

EXECUTIVE CHAMBERS
KE KE'ENA O KE KIA'ĀINA

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA

Testimony of **Nani Medeiros**
Chief Housing Officer, Office of the Governor

Before the
Senate Committees on Housing and Water and Land
Thursday, February 9, 2023
1:15 p.m., Via Video Conference
Conference Room 225

In consideration of
Senate Bill No. 1352
RELATING TO HOUSING

Aloha Chair Chang, Chair Inouye, Vice-Chairs Kanuha and Elefante, and members of the committees.

Mahalo for the opportunity to testify in support of Senate Bill 1352. This is an administration measure that proposes some of the components in the Governor's housing strategy and plans to make housing more affordable and accessible for our local people, and create incentives for increased development, and faster development, of affordable housing.

Section 2 of this measure creates a new rental deposit loan program that helps working individuals and families earning between 80% - 120% of the area median income (AMI). For example, this loan program would help individuals earning between \$53-\$80K/year, two person families earning between \$61-\$91K/year, and three person families earning between \$68K-\$102K/year. Zero interest loans up to \$2500 will be awarded to eligible applicants and be used as a security deposit for a rental offering of at least six months. This program helps single parents, and families and individuals who would like to secure rental housing and earn enough to cover monthly rental payments, but do not have savings resources to provide the first month's rent and a security deposit.

Section 3 of this measure creates a GET exemption for affordable housing units provided by developers as a condition of any government agency's or body's approval. This section provides parity for non-201H projects and may be an incentive for developers to provide more than the required number of affordable units in proposed development. We recognize this

Senate Committee on Housing, Senate Committee on Water and Land
February 6, 2023
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section needs some work, and ask the chair move the measure out with this section intact for further discussion with stakeholders, developers, HHFDC, and the Department of Taxation.

Sections 4 and 5 change to the definition of “historic property” from 50 to 100 years old and allow for SHPD to contract out for third party reviews under certain conditions.

Section 8 streamlines the approval process for 201H by addressing delays in review and processing times at the county level.

Sections 5, 6, 7, and 8 of House Bill 1054 are temporary and set to repeal on July 1, 2028.

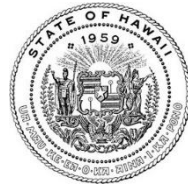
We appreciate your consideration of our request and look forward to working with you during session, as these issues and many others continue to be explored.

Mahalo,

Nani Medeiros

Mahalo,

JOSH GREEN, M.D.
GOVERNOR



DENISE ISERI-MATSUBARA
EXECUTIVE DIRECTOR

STATE OF HAWAII
DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM
HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION
677 QUEEN STREET, SUITE 300
HONOLULU, HAWAII 96813
PHONE: (808) 587-0620
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IN REPLY PLEASE REFER TO:

Statement of
DENISE ISERI-MATSUBARA
Hawaii Housing Finance and Development Corporation
Before the

**SENATE COMMITTEE ON HOUSING
AND
SENATE COMMITTEE ON WATER AND LAND**

February 09, 2023 at 1:15 p.m.
State Capitol, Room 225

In consideration of
S.B. 1352
RELATING TO HOUSING.

HHFDC shares the enthusiasm for supporting the state's workforce with initiatives to secure affordable rental housing and supplementing resources for State review processes to expedite the delivery of affordable housing.

HHFDC supports the intent of this measure which, among other things, requires HHFDC to establish a new loan program for local workforce renters with zero-interest loans of up to \$2,500 for rental-unit security deposits and makes an appropriation of \$2.5 million for each year of the 2023-2025 fiscal biennium for this program. However, there are some concerns relating to program implementation to share with the committee.

While day-to-day administration will be the responsibility of the grantee counties or nonprofit corporations, program implementation may involve a considerable amount of HHFDC staff time to develop guidelines, standards, and metrics for the grantees to follow; promulgate any necessary administrative rules; conduct any necessary procurements; and monitor various agreements for program compliance. An additional staff position may be needed to manage the various contracts; review and approve disbursements, collect and review the required reports; and conduct periodic compliance activities.

HHFDC notes that Section 2(b) of the bill requires that the loan program grants to counties and nonprofit corporations be made pursuant to Chapter 103F, Hawaii Revised Statutes (HRS). HHFDC believes that Chapter 103D, HRS provides the more appropriate framework in this situation and therefore requests an **amendment** to the bill reflect this.

We remain committed to supporting these housing-related efforts and look forward to working with the administration to help address these concerns.

Thank you for the opportunity to provide testimony.

JOSH GREEN M.D.
GOVERNOR

SYLVIA LUKE
LT. GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TAXATION
Ka 'Oihana 'Auhau
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GARY S. SUGANUMA
DIRECTOR

KRISTEN M.R. SAKAMOTO
DEPUTY DIRECTOR

**TESTIMONY OF
GARY S. SUGANUMA, DIRECTOR OF TAXATION**

TESTIMONY ON THE FOLLOWING MEASURE:

S.B. No. 1352, Relating to Housing

BEFORE THE:

Senate Committee on Housing and Senate Committee on Water and Land

DATE: Thursday, February 9, 2023

TIME: 1:15 p.m.

LOCATION: State Capitol, Room 225

Chairs Chang and Inouye, Vice-Chairs Kanuha and Elefante, and Members of the Committees:

The Department of Taxation ("Department") supports S.B. 1352, an Administration measure, and offers the following comments.

Section 3 of the bill, which begins on page 4, exempts from general excise tax all gross income received by any qualified person or firm for the planning, design, financing, construction, sale, or lease of affordable housing units in the State that are part of a government agency's, or approving body's, condition for approval. The exemption excludes gross income received for projects certified or approved under section 201H-36, Hawai'i Revised Statutes (HRS). The exemption shall take effect upon the bill's approval.

The Department suggests adding a certification requirement to section 3 of the bill, on page 4, lines 12 to 16, to help minimize invalid or fraudulent claims:

(a) All gross income received by any qualified person or firm for the planning, design, financing, construction, sale, or lease of affordable housing units in the State that are part of a government agency's or approving body's condition for approval, and that have been certified by

Department of Taxation Testimony

S.B. 1352

February 9, 2023

Page 2 of 2

the government agency or approving body, shall be exempt from general excise taxes.

Further, because this bill will require tax form and system changes, the Department requests that the effective date of the bill be amended to no earlier than January 1, 2024. The Department notes, however, that due to the number of bills with tax law changes that have been introduced this year, the Department may not have the resources to implement all measures passed this session by January 1, 2024. The Department will continue to monitor the status of proposed legislation and will advise whether some changes will require a later effective date.

Thank you for the opportunity to provide testimony on this measure.



February 7, 2023

Senator Stanley Chang, Chair
Senator Dru Kanuha, Vice Chair
Members of the Committee Housing

Senator Lorraine Inouye, Chair
Senator Brandon Elefante, Vice Chair

RE: **SB 1352 – RELATING TO HOUSING**
Hearing date – February 9, 2023 at 1:15 p.m.

Aloha Chair Chang, Chair Inouye and members of the committees,

Thank you for allowing NAIOP Hawaii to submit testimony with **SUPPORT ON SB 1352 – RELATING TO HOUSING**. NAIOP Hawaii is the Hawaii chapter of the nation's leading organization for office, industrial, retail, residential and mixed-use real estate. NAIOP Hawaii has over 200 members in the State including local developers, owners, investors, asset managers, lenders and other professionals.

SB 1352 establishes the rental deposit loan program and incentives to support development of affordable housing, local renters, third party reviewers, and address government processes to lower housing costs. The measure further appropriates \$2,500,000 for each year of the 2023-2025 fiscal biennium for establishment of the rental deposit loan program.

NAIOP Hawaii is supportive of all policies which encourage the production of much needed housing stock for our local residents. Hawaii residents are in need of housing and this measure will continue production of units.

Accordingly, NAIOP Hawaii supports all tools which actually get homes built for our residents. Thank you for the opportunity to testify on this measure.

Mahalo for your consideration,

A handwritten signature in black ink, appearing to read "Jennifer Camp". The signature is written in a cursive style and is positioned above the printed name of the signatory.

Jennifer Camp, President
NAIOP Hawaii

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 305

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: GENERAL EXCISE, Exemption for affordable housing; rental deposit loan program

BILL NUMBER: HB 1054, SB 1352 [GOV-06]

INTRODUCED BY: HB by SAIKI; SB by KOUCHI (Governor's Package)

EXECUTIVE SUMMARY: Establishes the rental deposit loan program and incentives to support development of affordable housing, local renters, third party reviewers, and address government processes to lower housing costs. Appropriates \$2,500,000 for each year of the 2023-2025 fiscal biennium for establishment of the rental deposit loan program.

SYNOPSIS: As it relates to taxation, this bill adds a new section to chapter 237, HRS, that would exempt all gross income received by any qualified person or firm for the planning, design, financing, construction, sale, or lease of affordable housing units in the State that are part of a government agency's or approving body's condition for approval.

This section shall not apply to gross income received by any qualified person or firm for housing projects certified or approved under section 201H-36.

EFFECTIVE DATE: The GET exemption is effective upon approval.

STAFF COMMENTS: Currently, HRS section 237-29 provides a GET exemption for the development of affordable housing. The HHFDC, under HRS section 201H-36, and county housing departments, under HRS section 46-15.1, can certify projects for the GET exemption.

The proposed new section to chapter 237, HRS, suffers from vagueness. The terms "qualified person or firm" are undefined. Perhaps the terms could be defined by cross-reference to administrative rules under section 201H-36, HRS, namely section 15-306-2, HAR.

It is unclear what is meant by "affordable housing units in the State that are part of a government agency's or approving body's condition for approval."

In any event, it is unclear whether there will be incremental benefit from the new GET exemption over and above the benefit provided by the existing exemption.

Digested: 2/1/2023

February 9, 2023

The Honorable Stanley Chang, Chair
Senate Committee on Housing

The Honorable Lorraine Inouye, Chair
Senate Committee on Water and Land
State Capitol, Conference Room 225 & Videoconference

RE: Senate Bill 1352, Relating to Housing

HEARING: Thursday, February 9, 2023, at 1:15 p.m.

Aloha Chair Chang, Chair Inouye and Members of the Joint Committees:

My name is Lyndsey Garcia, Director of Advocacy, testifying on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i and its over 11,000 members. HAR **supports** Senate Bill 1352 which establishes the rental deposit loan program and incentives to support development of affordable housing, local renters, third party reviewers, and address government processes to lower housing costs. Appropriates \$2,500,000 for each year of the 2023-2025 fiscal biennium for establishment of the rental deposit loan program.

Since 2017, Hawaii has experienced a population decline. According to the latest United States Census¹ data, between July 2021 to July 2022, Hawai'i lost 6,958 residents or 0.48% of the population. With Hawaii's high cost of housing and living, it can be a challenge for Hawai'i residents to afford to live here. As such, this measure helps our workforce by providing zero interest loans to renters between 80% and 120% of the area median income.

Furthermore, according to the Department of Business Economic Development and Tourism's 2019 report on Housing Demand in Hawai'i, the state needs up to 45,497, housing units to meet demand in Hawai'i by 2030.² Ultimately, we have a housing supply problem, including the need for more affordable rentals and for-sale units. This measure helps accomplish that through providing tax incentives and expediting review of affordable housing projects.

Additionally, Hawai'i Revised Statutes Chapter 6E, defines a historic property as, "any building, structure, object, district, area or site, including heiau and under water site, which is over fifty years old. With the current definition, the number of homes and

¹ United States Census Bureau. (2022). *2022 State Population Estimates*.
<https://census.hawaii.gov/main/2022-state-pe>

² Department of Business, Economic Development & Tourism. (2019). *Hawaii Housing Demand 2020-2030*. <https://files.hawaii.gov/dbedt/economic/reports/housing-demand-2019.pdf>



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buildings that qualify has continued to increase. This can be challenging for homeowners that must comply with the historic preservation review process for permits, even when their properties have no historical significance. For example, some homes in Mililani were built in 1968, and homes there can be over 55 years old. Current law can also be challenging for the State Historic Preservation Division, as they will have to review properties simply because the property is over 50 years old, even without historical significance. As such, increasing the definition of a historic property to over 100 years may help address these challenges.

For the foregoing reasons, Hawai'i REALTORS® supports this measure. Mahalo for the opportunity to testify.



LATE

Testimony of
Pacific Resource Partnership

Senate Committee On Housing
Senator Stanley Chang, Chair
Senator Dru Mamo Kanuha, Vice Chair

Senate Committee On Water Land
Senator Lorraine R. Inouye, Chair
Senator Brandon J.C. Elefante, Vice Chair

SB 1352—Relating To Housing
Thursday, February 9, 2023
1:15 P.M.

Aloha Chairs Chang and Inouye, Vice Chairs Kanuha and Elefante, and Members of the Committees:

Pacific Resource Partnership (PRP) is a non-profit market recovery trust fund which represents approximately 7,000 men and women union carpenters and 240 large and small contractors. With our expertise in research, compliance, marketing, and project advocacy, we are committed to building a stronger, more sustainable Hawaii in a way that promotes a vibrant economy, creates jobs, and enhances the quality of life for all residents of Hawaii.

PRP writes in **strong support of SB 1352 with amendments.**

SB 1352 with the proposed amendments listed below will incentivize developers to build more affordable housing, help individuals and families to obtain housing, and ensure that the workers building these projects are paid a living wage and can afford the homes that they are building.

The following are PRP's proposed amendments to SB 1352:

Section 3: HRS §201H-36(a), Exemption from GET

- Amends HRS §201H-36(a) to remove \$30M GET cap and limitation that GET applies only to contracting.

Section 9: HRS §201H-38(a):

- PRP proposes only a technical amendment to 201H-38(a)(3)(B) to insert the clause “providing recommendations” to mirror the administration’s amendment to HRS 201H-38(a)(3)(A).

Section 10: HRS §46-4. County Zoning.

- Inserts a new sub-section to clarify that counties have the power through zoning to promote labor standards, including, but not limited to living wages, benefits, and requirements for participation in state-approved apprenticeship programs.
- Inserts a new sub-section requiring counties to adopt standards to encourage development of affordable housing units, including, for example, to adopt standards to allow increased single-family and multifamily density; eliminate or increase residential property height limitations; allow reduced minimum residential lot sizes; expand by-right multifamily zoned areas; increase the allowable floor area ratio in multifamily housing areas; allow mixed use and multifamily development in retail, office, and light manufacturing areas; allow the conversion of retail, office, and commercial units and spaces to apartments; allow the subdivision of single-family homes into duplexes; adopt design standards to allow approval by-right of housing projects affordable to households earning up to 140% of the area median income; and allow accessory dwelling units, including detached accessory dwelling units on lots with single family homes.

Section 11: HRS §46-14.5, Land use density and infrastructure; low-income rental units

- Amends HRS §46-14.5 to require (“shall” rather than “authorize”) counties to provide flexibility in land use density provisions and public facility requirements to encourage the development of any rental housing project where at least a portion of the rental units are set aside for persons and families with incomes at or below 140% of AMI.

Section 12: HRS §46 - . Land use density and infrastructure; affordable housing for sale.

- Amends HRS §46 to insert new section to be appropriately designated, which will require counties to provide flexibility in land use density provisions and public facility requirements to encourage the development of for sale where at least a portion of the rental units are set aside for persons and families with incomes at or below 140% of AMI.

Section 13: HRS §46 - . Land use density and infrastructure; lease of public school land.

- Require counties to provide flexibility in land use density provisions and public facility requirements to encourage the development of housing on public school land under HRS

302A-1151.1 where at least a portion of the rental units are set aside for persons and families with incomes at or below 140% of AMI.

Section 14: HRS §171-11: Setting aside public lands by Governor executive order

- Amends HRS §171-11 to require that in any order by Governor setting aside public lands to county / state agencies for development of affordable housing projects, the order setting those lands aside must require the applicable county / state agency to require use of general contractors and subcontractors whose wages are reflected in the Hawaii prevailing wage statute, Chapter 104, HRS for laborers and mechanics employed for the housing project.

Section 15: HRS §104-2. Applicability; wages, hours, and other requirements.

- Amends 104-2(b) to require every laborer and mechanic employed for the construction of any public work project, including, but not limited to off-site construction, to be paid no less than prevailing wages.
- Deletes 104-2(i)(3) that restricts qualified person or firm from receiving any other direct or indirect financing from any other governmental contracting agency, including HHFDC.

Section 16: HRS §302A-1151.1. Program for lease of public school lands.

- Amends HRS §302A-1151.1 to:
 - Remove limit on number of sites that can be identified for redevelopment;
 - Remove limit on number of sites that can be leased for redevelopment, and
 - Require contracts for redevelopment of land to be with general contractors and subcontractors whose wages are reflected in the Hawaii prevailing wage statute, Chapter 104, HRS for laborers and mechanics employed for the contract.

Thank you for this opportunity to submit written testimony. See proposed amendments in the draft bill attached. PRP's proposed amendments are underlined and highlighted in red.

___ .B. NO. _____

A BILL FOR AN ACT

RELATING TO HOUSING.

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

1 SECTION 1. The legislature finds that the severe shortage
2 of housing that is affordable imposes a tremendous hardship on
3 the residents of our communities. The lack of affordable
4 housing options is the biggest barrier for employers to recruit
5 and retain skilled workers, and the reason many Hawai'i residents
6 are migrating to more affordable communities in the continental
7 United States. A December 2019 study commissioned by the Hawaii
8 housing finance and development corporation estimates that
9 Hawai'i will need to build more than fifty thousand housing units
10 by 2025 to meet the housing demand, with over ninety per cent of

1 the units required for households earning at or below one
2 hundred forty per cent of the area median income.

3 The legislature further finds that it must engage
4 developers with incentives to develop additional affordable
5 housing units above and beyond inclusionary requirements
6 including creating pathways to deliver affordable homes in a
7 timely matter to the public.

8 The purpose of this Act is to encourage development of
9 affordable housing units, support workforce housing renters with
10 direct loans for security deposits, and temporarily promote
11 timely reviews of projects through targeted streamlined
12 processes without compromising health and safety or historic
13 preservation.

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

17 "§201H- Rental deposit loan program. (a) There is
18 established within the corporation a rental deposit loan program

1 to assist individuals and families earning between eighty per
2 cent and one hundred twenty per cent of the area median income
3 with obtaining rental housing by providing zero per cent
4 interest loans for security deposits up to \$2,500. Zero
5 interest loans for security deposits under this subsection shall
6 be repaid to the corporation over a period not to exceed forty-
7 eight months.

8 (b) The corporation shall provide grants pursuant to
9 chapter 103F to counties and nonprofit corporations for the
10 administration of the rental deposit loan program.

11 (c) Prospective tenants who are eligible to participate in
12 the rental deposit loan program shall be limited to individuals
13 and families earning between eighty per cent and one hundred
14 twenty per cent of the area median income.

15 (d) The recipient county or nonprofit corporation shall
16 determine the eligibility of an applicant, including but not
17 limited to:

- 1 (1) Verification of income between eighty per cent and one
2 hundred twenty per cent of the area median income;
3 (2) Proof of a rental offering of at least six months;
4 (3) Evaluation of the applicant's financial resources;
5 (4) Determination that the applicant is unable to afford
6 both the rental deposit and first month's rent, but is
7 able to afford the rent thereafter; and
8 (5) Proof of Hawaii residency.

9 (e) The recipient county or nonprofit corporation shall
10 enter into a contract with persons deemed eligible and awarded a
11 loan under the rental deposit loan program in which the
12 repayment schedule is agreed upon a specific amount of months
13 not to exceed forty-eight months at zero per cent interest.

14 (f) A county or nonprofit corporation receiving a grant
15 pursuant to this section may use an amount not to exceed eight
16 per cent of the grant for the costs of administering the rental
17 deposit loan program.

18 (g) County and nonprofit corporation recipients shall:

- 1 (1) Keep statistical records on loan recipients, including
2 the numbers of individuals and families served and
3 repayment status; and
4 (2) Provide quarterly reports to the corporation."

5 SECTION 3. Section 201H-36(a), Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§201H-36 Exemption from general excise taxes.** (a) In
8 accordance with section 237-29, the corporation may approve and
9 certify for exemption from general excise taxes any qualified
10 person or firm involved with a newly constructed, or a
11 moderately or substantially rehabilitated, project that is:

12 (1) Developed under this part;

13 (2) Developed under a government assistance program
14 approved by the corporation, including but not limited to the
15 United States Department of Agriculture's section 502 direct
16 loan program and Federal Housing Administration's section 235
17 program;

1 (3) Developed under the sponsorship of a private nonprofit
2 organization providing home rehabilitation or new homes for
3 qualified families in need of decent, low-cost housing;

4 (4) Developed by a qualified person or firm to provide
5 affordable rental housing where at least fifty per cent of the
6 available units are for households with incomes at or below
7 eighty per cent of the area median family income as determined
8 by the United States Department of Housing and Urban
9 Development, of which at least twenty per cent of the available
10 units are for households with incomes at or below sixty per cent
11 of the area median family income as determined by the United
12 States Department of Housing and Urban Development; or

13 (5) Approved or certified from July 1, 2018, to June 30,
14 2030, and developed under a contract described in section
15 104-2(i)(2) by a qualified person or firm to provide affordable
16 rental housing through new construction or substantial
17 rehabilitation; provided that[÷

1 ~~(A) The allowable general excise tax and use tax costs~~
2 ~~shall apply to contracting only and shall not exceed \$30,000,000~~
3 ~~per year in the aggregate for all projects approved and~~
4 ~~certified by the corporation; and~~

5 ~~(B) A~~all available units are for households with incomes
6 at or below one hundred forty per cent of the area median family
7 income as determined by the United States Department of Housing
8 and Urban Development, of which at least twenty per cent of the
9 available units are for households with incomes at or below
10 eighty per cent of the area median family income as determined
11 by the United States Department of Housing and Urban
12 Development; provided that an owner shall not refuse to lease a
13 unit solely because the applicant holds a voucher or certificate
14 of eligibility under section 8 of the United States Housing Act
15 of 1937, as amended."

16 SECTION ~~43~~. Chapter 237, Hawaii Revised Statutes, is
17 amended by adding a new section to be appropriately designated
18 and to read as follows:

1 "§237- **Exemption for construction of affordable housing**

2 **units.** (a) All gross income received by any qualified person
3 or firm for the planning, design, financing, construction, sale,
4 or lease of affordable housing units in the State that are part
5 of a government agency's or approving body's condition for
6 approval shall be exempt from general excise taxes.

7 (b) This section shall not apply to gross income received
8 by any qualified person or firm for housing projects certified
9 or approved under section 201H-36.

10 (c) The director of taxation shall modify, or adopt, rules
11 pursuant to chapter 91 for the purpose of this section as
12 necessary."

13 SECTION 54. Section 6E-2, Hawaii Revised Statutes, is
14 amended by amending the definition of "historic property" to read
15 as follows:

16 ""Historic property" means any building, structure, object,
17 district, area, or site, including heiau and an underwater site
18 [~~which~~] that is over [~~fifty~~] one hundred years old."

1 SECTION ~~65~~. Section 6E-8, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§6E-8 Review of effect of proposed state projects.** (a)

4 Before any agency or officer of the State or its political
5 subdivisions commences any project [~~which~~] that may affect
6 historic property, aviation artifact, or a burial site, the
7 agency or officer shall advise the department and allow the
8 department an opportunity for review of the effect of the
9 proposed project on historic properties, aviation artifacts, or
10 burial sites, consistent with section 6E-43, especially those
11 listed on the Hawaii register of historic places. The proposed
12 project shall not be commenced, or if it has already begun,
13 continued, until the department has given its written
14 concurrency. If:

- 15 (1) The proposed project consists of corridors or large land areas;
16 (2) Access to properties is restricted; or
17 (3) Circumstances dictate that construction be done in stages,

1 the department may give its written concurrence based on a phased
2 review of the project; provided that there shall be a
3 programmatic agreement between the department and the project
4 applicant that identifies each phase and the estimated timelines
5 for each phase.

6 The department shall provide written concurrence or non-
7 concurrence within ninety days after the filing of a request with
8 the department. The agency or officer seeking to proceed with
9 the project, or any person, may appeal the department's
10 concurrence or non-concurrence to the Hawaii historic places
11 review board. An agency, officer, or other person who is
12 dissatisfied with the decision of the review board may apply to
13 the governor, who may take action as the governor deems best in
14 overruling or sustaining the department.

15 (b) The department of Hawaiian home lands, prior to any
16 proposed project relating to lands under its jurisdiction, shall
17 consult with the department regarding the effect of the project
18 upon historic property or a burial site.

1 (c) The State, its political subdivisions, agencies, and
2 officers shall report to the department the finding of any
3 historic property during any project and shall cooperate with the
4 department in the investigation, recording, preservation, and
5 salvage of the property.

6 (d) The department shall retain a third-party consultant to
7 conduct the review described under subsection (a) if, after an
8 initial evaluation, the department determines that:

9 (1) It will not be able to provide its written concurrence
10 or non-concurrence within sixty days of the filing of
11 the request with the department;

12 (2) The third-party consultant has the qualifications and
13 experience required pursuant to subsection (e) to
14 conduct the review; and

15 (3) The third-party consultant will contract to provide a
16 recommendation to the department within thirty days of
17 the filing of the request with the department.

1 The department shall obtain the approval of the appropriate
2 island burial council prior to retaining the services of the
3 third-party consultant.

4 (e) Whenever the department retains any third party,
5 including an architect, engineer, archaeologist, planner, or
6 other person to review an application for a permit, license, or
7 approval under subsection (d), the third party shall meet the
8 educational and experience standards and the qualifications for
9 preservation professionals pursuant to rules adopted by the state
10 historic preservation division.

11 [e](f) The department shall adopt rules in accordance with
12 chapter 91 to implement this section."

13 SECTION 76. Section 6E-10, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§6E-10 Privately owned historic property.** (a) Before any
16 construction, alteration, disposition or improvement of any
17 nature, by, for, or permitted by a private landowner may be
18 commenced ~~[which]~~ that will affect ~~[an]~~ a historic property on

1 the Hawaii register of historic places, the landowner shall
2 notify the department of the construction, alteration,
3 disposition, or improvement of any nature and allow the
4 department opportunity for review of the effect of the proposed
5 construction, alteration, disposition, or improvement of any
6 nature on the historic property. The proposed construction,
7 alteration, disposition, or improvement of any nature shall not
8 be commenced, or in the event it has already begun, continue,
9 until the department shall have given its concurrence or ninety
10 days have elapsed. Within ninety days after notification, the
11 department shall:

12 (1) Commence condemnation proceedings for the purchase of
13 the historic property if the department and property
14 owner do not agree upon an appropriate course of
15 action;

16 (2) Permit the owner to proceed with the owner's
17 construction, alteration, or improvement; or

1 (3) In coordination with the owner, undertake or permit
2 the investigation, recording, preservation, and
3 salvage of any historical information deemed necessary
4 to preserve Hawaiian history, by any qualified agency
5 for this purpose.

6 (b) Nothing in this section shall be construed to prevent
7 the ordinary maintenance or repair of any feature in or on [~~an~~]
8 a historic property that does not involve a change in design,
9 material, or outer appearance or change in those characteristics
10 [~~which~~] that qualified the historic property for entry onto the
11 Hawaii register of historic places.

12 (c) Any person, natural or corporate, who violates the
13 provisions of this section shall be fined not more than \$1,000,
14 and each day of continued violation shall constitute a distinct
15 and separate offense under this section for which the offender
16 may be punished.

17 (d) If funds for the acquisition of needed property are
18 not available, the governor may, upon the recommendation of the

1 department, allocate from the contingency fund an amount
2 sufficient to acquire an option on the property or for the
3 immediate acquisition, preservation, restoration, or operation
4 of the property.

5 (e) The department shall retain a third-party consultant to
6 conduct the review described under subsection (a) if, after an
7 initial evaluation, the department determines that:

8 (1) It will not be able to provide its written concurrence
9 or non-concurrence within sixty days of the landowner's
10 notification of construction, alteration, disposition,
11 or improvement;

12 (2) The third-party consultant has the qualifications and
13 experience required pursuant to subsection (f) to
14 conduct the review; and

15 (3) The third-party consultant will contract to provide a
16 recommendation to the department within thirty days of
17 the landowner's notification of construction,
18 alteration, disposition, or improvement.

1 The department shall obtain the approval of the appropriate
2 island burial council prior to contracting to retain the services
3 of the third-party consultant.

4 (f) Whenever the department retains any third party,
5 including an architect, engineer, archaeologist, planner, or
6 other person, to review an application for a permit, license, or
7 approval under subsection (e), the third party shall meet the
8 educational and experience standards as well as the
9 qualifications for preservation professionals pursuant to rules
10 adopted by the state historic preservation division.

11 [~~e~~](g) The department or third-party consultant, as
12 applicable, may enter, solely in performance of [its] the
13 department's official duties and only at reasonable times, upon
14 private lands for examination or survey thereof. Whenever any
15 member of the department or the department's third-party
16 consultant, as applicable, duly authorized to conduct
17 investigations and surveys of [an] a historic or cultural nature
18 determines that entry onto private lands for examination or

1 survey of historic or cultural finding is required, the
2 department or the department's third-party consultant, as
3 applicable, shall give written notice of the finding to the
4 owner or occupant of such property at least five days prior to
5 entry. If entry is refused, the member or the department's
6 third-party consultant, as applicable, may make a complaint to
7 the district environmental court in the circuit in which such
8 land is located. The district environmental court may thereupon
9 issue a warrant, directed to any police officer of the circuit,
10 commanding the officer to take sufficient aid, and, being
11 accompanied by a member of the department[7] or the department's
12 third-party consultant, as applicable, between the hours of
13 sunrise and sunset, allow the member of the department or the
14 department's third-party consultant, as applicable, to examine
15 or survey the historic or cultural property."

16

17 SECTION 87. Section 6E-42, Hawaii Revised Statutes, is
18 amended to read as follows:

1 **"§6E-42 Review of proposed projects.** (a) Except as
2 provided in section 6E-42.2, before any agency or officer of the
3 State or its political subdivisions approves any project
4 involving a permit, license, certificate, land use change,
5 subdivision, or other entitlement for use[~~, which~~] that may
6 affect historic property, aviation artifacts, or a burial site,
7 the agency or office shall advise the department and prior to
8 any approval, allow the department an opportunity for review and
9 comment on the effect of the proposed project on historic
10 properties, aviation artifacts, or burial sites, consistent with
11 section 6E-43, including those listed in the Hawaii register of
12 historic places. If:

- 13 (1) The proposed project consists of corridors or large
14 land areas;
- 15 (2) Access to properties is restricted; or
- 16 (3) Circumstances dictate that construction be done in
17 stages,

1 the department's review and comment may be based on a phased
2 review of the project; provided that there shall be a
3 programmatic agreement between the department and the project
4 applicant that identifies each phase and the estimated timelines
5 for each phase.

6 (b) The department shall inform the public of any project
7 proposals submitted to it under this section that are not
8 otherwise subject to the requirement of a public hearing or
9 other public notification.

10 (c) The department shall retain a third-party consultant to
11 conduct the review described under subsection (a) if, after an
12 initial evaluation, the department determines that:

13 (1) It will not be able to provide its written concurrence
14 or non-concurrence within sixty days of being advised
15 of the project pursuant to subsection (a);

16 (2) The third-party consultant has the qualifications and
17 experience required pursuant to subsection (d) to
18 conduct the review; and

1 (3) The third-party consultant will contract to provide a
2 recommendation to the department within thirty days of
3 being advised of the project pursuant to subsection
4 (a).

5 The department shall obtain the approval of the appropriate
6 island burial council prior to contracting to retain the services
7 of the third-party consultant.

8 (d) Whenever the department retains any third party,
9 including an architect, engineer, archaeologist, planner, or
10 other person to review an application for a permit, license, or
11 approval under subsection (c), the third party shall meet the
12 educational and experience standards and the qualifications for
13 preservation professionals pursuant to rules adopted by the state
14 historic preservation division.

15 [~~e~~] (e) The department shall adopt rules in accordance
16 with chapter 91 to implement this section."

17 SECTION 98. Section 201H-38(a), Hawaii Revised Statutes, is
18 amended by amending subsection (a) to read as follows:

1 "(a) The corporation may develop on behalf of the State or
2 with an eligible developer, or may assist under a government
3 assistance program in the development of, housing projects that
4 shall be exempt from all statutes, ordinances, charter
5 provisions, and rules of any government agency relating to
6 planning, zoning, construction standards for subdivisions,
7 development and improvement of land, and the construction of
8 dwelling units thereon; provided that:

9 (1) The corporation finds the housing project is
10 consistent with the purpose and intent of this
11 chapter, and meets minimum requirements of health and
12 safety;

13 (2) The development of the proposed housing project does
14 not contravene any safety standards, tariffs, or rates
15 and fees approved by the public utilities commission
16 for public utilities or of the various boards of water
17 supply authorized under chapter 54;

1 (3) The legislative body of the county in which the
2 housing project is to be situated [~~shall have~~
3 ~~approved~~] may approve the project with or without
4 [~~modifications:~~] recommendations:

5 (A) The legislative body shall approve, approve with
6 [~~modification,~~] recommendations, or disapprove
7 the project by resolution within forty-five days
8 after the corporation has submitted the
9 preliminary plans and specifications for the
10 project to the legislative body. If on the
11 forty-sixth day a project is not disapproved, it
12 shall be deemed approved by the legislative body;

13 (B) No action shall be prosecuted or maintained
14 against any county, its officials, or employees
15 on account of actions taken by them in reviewing,
16 approving, providing recommendations, [~~modifying,~~]
17 or disapproving the plans and specifications; and

1 (C) The final plans and specifications for the
2 project shall be deemed approved by the
3 legislative body if the final plans and
4 specifications do not substantially deviate from
5 the preliminary plans and specifications. The
6 final plans and specifications for the project
7 shall constitute the zoning, building,
8 construction, and subdivision standards for that
9 project. For purposes of sections 501-85 and
10 502-17, the executive director of the corporation
11 or the responsible county official may certify
12 maps and plans of lands connected with the
13 project as having complied with applicable laws
14 and ordinances relating to consolidation and
15 subdivision of lands, and the maps and plans
16 shall be accepted for registration or recordation
17 by the land court and registrar; and

1 (4) The land use commission shall approve, approve with
2 modification, or disapprove a boundary change within forty-five
3 days after the corporation has submitted a petition to the
4 commission as provided in section 205-4. If, on the forty-sixth
5 day, the petition is not disapproved, it shall be deemed
6 approved by the commission."

7 SECTION 10. Section 46-4, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "**§46-4 County zoning.** (a) This section and any ordinance,
10 rule, or regulation adopted in accordance with this section
11 shall apply to lands not contained within the forest reserve
12 boundaries as established on January 31, 1957, or as
13 subsequently amended.

14 Zoning in all counties shall be accomplished within the
15 framework of a long-range, comprehensive general plan prepared
16 or being prepared to guide the overall future development of the
17 county. Zoning shall be one of the tools available to the
18 county to put the general plan into effect in an orderly

1 manner. Zoning in the counties of Hawaii, Maui, and Kauai means
2 the establishment of districts of such number, shape, and area,
3 and the adoption of regulations for each district to carry out
4 the purposes of this section. In establishing or regulating the
5 districts, full consideration shall be given to all available
6 data as to soil classification and physical use capabilities of
7 the land to allow and encourage the most beneficial use of the
8 land consonant with good zoning practices. The zoning power
9 granted herein shall be exercised by ordinance which may relate
10 to:

11 (1) The areas within which agriculture, forestry,
12 industry, trade, and business may be conducted;

13 (2) The areas in which residential uses may be regulated
14 or prohibited;

15 (3) The areas bordering natural watercourses, channels,
16 and streams, in which trades or industries, filling or dumping,
17 erection of structures, and the location of buildings may be
18 prohibited or restricted;

1 (4) The areas in which particular uses may be subjected to
2 special restrictions;

3 (5) The location of buildings and structures designed for
4 specific uses and designation of uses for which buildings and
5 structures may not be used or altered;

6 (6) The location, height, bulk, number of stories, and
7 size of buildings and other structures;

8 (7) The location of roads, schools, and recreation areas;

9 (8) Building setback lines and future street lines;

10 (9) The density and distribution of population;

11 (10) The percentage of a lot that may be occupied, size of
12 yards, courts, and other open spaces;

13 (11) Minimum and maximum lot sizes; and

14 (12) Promoting Labor standards including, but not limited
15 to living wages, benefits, and requirements for participation in
16 state-approved apprenticeship programs, which promote the
17 efficient and expeditious completion of construction projects

1 and permit and encourage the orderly development of land
2 resources within each county;

3 [~~1342~~]) Other regulations the boards or city council find
4 necessary and proper to permit and encourage the orderly
5 development of land resources within their jurisdictions.

6 The council of any county shall prescribe rules,
7 regulations, and administrative procedures and provide personnel
8 it finds necessary to enforce this section and any ordinance
9 enacted in accordance with this section. The ordinances may be
10 enforced by appropriate fines and penalties, civil or criminal,
11 or by court order at the suit of the county or the owner or
12 owners of real estate directly affected by the ordinances.

13 Any civil fine or penalty provided by ordinance under this
14 section may be imposed by the district court, or by the zoning
15 agency after an opportunity for a hearing pursuant to chapter
16 91. The proceeding shall not be a prerequisite for any
17 injunctive relief ordered by the circuit court.

1 Nothing in this section shall invalidate any zoning
2 ordinance or regulation adopted by any county or other agency of
3 government pursuant to the statutes in effect prior to July 1,
4 1957.

5 The powers granted herein shall be liberally construed in
6 favor of the county exercising them, and in such a manner as to
7 promote the orderly development of each county or city and
8 county in accordance with a long-range, comprehensive general
9 plan to ensure the greatest benefit for the State as a
10 whole. This section shall not be construed to limit or repeal
11 any powers of any county to achieve these ends through zoning
12 and building regulations, except insofar as forest and water
13 reserve zones are concerned and as provided in subsections (c)
14 and (d).

15 Neither this section nor any ordinance enacted pursuant to
16 this section shall prohibit the continued lawful use of any
17 building or premises for any trade, industrial, residential,
18 agricultural, or other purpose for which the building or

1 premises is used at the time this section or the ordinance takes
2 effect; provided that a zoning ordinance may provide for
3 elimination of nonconforming uses as the uses are discontinued,
4 or for the amortization or phasing out of nonconforming uses or
5 signs over a reasonable period of time in commercial,
6 industrial, resort, and apartment zoned areas only. In no event
7 shall such amortization or phasing out of nonconforming uses
8 apply to any existing building or premises used for residential
9 (single-family or duplex) or agricultural uses. Nothing in this
10 section shall affect or impair the powers and duties of the
11 director of transportation as set forth in chapter 262.

12 (b) Any final order of a zoning agency established under
13 this section may be appealed to the circuit court of the circuit
14 in which the land in question is found. The appeal shall be in
15 accordance with the Hawaii rules of civil procedure.

16 (c) Each county may adopt reasonable standards to allow
17 the construction of two single-family dwelling units on any lot
18 where a residential dwelling unit is permitted.

1 (d) Each county shall adopt standards to increase the
2 supply of affordable residential housing, including, without
3 limitation, standards to allow increased single-family and
4 multifamily density; eliminate or increase residential property
5 height limitations; allow reduced minimum residential lot sizes;
6 expand by-right multifamily zoned areas; increase the allowable
7 floor area ratio in multifamily housing areas; allow mixed use
8 and multifamily development in retail, office, and light
9 manufacturing areas; allow the conversion of retail, office, and
10 commercial units and spaces to apartments; allow the subdivision
11 of single-family homes into duplexes; adopt design standards to
12 allow approval by-right of housing projects affordable to
13 households earning up to 140% of the area median income; and
14 allow accessory dwelling units, including detached accessory
15 dwelling units on lots with single family homes.

16 (e[~~d~~]) Neither this section nor any other law, county
17 ordinance, or rule shall prohibit group living in facilities
18 with eight or fewer residents for purposes or functions that are

1 licensed, certified, registered, or monitored by the State;
2 provided that a resident manager or a resident supervisor and
3 the resident manager's or resident supervisor's family shall not
4 be included in this resident count. These group living
5 facilities shall meet all applicable county requirements not
6 inconsistent with the intent of this subsection, including but
7 not limited to building height, setback, maximum lot coverage,
8 parking, and floor area requirements.

9 (f[e]) Neither this section nor any other law, county
10 ordinance, or rule shall prohibit the use of land for employee
11 housing and community buildings in plantation community
12 subdivisions as defined in section 205-4.5(a)(12); in addition,
13 no zoning ordinance shall provide for the elimination,
14 amortization, or phasing out of plantation community
15 subdivisions as a nonconforming use.

16 (g[≠]) Neither this section nor any other law, county
17 ordinance, or rule shall prohibit the use of land for medical
18 cannabis production centers or medical cannabis dispensaries

1 established and licensed pursuant to chapter 329D; provided that
2 the land is otherwise zoned for agriculture, manufacturing, or
3 retail purposes.”

4 SECTION 11. Section 46-14.5, Hawaii Revised Statutes,
5 is amended to read as follows:

6 “§46-14.5 Land use density and infrastructure; low-
7 income rental units. Notwithstanding any other law to the
8 contrary, the counties shall~~[are authorized to]~~ provide
9 flexibility in land use density provisions and public facility
10 requirements to encourage the development of any rental housing
11 project where at least a portion of the rental units are set
12 aside for persons and families with incomes at or below one
13 hundred forty per cent of the area median family income, of
14 which twenty per cent are set aside for persons and families
15 with incomes at or below eighty per cent of the area median
16 family income.”

1 SECTION 12. Chapter 46, Hawaii Revised Statutes, is amended
2 by adding a new section to be appropriately designated and to
3 read as follows:

4 "§46- Land use density and infrastructure; affordable
5 housing for sale. Notwithstanding any other law to the
6 contrary, the counties shall provide flexibility in land use
7 density provisions and public facility requirements to encourage
8 the development of any housing project where a portion of the
9 housing units offered for sale are set aside for persons and
10 families with incomes at or below one hundred forty per cent of
11 the area median family income."

12 SECTION 13. Chapter 46, Hawaii Revised Statutes, is amended
13 by adding a new section to be appropriately designated and to
14 read as follows:

15 "§46- Land use density and infrastructure; lease of
16 public school land. Notwithstanding any other law to the
17 contrary, the counties shall provide flexibility in land use
18 density provisions and public facility requirements to encourage

1 the development of housing developed on public school land
2 leased under section 302A-1151.1."

3 SECTION 14. Section 171-11, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "§171-11 Public purposes, lands set aside by the governor;
6 management. The governor may, with the prior approval of the
7 board of land and natural resources, set aside public lands to
8 any department or agency of the State, the city and county,
9 county, or other political subdivisions of the State for public
10 use or purpose. All withdrawals of the lands or portions
11 thereof so set aside shall be made by the governor. Any order
12 by the governor setting aside land for public purposes pursuant
13 to section 171-11 to be under the control and management of any
14 county for the development of affordable housing projects and
15 related purposes, and in the interests of promoting the fair,
16 efficient and expeditious completion of such projects, shall
17 incorporate, as a condition of the order, that the applicable
18 department or agency of the State, the city and county, county,

1 or other political subdivision of the State, as part of any
2 request for proposal for an affordable housing project, require
3 the developer of the housing project to enter into contracts
4 with only general contractors and subcontractors whose wages are
5 reflected in the Hawaii prevailing wage statute, Chapter 104,
6 HRS for laborers and mechanics employed for the housing project.
7 The developer shall certify to the applicable department or
8 agency of the State, the city and county, county, or other
9 political subdivision of the State that this requirement shall
10 be met in the housing project construction, including, but not
11 limited to, off-site construction where a portion of the
12 building or work is manufactured or constructed for the
13 performance of the contract or project.

14 Any public lands set aside by the governor prior to the
15 enactment of this chapter, or any public lands set aside by the
16 governor of the Territory of Hawaii, shall be subject to the
17 provisions of this section.

1 Lands while so set aside for such use or purpose or when
2 acquired for roads and streets shall be managed by the
3 department, agency, city and county, county, or other political
4 subdivisions of the State having jurisdiction thereof, unless
5 otherwise provided by law. Such department, agency of the
6 State, the city and county, county, or other political
7 subdivisions of the State in managing such lands shall be
8 authorized to exercise all of the powers vested in the board in
9 regard to the issuance of leases, easements, licenses, revocable
10 permits, concessions, or rights of entry covering such lands for
11 such use as may be consistent with the purposes for which the
12 lands were set aside on the same terms, conditions, and
13 restrictions applicable to the disposition of public lands, as
14 provided by this chapter all such dispositions being subject to
15 the prior approval of the board; provided that any nonrenewable
16 dispositions granting rights for a period not in excess of
17 fourteen days shall not require (1) the approval of the board or
18 (2) public auction or public advertisement for sealed tenders;

1 and provided further that disposition of lands set aside for use
2 as agricultural parks pursuant to chapter 166 shall not be
3 subject to the prior approval of the board. If at the time of
4 the disposition of any such leases the board shall have approved
5 the same, any order withdrawing or setting aside any or all of
6 such lands for any other public purpose shall be made subject to
7 such leases. Subject to section 5(f) of the Act of March 18,
8 1959 (73 Stat. 6), all proceeds from such lands shall be
9 deposited into the appropriate funds provided by law.

10 This section shall also apply where the purposes are the
11 uses and purposes of the United States; provided that all
12 revenues derived from the lands and improvements thereon shall
13 be paid to the department of land and natural resources by the
14 United States.

15 Whenever lands set aside for a public purpose to the
16 various departments and agencies of the State, or to any city
17 and county, county, or other political subdivisions of the
18 State, or to the United States, are not being utilized or

1 required for the public purpose stated, the order setting aside
2 the lands shall be withdrawn and the lands shall be returned to
3 the department. The governor may withdraw public lands and,
4 with the prior approval of the board of land and natural
5 resources, set aside the withdrawn lands to another department
6 or agency of the State, the city and county, county, or
7 political subdivision of the State, or to the United States for
8 public use or purpose, provided that no structure on such lands
9 shall be built, demolished or altered until after the
10 legislative action or inaction as hereinbelow provided.

11 The power granted to the governor in this section to set
12 aside or withdraw or withdraw and set aside public lands shall
13 be exercised subject to disapproval by the legislature by two-
14 thirds vote of either the senate or the house of representatives
15 or by the majority vote of both, in any regular or special
16 session next following the date of the setting aside or
17 withdrawal, or withdrawal and setting aside.

1 Whenever portions of lands set aside for a public purpose
2 to the various departments and agencies of the State, or to any
3 city and county, county, or other political subdivision of the
4 State are not presently utilized or required for the public
5 purpose stated, the board shall have the power, without
6 withdrawing the order setting aside the lands, to dispose of any
7 and all real property interest less than the fee in the portions
8 of such lands where the disposition is for a use which is
9 consistent or inconsistent with the purpose for which the land
10 was set aside. All funds derived from disposition by the board
11 shall be deposited in the general fund of the State or be paid
12 to the appropriate account; provided that all such dispositions
13 shall be with the prior written approval of the department,
14 agency, city and county, county, or other political subdivisions
15 of the State and the governor, and shall be undertaken in
16 compliance with all other applicable sections of this chapter.”

17 SECTION 15. Section 104-2, Hawaii Revised Statutes is
18 amended to read as follows:

1 **"104-2 Applicability; wages, hours, and other**

2 **requirements.** (a) This chapter shall apply to every contract in
3 excess of \$2,000 for construction of a public work project to
4 which a governmental contracting agency is a party; provided
5 that this chapter shall not apply to experimental and
6 demonstration housing developed pursuant to section 46-15 or
7 housing developed pursuant to chapter 201H if the cost of the
8 project is less than \$500,000 and the eligible bidder or
9 eligible developer is a private nonprofit corporation.

10 For the purposes of this subsection:

11 "Contract" includes but is not limited to any agreement,
12 purchase order, or voucher in excess of \$2,000 for construction
13 of a public work project.

14 "Governmental contracting agency" includes:

15 (1) Any person or entity that causes either directly or
16 indirectly the building or development of a public work; and

17 (2) Any public-private partnership.

1 "Party" includes eligible bidders for and eligible
2 developers of any public work and any housing under chapter
3 201H; provided that this subsection shall not apply to any
4 housing developed under section 46-15 or chapter 201H if the
5 entire cost of the project is less than \$500,000 and the
6 eligible bidder or eligible developer is a private nonprofit
7 corporation.

8 (b) Every laborer and mechanic employed [~~performing work on~~
9 ~~the job site~~] for the construction of any public work project,
10 including, but not limited to off-site construction where a
11 portion of the building or work is manufactured or constructed
12 for the performance of the contract, shall be paid no less than
13 prevailing wages; provided that:

14 (1) The prevailing wages shall be established by the
15 director as the sum of the basic hourly rate and the cost to an
16 employer of providing a laborer or mechanic with fringe
17 benefits. In making prevailing wage determinations, the
18 following shall apply:

1 (A) The director shall make separate findings of:

2 (i) The basic hourly rate; and

3 (ii) The rate of contribution or cost of fringe

4 benefits paid by the employer when the payment of the fringe

5 benefits by the employer constitutes a prevailing practice. The

6 cost of fringe benefits shall be reflected in the wage rate

7 scheduled as an hourly rate; and

8 (B) The rates of wages which the director shall

9 regard as prevailing in each corresponding classification of

10 laborers and mechanics shall be the rate of wages paid to the

11 greatest number of those employed in the State, the modal rate,

12 in the corresponding classes of laborers or mechanics on

13 projects that are similar to the contract work;

14 (2) [Repeal and reenactment on June 30, 2030. L 2018, c

15 39, §4.] Except for the project prevailing wages established by

16 subsections (h) and (i), the prevailing wages shall be not less

17 than the wages payable under federal law to corresponding

18 classes of laborers and mechanics employed on public works

1 projects in the State that are prosecuted under contract or
2 agreement with the government of the United States; and

3 (3) Notwithstanding the provisions of the original
4 contract, the prevailing wages shall be periodically adjusted
5 during the performance of the contract in an amount equal to the
6 change in the prevailing wage as periodically determined by the
7 director.

8 (c) No laborer or mechanic employed on the job site of any
9 public work of the State or any political subdivision thereof
10 shall be permitted or required to work on Saturday, Sunday, or a
11 legal holiday of the State or in excess of eight hours on any
12 other day unless the laborer or mechanic receives overtime
13 compensation for all hours worked on Saturday, Sunday, and a
14 legal holiday of the State or in excess of eight hours on any
15 other day. The rate for overtime compensation and any other
16 premium rates of pay shall be those rates specified in an
17 applicable collective bargaining agreement when the basic hourly
18 rate is established by a collective bargaining agreement.

1 For purposes of determining overtime compensation under
2 this subsection, the basic hourly rate of any laborer or
3 mechanic shall not be less than the basic hourly rate determined
4 by the director to be the prevailing basic hourly rate for
5 corresponding classes of laborers and mechanics on projects of
6 similar character in the State.

7 (d) The contractor or the contractor's subcontractor shall
8 pay all mechanics and laborers employed on the job site,
9 unconditionally and not less often than once a week, and without
10 deduction or rebate on any account, except as allowed by law,
11 the full amounts of their wages including overtime, accrued to
12 not more than five working days prior to the time of payment, at
13 wage rates not less than those deemed to be prevailing,
14 regardless of any contractual relationship which may be alleged
15 to exist between the contractor or subcontractor and the
16 laborers and mechanics. The rates of wages to be paid shall be
17 posted by the contractor in a prominent and easily accessible
18 place at the job site, and a copy of the rates of wages required

1 to be posted shall be given to each laborer and mechanic
2 employed under the contract by the contractor at the time each
3 laborer and mechanic is employed, except that where there is a
4 collective bargaining agreement the contractor does not have to
5 provide the contractor's employees the wage rate schedules.

6 (e) The governmental contracting agency may withhold from
7 the contractor so much of the accrued payments as the
8 governmental contracting agency may consider necessary to pay to
9 the laborers and mechanics employed by the contractor or any
10 subcontractor on the job site the difference between the
11 prevailing wages and the wages received and not refunded by the
12 laborers and mechanics.

13 (f) Every contract in excess of \$2,000 for construction of
14 a public work project and the specifications for such contract
15 shall include provisions that set forth the requirements of
16 subsections (a) to (e); provided that failure by the contracting
17 agency to include those provisions in the contract or
18 specifications shall not be a defense of the contractor or

1 subcontractor for noncompliance with the requirements of this
2 chapter.

3 (g) [Repeal and reenactment on June 30, 2030. L 2018, c
4 39, §4.] For any public work project that is subject to this
5 chapter but not directly caused by a governmental contracting
6 agency, the director shall be responsible for enforcement of
7 this chapter, including the collection and maintenance of
8 certified copies of all payrolls that are subject to this
9 chapter

10 (h) When:

11 (1) The department of budget and finance enters a project
12 agreement with a project party, as those terms are defined in
13 chapter 39A, to finance or refinance a project with the proceeds
14 of special purpose revenue bonds;

15 (2) The project party has entered into a collective
16 bargaining agreement with a bona fide labor union governing the
17 project party's workforce; and

1 (3) The collective bargaining agreement has been properly
2 submitted to the director under section 104-34,
3 the terms of the collective bargaining agreement and
4 associated provisions shall be deemed the prevailing wages and
5 terms serving as the basis of compliance with this chapter for
6 work on the project by the project party's workforce; provided
7 that this subsection does not affect the director's enforcement
8 powers contained in subsection (g).

9 (i) [Repealed June 30, 2030. L 2018, c 39, §4.] The
10 terms of section 201H-36(a)(5) prevailing wages shall be deemed
11 the prevailing wages serving as the basis of compliance with
12 this chapter for work on the project when:

13 (1) The Hawaii housing finance and development corporation
14 has approved and certified a qualified person or firm involved
15 with a newly constructed, or moderately or substantially
16 rehabilitated project under section 201H-36(a)(5) for exemption
17 from general excise taxes;

1 (2) The qualified person or firm has entered into a
2 contract with a general contractor or subcontractors whose
3 workforce is subject to either:

4 (A) A collective bargaining agreement with a bona
5 fide labor union for which a section 201H-36(a)(5) prevailing
6 wage for the laborers and mechanics employed for the
7 construction project has been approved by the director; or

8 (B) A project labor agreement with the group whose
9 wages are reflected in the Hawaii prevailing wage schedule for
10 which section 201H-36(a)(5) prevailing wages for the laborers
11 and mechanics employed for the construction project have been
12 approved by the director[;]. ~~[and~~

13 ~~— (3) The qualified person or firm has received no other~~
14 ~~direct or indirect financing for the construction project from~~
15 ~~any other governmental contracting agency, including the Hawaii~~
16 ~~housing finance and development corporation.]”~~

17 SECTION 16. Section 302A-1151.1, Hawaii Revised
18 Statutes, is amended to read as follows:

1 **"302A-1151.1 ~~[Pilot]~~ Program for lease of public**

2 **school land** (a) There shall be established within the school
3 facilities authority a ~~[pilot]~~ program for the lease of public
4 school land, including facilities. The school facilities
5 authority, in consultation with the school facilities authority
6 and any other appropriate agency, shall serve as the facilitator
7 of the ~~[pilot]~~ program.

8 (b) Notwithstanding sections 171-13 and 302A-1151, or any
9 other law to the contrary, the school facilities authority may
10 lease public school land on terms it deems appropriate,
11 including a leaseback of all or a portion of the improvements
12 constructed; provided that:

13 (1) The school facilities authority may identify and
14 select ~~[up to five]~~ public school land sites as candidates for
15 participation in the ~~[pilot]~~ program; provided that:

16 (A) During the identification and selection
17 process, the school facilities authority shall be subject to
18 chapter 92, shall hold at least one public meeting in each

1 affected community, and shall foster school and community
2 participation; and

3 (B) If the site is on land owned by the county,
4 the school facilities authority shall consult with the county;

5 (2) The school facilities authority may lease public
6 school land [~~for no more than three public school land sites~~]
7 identified and selected by the school facilities authority
8 pursuant to paragraph (1) under leases for a term of not more
9 than ninety-nine years per lease, to lessees who shall be
10 required to modify, construct, or utilize facilities to benefit
11 public educational purposes, in accordance with specific request
12 for proposal or request for information guidelines;

13 (3) Each lease shall stipulate that the lessee may
14 retain any revenue generated from the facilities; provided that:

15 (A) The lessee shall be obligated to maintain
16 and operate the facilities to benefit public educational
17 purposes for the length of the lease;

1 (B) The lessee shall be obligated to pay to the
2 county all applicable property tax on the value of any
3 improvements;

4 (C) A leasehold premium may be charged to the
5 lessee for the right to use the public school land based on a
6 competitive process that complies with applicable sections of
7 chapter 103D;

8 (D) Upon the expiration of the lease, the
9 facilities shall revert to the school facilities authority; and

10 (E) All revenues and proceeds derived by the
11 State under this section shall be deposited in the school
12 facilities subaccount pursuant to section 302A-1151.2; and

13 (4) Notwithstanding any law to the contrary, the
14 school facilities authority may enter into leaseback agreements
15 that allow the school facilities authority to lease or sublease
16 the property to a third party. The school facilities authority
17 may lease back the property from the third-party lessee or

1 sublessee for a contractual period of time, after which the
2 school facilities authority shall own any improvements.

3 (c) Any redevelopment involving nonschool purposes shall:

4 (1) Comply with county plans, ordinances, and zoning
5 and development codes; ~~and~~

6 (2) Acquire all required government approvals and
7 permits[-]; and

8 (3) Be performed under contracts with only general
9 contractors and subcontractors whose wages are reflected in the
10 Hawaii prevailing wage statute, Chapter 104, HRS for laborers
11 and mechanics employed for the project construction, including,
12 but not limited to, off-site construction where a portion of the
13 building or work is manufactured or constructed for the
14 performance of the contract.

15 (d) Nothing in this section shall preclude the school
16 facilities authority from working with and receiving assistance
17 from any other school facilities authority or agency in carrying
18 out the purposes of this section.

1 (e) Any lease entered into by the school facilities
2 authority pursuant to subsection (b) shall be fully executed no
3 later than ten years from July 1, 2023[~~2013~~].

4 (f) For purposes of this section, public educational
5 purposes shall include but are not limited to:

6 (1) A new revenue source from the redevelopment of
7 one or more underutilized school facilities authority
8 facilities;

9 (2) New construction of school facilities authority
10 facilities or renovation of existing, underutilized school
11 facilities authority facilities into a twenty-first century
12 school; or

13 (3) A combination of paragraphs (1) and (2)."

14 SECTION 179. There is appropriated out of the general
15 revenues of the State of Hawaii the sum of \$2,500,000 or so much
16 thereof as may be necessary for fiscal year 2023-2024 and the
17 same sum or so much thereof as may be necessary for fiscal year

1 2024-2025 for the establishment of the rental deposit loan
2 program.

3 The sums appropriated shall be expended by the Hawaii
4 housing finance and development corporation for the purposes of
5 this Act.

6 SECTION ~~1810~~. This Act does not affect rights and duties
7 that matured, penalties that were incurred, and proceedings that
8 were begun before its effective date.

9 SECTION ~~1911~~. Statutory material to be repealed is
10 bracketed and stricken. New material is underscored.

Report Title:

Affordable housing; housing; GET exemption; counties; state historic preservation division; rental deposit loan program.

Description:

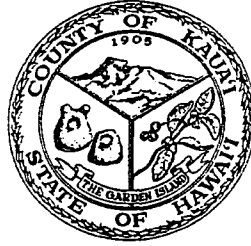
Establishes the rental deposit loan program and incentives to support development of affordable housing, local renters, third party reviewers, and address government processes to lower housing costs. Appropriates \$2,500,000 for each year of the 2023-2025 fiscal biennium for establishment of the rental deposit loan program.

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



COUNTY COUNCIL

Mel Rapozo, Chair
KipuKai Kualii, Vice Chair
Addison Bulosan
Bernard P. Carvalho, Jr.
Felicia Cowden
Bill DeCosta
Luke A. Evslin



OFFICE OF THE COUNTY CLERK

Jade K. Fountain-Tanigawa, County Clerk
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Council Services Division
4396 Rice Street, Suite 209
Lihu'e, Kaua'i, Hawai'i 96766

February 7, 2023

**TESTIMONY OF KIPUKAI KUALII
COUNCIL VICE CHAIR, KAUA'I COUNTY COUNCIL
ON
SB 1352, RELATING TO HOUSING
Senate Committee on Housing
Senate Committee on Water and Land
Thursday, February 9, 2023
1:15 p.m.
Conference Room 225
Via Videoconference**

Dear Chair Chang, Chair Inouye, and Members of the Committee:

Thank you for this opportunity to provide testimony in strong SUPPORT of SB 1352, Relating to Housing. My testimony is submitted in my individual capacity as Council Vice Chair of the Kaua'i County Council.

We are all well-aware of the longtime suffering of our constituents—families moving away, young people not returning after college, and employers not being able to hire workers who cannot find housing.

We have all talked about our housing shortage crisis (disaster), and we have talked about needing to have all hands on deck and utilizing every tool in our tool boxes. SB 1352 is a tool that that will help, as it encourages development of affordable housing units, support workforce housing renters with direct loans for security deposits, and temporarily promotes timely reviews of projects though targeted streamlined processes without compromising health and safety or historic preservation.

Thank you again for this opportunity to provide testimony in strong support of SB 1352. Should you have any questions, please feel free to contact me or Council Services Staff at (808) 241-4188 or via email to cokcouncil@kauai.gov.

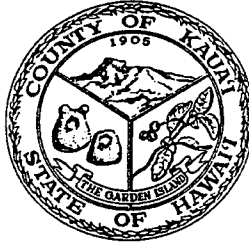
Sincerely,

KIPUKAI KUALII
Council Vice Chair, Kaua'i County Council

AAO:jy

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February 8, 2023

**TESTIMONY OF ADDISON BULOSAN
COUNCILMEMBER, KAUA'I COUNTY COUNCIL
ON
SB 1352, RELATING TO HOUSING
Senate Committee on Housing
Senate Committee on Water and Land
Thursday, February 9, 2023
1:15 p.m.
Conference Room 225
Via Videoconference**

Dear Chair Chang, Chair Inouye, and Members of the Committee:

Thank you for this opportunity to provide testimony in strong SUPPORT of SB 1352, Relating to Housing. My testimony is submitted in my individual capacity as a Member of the Kaua'i County Council.

SB 1352 establishes the rental deposit loan program and incentives to support development of affordable housing, local renters, third party reviewers, and address government processes to lower housing costs, as well as appropriates \$2,500,000 for each year of the 2023-2025 fiscal biennium for establishment of the rental deposit loan program. Therefore, I wholeheartedly support the intent of this measure as it will ensure that our constituents will have access to affordable housing.

Thank you again for this opportunity to provide testimony in strong support of SB 1352. Should you have any questions, please feel free to contact me or Council Services Staff at (808) 241-4188 or via email to cokcouncil@kauai.gov.

Sincerely,

ADDISON BULOSAN
Councilmember, Kaua'i County Council

AAO:lc