
HOUSE CONCURRENT RESOLUTION

URGING ALL STATE AND COUNTY AGENCIES TO FOLLOW THE TRUE INTENT
OF CHAPTER 201H, HAWAII REVISED STATUTES, AND THE EXPRESS
PROVISIONS OF SECTION 201H-38, HAWAII REVISED STATUTES,
RATHER THAN IMPOSE ADDITIONAL RESTRICTIONS AND PROCESSES,
TO ADDRESS THE SHORTAGE OF AFFORDABLE HOUSING IN HAWAII.

1 WHEREAS, as early as 1935, the Territory of Hawaii
2 recognized the severe shortfall of affordable housing in the
3 Territory when it passed Act 190, Session Laws of Hawaii 1935,
4 creating the Hawaii Housing Authority (HHA); and
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6 WHEREAS, in Act 105, Session Laws of Hawaii 1970, the State
7 recognized the expense added by government regulation as one of
8 the causes for the high cost of housing in Hawaii; and
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10 WHEREAS, through Act 225, Session Laws of Hawaii 1976, the
11 Legislature granted HHA the authority to develop, on its own
12 behalf or in partnership with a qualified partner, housing
13 projects that are exempt from all statutes, ordinances, charter
14 provisions, and rules of any governmental agency relating to
15 zoning and construction standards for subdivisions, development
16 and improvement of land, and the construction and sale of homes
17 thereon; and
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19 WHEREAS, the State has continued to recognize its role in
20 maintaining, financing, and developing affordable housing by the
21 enactment of myriad statutes creating, reorganizing, and
22 granting development powers to successor state agencies to HHA;
23 and
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25 WHEREAS, this process culminated in the enactment of
26 chapter 201H, Hawaii Revised Statutes (HRS), which established
27 the Hawaii Housing Finance and Development Corporation (HHFDC),
28 the current successor governmental entity to HHA; and



1
2 WHEREAS, HHFDC serves as the State's housing and finance
3 development agency and is authorized by chapter 201H, HRS, to,
4 on its own behalf or with an eligible developer, develop fee
5 simple or leasehold property; construct dwelling units thereon;
6 and sell, lease, or rent the dwelling units at the lowest
7 possible price to qualified residents, nonprofit organizations,
8 or governmental agencies; and
9

10 WHEREAS, pursuant to section 201H-38, HRS, HHFDC may
11 develop affordable housing projects that are "exempt from all
12 statutes, ordinances, charter provisions, and rules of any
13 government agency relating to planning, zoning, construction
14 standards for subdivisions, development and improvement of land,
15 and the construction of dwelling units thereon"; provided that
16 the housing projects are consistent with the purpose and intent
17 of chapter 201H, HRS; do not contravene any safety standards,
18 tariffs, or rates approved by the Public Utilities Commission
19 for public utilities; and receive certain approvals; and
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21 WHEREAS, it was and is the unequivocal policy of the
22 Legislature and the stated purpose of section 201H-38, HRS, that
23 qualifying affordable housing projects be exempt from all laws,
24 rules, and regulations that impact development; and
25

26 WHEREAS, section 46-15.1, HRS, grants the counties the same
27 housing powers and authority as those granted to HHFDC pursuant
28 to chapter 201H, HRS, "insofar as those powers may be reasonably
29 construed to be exercisable by a county for the purpose of
30 developing, constructing, and providing low- and moderate-income
31 housing"; and
32

33 WHEREAS, pursuant to section 46-15.1(f), HRS, the
34 provisions of section 46-15.1, HRS, must be "construed liberally
35 so as to effectuate the purpose of [section 46-15.1, HRS] in
36 facilitating the development, construction, and provision of
37 low- and moderate-income housing by the various counties"; and
38

39 WHEREAS, the term "low- and moderate-income housing", as
40 used in section 46-15.1, HRS, applies to any housing project in
41 which:
42



1 (1) All project units are offered for rent, of which at
2 least:

3
4 (A) Twenty percent of the units are rented to
5 households with an income of up to fifty percent
6 of the area median income as determined by the
7 United States Department of Housing and Urban
8 Development (AMI);

9
10 (B) Forty percent of the units are rented to
11 households with an income of up to eighty percent
12 of AMI; or

13
14 (C) Sixty percent of the units are rented to
15 households with an income of up to one hundred
16 forty percent of AMI;

17
18 (2) All project units are offered for sale, of which at
19 least fifty percent of the units are sold to
20 households with an income of up to one hundred forty
21 percent of AMI; and

22
23 (3) The project qualifies for federal tax exempt status
24 under title 26 United States Code section 142(a)(7)
25 and (d); and

26
27 WHEREAS, section 201H-57, HRS, defines the term "affordable
28 housing" as "housing that is affordable to households with
29 incomes at or below one hundred forty per cent of the median
30 family income as determined by the United States Department of
31 Housing and Urban Development"; and

32
33 WHEREAS, chapter 15-307, Hawaii Administrative Rules, which
34 implements chapter 201H, HRS, requires, as a condition to
35 processing pursuant to chapter 201H, HRS, that more than fifty
36 percent of the total dwelling units in a project be reserved for
37 persons or families whose incomes are identified as one hundred
38 forty percent or less of AMI; and

39
40 WHEREAS, pursuant to the authority granted under section
41 46-15.1, HRS, the City and County of Honolulu and County of



1 Kauai implemented their own county-level programs pursuant to
2 chapter 201H, HRS (chapter 201H program); and
3

4 WHEREAS, the City and County of Honolulu's chapter 201H
5 program, among other things, does not include as "affordable
6 housing" units that are affordable to families with income
7 levels greater than one hundred forty percent of AMI; and
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9 WHEREAS, certain state and county agencies have been
10 reluctant to provide the great deference required by the express
11 provisions of section 201H-38, HRS, to housing projects
12 qualified under chapter 201H, HRS, when applying statutes,
13 ordinances, charter provisions, and rules of any governmental
14 agencies relating to planning, zoning, construction standards
15 for subdivision, development and improvement of land, and the
16 construction of dwelling units thereon; and
17

18 WHEREAS, HHFDC commissioned the "Hawaii Housing Planning
19 Study, 2019", which found that the State will need about 50,000
20 more housing units between 2020 and 2025; and
21

22 WHEREAS, according to the Honolulu Board of REALTORS, the
23 median sales price for single-family homes on Oahu for the month
24 of January 2022 was \$1,050,000; and
25

26 WHEREAS, data from the United States Census Bureau
27 indicates that about 14,500 residents left Hawaii from July 2020
28 to July 2021; and
29

30 WHEREAS, Hawaii ranked fourth in the nation for the highest
31 percentage decline in population for 2020 to 2021; and
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33 WHEREAS, the loss of Hawaii's population is being driven,
34 in part, by the high cost of living, including the high cost of
35 housing; and
36

37 WHEREAS, according to a January 2021 Department of
38 Business, Economic Development, and Tourism report titled "Brain
39 Drain: Characteristics of Hawai'i-Born Adults on the U.S.
40 Mainland", the residents leaving Hawaii for the mainland are
41 younger and more educated; and
42



1 WHEREAS, the loss of this segment of Hawaii's population
2 jeopardizes the very fabric and future of the State and its
3 communities; now, therefore,
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5 BE IT RESOLVED by the House of Representatives of the
6 Thirty-first Legislature of the State of Hawaii, Regular Session
7 of 2022, the Senate concurring, that all state and county
8 agencies are urged to follow the true intent of chapter 201H,
9 HRS, and the express provisions of section 201H-38, HRS, rather
10 than impose additional restrictions and processes, to address
11 the shortage of affordable housing in Hawaii; and
12

13 BE IT FURTHER RESOLVED that the state and county agencies
14 are urged to reaffirm their commitment to the intent and
15 provisions of section 201H-38, HRS, to exempt qualifying
16 projects from all laws, rules, and regulations impacting the
17 development of affordable housing; and
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19 BE IT FURTHER RESOLVED that in processing housing
20 development projects pursuant to chapter 201H, HRS, state and
21 county agencies are urged to abide by the express provisions of
22 section 201H-38, HRS, to exempt all qualifying housing projects
23 under chapter 201H, HRS, from all statutes, ordinances, charter
24 provisions, and rules of any governmental agency relating to
25 planning, zoning, construction standards for subdivision,
26 development and improvement of land, and the construction of
27 dwelling units thereon in accordance with the intent, purpose,
28 and express provisions of chapter 201H, HRS; provided that
29 minimum health and safety requirements and other requirements
30 are met; and
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32 BE IT FURTHER RESOLVED that certified copies of this
33 Concurrent Resolution be transmitted to the Executive Director
34 of the Hawaii Housing Finance and Development Corporation,
35 Executive Director of the Hawaii Public Housing Authority, mayor
36 of each county, chairperson and members of the county council of
37 each county, Executive Director of the Office of Housing at the
38 City and County of Honolulu, Housing Administrator of the Office
39 of Housing and Community Development of the County of Hawaii,
40 Director of the Department of Housing and Human Concerns of the
41 County of Maui, and Director of the Housing Agency of the County
42 of Kauai.

