolish or
9 substantially affect the characteristics of any
10 building structure, site, or object that meets the
11 criteria for listing on the Hawaii register of
12 historic places;

13 (5) The sales of dwelling units do not include
14 requirements or limitations related to an individual's
15 income; provided that the dwelling units are sold to
16 persons who:

17 (A) Are residents of the State;

18 (B) Will be owner-occupants of the dwelling unit
19 being sold; and

20 (C) Do not own any other real property, residential
21 or non-residential; and



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1 (6) The state or county permitting agency may review the
2 proposed development project for compliance with codes
3 and ordinances and for consistency with surrounding
4 projects; provided that the state or county permitting
5 agency shall be prohibited from imposing any non-code
6 related condition or exaction on projects processed
7 pursuant to this section.

8 (c) If the state or county permitting agency determines
9 that an application submitted pursuant to this section is in
10 conflict with any of the planning standards specified in
11 subsection (b), it shall provide the developer of the project
12 described in this section with written documentation of any
13 standard in conflict with the development and an explanation for
14 any reason the development conflicts with that standard within
15 thirty days of submittal of the application. If the state or
16 county permitting agency fails to provide the required
17 documentation pursuant to this subsection, the development shall
18 be deemed to satisfy the planning standards specified in
19 subsection (b).



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1 (d) For the purposes of this section, "high-density" means
2 accommodating at least two hundred fifty dwelling units per
3 acre."

4 SECTION 2. Section 46-15.1, Hawaii Revised Statutes, is
5 amended to read as follows:

6 **"§46-15.1 Housing; county powers.** (a) Notwithstanding
7 any law to the contrary, any county shall have and may exercise
8 the same powers, subject to applicable limitations, as those
9 granted the Hawaii housing finance and development corporation
10 pursuant to chapter 201H insofar as those powers may be
11 reasonably construed to be exercisable by a county for the
12 purpose of developing, constructing, and providing low- and
13 moderate-income housing; provided that no county shall be
14 empowered to cause the State to issue general obligation bonds
15 to finance a project pursuant to this section; provided further
16 that county projects shall be granted an exemption from general
17 excise or receipts taxes in the same manner as projects of the
18 Hawaii housing finance and development corporation pursuant to
19 section 201H-36; and provided further that section 201H-16 shall
20 not apply to this section unless federal guidelines specifically
21 provide local governments with that authorization and the



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1 authorization does not conflict with any state laws. The powers
2 shall include the power, subject to applicable limitations, to:

- 3 (1) Develop and construct dwelling units, alone or in
4 partnership with developers;
- 5 (2) Acquire necessary land by lease, purchase, exchange,
6 or eminent domain;
- 7 (3) Provide assistance and aid to a public agency or other
8 person in developing and constructing new housing and
9 rehabilitating existing housing for elders of low- and
10 moderate-income, other persons of low- and moderate-
11 income, and persons displaced by any governmental
12 action, by making long-term mortgage or interim
13 construction loans available;
- 14 (4) Contract with any eligible bidders to provide for
15 construction of urgently needed housing for persons of
16 low- and moderate-income;
- 17 (5) Guarantee the top twenty-five per cent of the
18 principal balance of real property mortgage loans,
19 plus interest thereon, made to qualified borrowers by
20 qualified lenders;



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1 (6) Enter into mortgage guarantee agreements with
2 appropriate officials of any agency or instrumentality
3 of the United States to induce those officials to
4 commit to insure or to insure mortgages under the
5 National Housing Act, as amended;

6 (7) Make a direct loan to any qualified buyer for the
7 downpayment required by a private lender to be made by
8 the borrower as a condition of obtaining a loan from
9 the private lender in the purchase of residential
10 property;

11 (8) Provide funds for a share, not to exceed fifty per
12 cent, of the principal amount of a loan made to a
13 qualified borrower by a private lender who is unable
14 otherwise to lend the borrower sufficient funds at
15 reasonable rates in the purchase of residential
16 property; and

17 (9) Sell or lease completed dwelling units.

18 For purposes of this section, a limitation is applicable to
19 the extent that it may reasonably be construed to apply to a
20 county.



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1 (b) Each county shall issue every discretionary permit
2 associated with any high-density housing project described in
3 section 201H- within sixty days from the date of receipt of a
4 permit application that is deemed to be complete by the
5 receiving county agency.

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



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



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1 county of Honolulu shall be subject to a memorandum of agreement
2 pursuant to this subsection.

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

9 ~~(e)]~~ (d) Notwithstanding any law to the contrary, any
10 county may:

11 (1) Authorize and issue bonds under chapter 47 and chapter
12 49 to provide moneys to carry out the purposes of this
13 section or section 46-15.2, including the satisfaction
14 of any guarantees made by the county pursuant to this
15 section;

16 (2) Appropriate moneys of the county to carry out the
17 purposes of this section;

18 (3) Obtain insurance and guarantees from the State or the
19 United States, or grants from either;

20 (4) Designate, after holding a public hearing on the
21 matter and with the approval of the respective



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1 council, any lands owned by it for the purposes of
2 this section;

3 (5) Provide interim construction loans to partnerships of
4 which it is a partner and to developers whose projects
5 qualify for federally assisted project mortgage
6 insurance, or other similar programs of federal
7 assistance for persons of low and moderate income; and

8 (6) Adopt rules pursuant to chapter 91 as are necessary to
9 carry out the purposes of this section.

10 [~~(d)~~] (e) Notwithstanding any law to the contrary, a
11 county may waive its right to repurchase a privately-developed
12 affordable housing unit built pursuant to a unilateral agreement
13 or similar instrument, and may transfer that right of repurchase
14 to a qualified nonprofit housing trust for the purpose of
15 maintaining the unit as affordable for as long as required by
16 the county program.

17 ~~[For the purposes of this subsection, "qualified nonprofit~~
18 ~~housing trust" means a corporation, association, or other duly~~
19 ~~chartered organization that is registered and in good standing~~
20 ~~with the State; that is recognized by the Internal Revenue~~
21 ~~Service as a charitable or otherwise tax exempt organization~~



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1 ~~under section 501(c)(3) of the Internal Revenue Code of 1986, as~~
2 ~~amended; and that has the capacity, resources, and mission to~~
3 ~~carry out the purposes of this section as determined by the~~
4 ~~county in which the housing unit is located.~~

5 ~~(e)]~~ (f) A qualified nonprofit housing trust shall report
6 the status and use of its housing units to its respective county
7 by November 30 of each calendar year.

8 ~~[(f)]~~ (g) The provisions of this section shall be
9 construed liberally so as to effectuate the purpose of this
10 section in facilitating the development, construction, and
11 provision of low- and moderate-income housing by the various
12 counties.

13 ~~[(g)]~~ (h) For purposes of this section~~["low"]~~:
14 "Affordable housing obligation" means the requirement
15 imposed by a county, regardless of the date of its imposition,
16 to develop vacant lots, single-family residences, multi-family
17 residences, or any other type of residence for sale or rent to
18 individuals within a specified income range.

19 "Low- and [moderate income] moderate-income housing" means
20 any housing project that meets the definition of "low- and
21 moderate-income housing project" in section 39A-281.



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

10 SECTION 3. Statutory material to be repealed is bracketed
 11 and stricken. New statutory material is underscored.

12 SECTION 4. This Act shall take effect on July 1, 2021;
 13 provided that the amendments made to section 46-15.1, Hawaii
 14 Revised Statutes, by section 2 of this Act shall not be repealed
 15 when that section is reenacted on July 1, 2024, pursuant to
 16 section 3 of Act 141, Session Laws of Hawaii 2009, as amended by
 17 section 3 of Act 102, Session Laws of Hawaii 2015, and section 1
 18 of Act 80, Session Laws of Hawaii 2019.

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INTRODUCED BY: 

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Report Title:

Discretionary Permit; High-density Housing; Transit-oriented Development; Affordable Housing Development

Description:

Requires state or county agencies to issue discretionary permits for housing development projects that meet certain requirements within sixty days of receipt of a permit application deemed to be complete by the receiving state or county agency.

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

