

JAN 21 2022

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# A BILL FOR AN ACT

RELATING TO COUNTIES.

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

1           SECTION 1. In August 2007, Hawaii accepted an invitation  
2 by the United States Department of Housing and Urban Development  
3 to join the national call to action for affordable housing  
4 through regulatory reform. The call to action presented an  
5 opportunity for Hawaii to receive technical assistance from the  
6 federal government and collaborate with other states, counties,  
7 municipalities, and organizations to knock down the barriers  
8 imposed by governments in hopes of building more affordable  
9 housing. A statewide task force was convened, comprising of  
10 representatives from the counties, businesses, laborers,  
11 developers, architects, nonprofit providers of services, and the  
12 State, to answer the call to action and recommend solutions to  
13 address barriers to affordable housing.

14           The legislature recognizes that the need for more  
15 affordable housing in Hawaii remains a significant challenge  
16 affecting all segments of society. Although there is a process  
17 in place that provides an opportunity to review affordable



1 housing project proposals in an expedited manner at the state  
2 and county levels, delays arise when counties do not act timely  
3 to affirmatively accept public infrastructure that has been  
4 developed as part of a housing project.

5 The purpose of this Act is to clarify that absent an  
6 affirmative acceptance or rejection by a county, a request for  
7 dedication of infrastructure, which connects an affordable  
8 housing project's infrastructure to the county's infrastructure,  
9 is deemed accepted within sixty days of the request.

10 SECTION 2. Section 46-15.25, Hawaii Revised Statutes, is  
11 amended to read as follows:

12 **"§46-15.25 Infrastructure dedication; affordable housing.**

13 (a) Infrastructure for affordable housing shall be deemed  
14 dedicated to the county if the county does not accept or reject  
15 the request for dedication [~~of infrastructure~~] to connect the  
16 affordable housing's infrastructure to the county's  
17 infrastructure within sixty days of the receipt by the  
18 appropriate county council of a completed application for  
19 dedication request; provided that:



- 1           (1) Applicable meter and connection fees and utility costs  
2           relating to the dedicated infrastructure have been  
3           paid;
- 4           (2) The dedicated infrastructure conforms to applicable  
5           county standards in effect at the time of  
6           construction; [~~and~~]
- 7           (3) The completion of the improvements comprising a  
8           dedicated infrastructure is granted approval by the  
9           county[~~-~~]; and
- 10          (4) The dedicated infrastructure is certified to be in  
11          compliance by either the county inspector responsible  
12          for accepting dedicated infrastructure or a  
13          third-party building inspector.
- 14          (b) For the purposes of this section:
- 15          "Affordable housing" means housing that is affordable to  
16          households with incomes at or below one hundred forty per cent  
17          of the median family income as determined by the United States  
18          Department of Housing and Urban Development.
- 19          "Infrastructure" includes water, drainage, sewer,  
20          electrical, waste disposal and waste treatment systems, road,



1 and street lighting that connect to the infrastructure of the  
2 county.

3 "Third-party building inspector" means a licensed private  
4 sector inspector that is contracted by a state or county agency  
5 to perform building plan review functions, including but not  
6 limited to building, mechanical, electrical, and plumbing  
7 inspections."

8 SECTION 3. Section 264-1, Hawaii Revised Statutes, is  
9 amended by amending subsection (c) to read as follows:

10 "(c) All highways, roads, alleys, streets, ways, bikeways,  
11 bridges, and trails in the State, opened, laid out, or built by  
12 private parties and dedicated or condemned to the public use,  
13 are declared to be public highways or public trails as follows:

14 (1) Dedication of public highways, roads, alleys, streets,  
15 ways, lanes, bikeways, bridges, or trails shall be by  
16 deed of conveyance naming the State as grantee in the  
17 case of a state highway, road, alley, street, way,  
18 lane, bikeway, bridge, or trail and naming the county  
19 as grantee in the case of a county highway, road,  
20 alley, street, way, lane, bikeway, bridge, or trail.

21 The deed of conveyance shall be delivered to and



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1           accepted by the director of transportation in the case  
2           of a state highway, road, alley, street, way, lane,  
3           bikeway, or bridge, or the board of land and natural  
4           resources in the case of a state trail. In the case  
5           of a county highway, road, alley, street, way, lane,  
6           bikeway, bridge, or county trail, the deed shall be  
7           delivered to and accepted by the legislative body of a  
8           county; provided that in every case where the highway,  
9           road, alley, street, way, lane, bikeway, bridge, or  
10          county trail is constructed and completed as required  
11          by any ordinance of the county or any rule,  
12          regulation, or resolution thereof having the effect of  
13          law, the legislative body of the county shall accept  
14          the dedication of the same without exercise of  
15          discretion; [and]

16          (2) Dedication of public highways or trails by request of  
17          a developer to a county shall be deemed to have taken  
18          place if the highway road, alley, street, way, lane,  
19          bikeway, bridge, or trail is part of an affordable  
20          housing project developed pursuant to chapter 201H;  
21          provided that it conforms to applicable county



1 building codes; provided further that the dedicated  
2 infrastructure is certified to be in compliance by  
3 either the county inspector responsible for accepting  
4 dedicated infrastructure, or a licensed third-party  
5 building inspector. Dedication shall be deemed to  
6 have taken place if the infrastructure dedication is  
7 not accepted by the county within sixty days of the  
8 dedication requests. For the purposes of this  
9 paragraph, "third-party building inspector" has the  
10 same meaning as defined in section 46-15.25; and

11 [~~2~~] (3) Condemnation of public highways, roads, alleys,  
12 streets, ways, lanes, bikeways, bridges, or trails  
13 initiated by the State or county pursuant to chapter  
14 101, shall be by final order of condemnation by a  
15 court; provided that any private owner of a highway,  
16 road, alley, street, way, lane, bikeway, bridge, or  
17 trail may petition the mayor of the county in which  
18 the highway, road, alley, street, way, lane, bikeway,  
19 bridge, or trail is located to initiate condemnation  
20 proceedings if the highway, road, alley, street, way,  
21 lane, bikeway, bridge, or trail is part of a public



1 road, ownership has not been exercised by limiting use  
2 or access, or the State or county has provided some  
3 form of maintenance to the highway, road, alley,  
4 street, way, lane, bikeway, bridge, or trail in the  
5 interest of the public; provided further that a  
6 private owner may only petition the mayor of a county  
7 after the dissolution of the roads commission  
8 established by Act 194, Session Laws of Hawaii 2016;  
9 provided further that in every case where the highway,  
10 road, alley, street, way, lane, bikeway, bridge, or  
11 trail is constructed and completed as required by any  
12 ordinance of the county or any rule, regulation, or  
13 resolution thereof having the effect of law at the  
14 time of construction and completion, the highway,  
15 road, alley, street, way, lane, bikeway, bridge, or  
16 trail shall be exempt from meeting the construction  
17 standards in place at the time of condemnation by the  
18 State or county."

19 SECTION 4. Statutory material to be repealed is bracketed  
20 and stricken. New statutory material is underscored.

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1 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY:

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# S.B. NO. 2325

**Report Title:**

Counties; Infrastructure Dedication; Affordable Housing

**Description:**

Clarifies that the request for dedication of infrastructure is to connect an eligible affordable housing's infrastructure to the county's infrastructure. Authorizes a licensed private building inspector, contracted by the State or county, to certify compliance with county standards. Establishes that dedication of infrastructure is deemed to have taken place if not accepted or rejected by the county within 60 days.

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