

JAN 21 2022

A BILL FOR AN ACT

RELATING TO AFFORDABLE HOUSING.

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

1 SECTION 1. Section 46-15.1, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

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



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

4 (1) Develop and construct dwelling units, alone or in
5 partnership with developers;

6 (2) Acquire necessary land by lease, purchase, exchange,
7 or eminent domain;

8 (3) Provide assistance and aid to a public agency or other
9 person in developing and constructing new housing and
10 rehabilitating existing housing for elders of low- and
11 moderate-income, other persons of low- and moderate-
12 income, and persons displaced by any governmental
13 action, by making long-term mortgage or interim
14 construction loans available;

15 (4) Contract with any eligible bidders to provide for
16 construction of urgently needed housing for persons of
17 low- and moderate-income;

18 (5) Guarantee the top twenty-five per cent of the
19 principal balance of real property mortgage loans,
20 plus interest thereon, made to qualified borrowers by
21 qualified lenders;



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 provided that, for housing developments in which sixty per cent
19 of all units are sold at an affordable rate, each county shall
20 allow a public or private developer to pay any costs associated
21 with county regulation of the development at the completion of



1 the development; provided further that a developer that fails to
2 pay the appropriate regulatory costs upon completion of a
3 project shall be subject to a penalty fee, in addition to other
4 applicable fees, equal to twice the regulatory costs of the
5 project. Each county shall establish rules for the enforcement
6 of the penalty fee, including the deadline for payment of the
7 fee. For developers organized as a limited liability company,
8 members and managers shall be jointly and severally liable for
9 the penalty fee. For purposes of the foregoing, "affordable
10 rate" means a price that meets the definition of "affordable
11 housing" in section 46-15.25.

12 For purposes of this section, a limitation is applicable to
13 the extent that it may reasonably be construed to apply to a
14 county."

15 SECTION 2. Section 46-123, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "[+]§46-123[+] **General authorization.** Any county by
18 ordinance may authorize the executive branch of the county to
19 enter into a development agreement with any person having a
20 legal or equitable interest in real property, for the



1 development of such property in accordance with this part;
2 provided that such an ordinance shall:

3 (1) Establish procedures and requirements for the
4 consideration of development agreements upon
5 application by or on behalf of persons having a legal
6 or equitable interest in the property, in accordance
7 with this part;

8 (2) Designate a county executive agency to administer the
9 agreements after such agreements become effective;

10 (3) Include provisions to require the designated agency to
11 conduct a review of compliance with the terms and
12 conditions of the development agreement, on a periodic
13 basis as established by the development agreement; and

14 (4) Include provisions establishing reasonable time
15 periods for the review and appeal of modifications of
16 the development agreement[-];

17 provided that, for housing developments in which sixty per cent
18 of all units are sold at an affordable rate, each county shall
19 allow a public or private developer to pay any costs associated
20 with county regulation of the development at the completion of
21 the development; provided further that a developer that fails to



1 pay the appropriate regulatory costs upon completion of a
2 project shall be subject to a penalty fee, in addition to other
3 applicable fees, equal to twice the regulatory costs of the
4 project. Each county shall establish rules for the enforcement
5 of the penalty fee, including the deadline for payment of the
6 fee. For developers organized as a limited liability company,
7 members and managers shall be jointly and severally liable for
8 the penalty fee. For purposes of the foregoing, "affordable
9 rate" means a price that meets the definition of "affordable
10 housing" in section 46-15.25."

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

13 SECTION 4. This Act shall take effect upon its approval;
14 provided that the amendments made to section 46.15.1, Hawaii
15 Revised Statutes, by this Act shall not be repealed when that
16 section is repealed and reenacted on July 1, 2024, pursuant to
17 sections 1 and 2 of Act 80, Session Laws of Hawaii 2019.

18
INTRODUCED BY: 



S.B. NO. 2903

Report Title:

Regulatory Costs; Affordable Housing

Description:

Requires counties to allow housing developers to pay regulatory costs after the completion of a project when the project includes at least sixty per cent affordable units.

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

