

JAN 25 2023

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

13 The legislature further finds that it must engage
14 developers with incentives to develop additional affordable
15 housing units above and beyond inclusionary requirements
16 including creating pathways to deliver affordable homes in a
17 timely matter to the public.

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1 The purpose of this Act is to encourage development of
2 affordable housing units, support workforce housing renters with
3 direct loans for security deposits, and temporarily promote
4 timely reviews of projects through targeted streamlined
5 processes without compromising health and safety or historic
6 preservation.

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

10 "§201H- Rental deposit loan program. (a) There is
11 established within the corporation a rental deposit loan program
12 to assist individuals and families earning between eighty per
13 cent and one hundred twenty per cent of the area median income
14 with obtaining rental housing by providing zero per cent
15 interest loans for security deposits up to \$2,500. Zero
16 interest loans for security deposits under this subsection shall
17 be repaid to the corporation over a period not to exceed forty-
18 eight months.

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

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

5 (d) The recipient county or nonprofit corporation shall
6 determine the eligibility of an applicant, including but not
7 limited to:

8 (1) Verification of income between eighty per cent and one
9 hundred twenty per cent of the area median income;

10 (2) Proof of a rental offering of at least six months;

11 (3) Evaluation of the applicant's financial resources;

12 (4) Determination that the applicant is unable to afford
13 both the rental deposit and first month's rent, but is
14 able to afford the rent thereafter; and

15 (5) Proof of Hawaii residency.

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

21 (f) A county or nonprofit corporation receiving a grant
22 pursuant to this section may use an amount not to exceed eight

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1 per cent of the grant for the costs of administering the rental
2 deposit loan program.

3 (g) County and nonprofit corporation recipients shall:

4 (1) Keep statistical records on loan recipients, including
5 the numbers of individuals and families served and
6 repayment status; and

7 (2) Provide quarterly reports to the corporation."

8 SECTION 3. Chapter 237, Hawaii Revised Statutes, is
9 amended by adding a new sections to be appropriately designated
10 and to read as follows:

11 "§237- Exemption for construction of affordable housing
12 units. (a) All gross income received by any qualified person
13 or firm for the planning, design, financing, construction, sale,
14 or lease of affordable housing units in the State that are part
15 of a government agency's or approving body's condition for
16 approval shall be exempt from general excise taxes.

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

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

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1 SECTION 4. Section 6E-2, Hawaii Revised Statutes, is
2 amended by amending the definition of "historic property" to read
3 as follows:

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

7 SECTION 5. Section 6E-8, Hawaii Revised Statutes, is
8 amended to read as follows:

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

- 21 (1) The proposed project consists of corridors or large
22 land areas;

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1 (2) Access to properties is restricted; or
2 (3) Circumstances dictate that construction be done in
3 stages,
4 the department may give its written concurrence based on a phased
5 review of the project; provided that there shall be a
6 programmatic agreement between the department and the project
7 applicant that identifies each phase and the estimated timelines
8 for each phase.

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

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

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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.

18 The department shall obtain the approval of the appropriate
19 island burial council prior to retaining the services of the
20 third-party consultant.

21 (e) Whenever the department retains any third party,
22 including an architect, engineer, archaeologist, planner, or

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1 other person to review an application for a permit, license, or
2 approval under subsection (d), the third party shall meet the
3 educational and experience standards and the qualifications for
4 preservation professionals pursuant to rules adopted by the state
5 historic preservation division.

6 [d] (f) The department shall adopt rules in accordance with
7 chapter 91 to implement this section."

8 SECTION 6. Section 6E-10, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "§6E-10 Privately owned historic property. (a) Before any
11 construction, alteration, disposition or improvement of any
12 nature, by, for, or permitted by a private landowner may be
13 commenced [~~which~~] that will affect [~~an~~] a historic property on
14 the Hawaii register of historic places, the landowner shall
15 notify the department of the construction, alteration,
16 disposition, or improvement of any nature and allow the
17 department opportunity for review of the effect of the proposed
18 construction, alteration, disposition, or improvement of any
19 nature on the historic property. The proposed construction,
20 alteration, disposition, or improvement of any nature shall not
21 be commenced, or in the event it has already begun, continue,
22 until the department shall have given its concurrence or ninety

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1 days have elapsed. Within ninety days after notification, the
2 department shall:

3 (1) Commence condemnation proceedings for the purchase of
4 the historic property if the department and property
5 owner do not agree upon an appropriate course of
6 action;

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

9 (3) In coordination with the owner, undertake or permit
10 the investigation, recording, preservation, and
11 salvage of any historical information deemed necessary
12 to preserve Hawaiian history, by any qualified agency
13 for this purpose.

14 (b) Nothing in this section shall be construed to prevent
15 the ordinary maintenance or repair of any feature in or on [an]
16 a historic property that does not involve a change in design,
17 material, or outer appearance or change in those characteristics
18 [which] that qualified the historic property for entry onto the
19 Hawaii register of historic places.

20 (c) Any person, natural or corporate, who violates the
21 provisions of this section shall be fined not more than \$1,000,
22 and each day of continued violation shall constitute a distinct

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1 and separate offense under this section for which the offender
2 may be punished.

3 (d) If funds for the acquisition of needed property are
4 not available, the governor may, upon the recommendation of the
5 department, allocate from the contingency fund an amount
6 sufficient to acquire an option on the property or for the
7 immediate acquisition, preservation, restoration, or operation
8 of the property.

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

12 (1) It will not be able to provide its written concurrence
13 or non-concurrence within sixty days of the landowner's
14 notification of construction, alteration, disposition,
15 or improvement;

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

19 (3) The third-party consultant will contract to provide a
20 recommendation to the department within thirty days of
21 the landowner's notification of construction,
22 alteration, disposition, or improvement.

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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
19 survey of historic or cultural finding is required, the
20 department or the department's third-party consultant, as
21 applicable, shall give written notice of the finding to the
22 owner or occupant of such property at least five days prior to

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

12 SECTION 7. Section 6E-42, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "**§6E-42 Review of proposed projects.** (a) Except as
15 provided in section 6E-42.2, before any agency or officer of the
16 State or its political subdivisions approves any project
17 involving a permit, license, certificate, land use change,
18 subdivision, or other entitlement for use [~~7, which~~] that may
19 affect historic property, aviation artifacts, or a burial site,
20 the agency or office shall advise the department and prior to
21 any approval, allow the department an opportunity for review and
22 comment on the effect of the proposed project on historic

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1 properties, aviation artifacts, or burial sites, consistent with
2 section 6E-43, including those listed in the Hawaii register of
3 historic places. If:

4 (1) The proposed project consists of corridors or large
5 land areas;

6 (2) Access to properties is restricted; or

7 (3) Circumstances dictate that construction be done in
8 stages,

9 the department's review and comment may be based on a phased
10 review of the project; provided that there shall be a
11 programmatic agreement between the department and the project
12 applicant that identifies each phase and the estimated timelines
13 for each phase.

14 (b) The department shall inform the public of any project
15 proposals submitted to it under this section that are not
16 otherwise subject to the requirement of a public hearing or
17 other public notification.

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

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

4 (2) The third-party consultant has the qualifications and
5 experience required pursuant to subsection (d) to
6 conduct the review; and

7 (3) The third-party consultant will contract to provide a
8 recommendation to the department within thirty days of
9 being advised of the project pursuant to subsection
10 (a).

11 The department shall obtain the approval of the appropriate
12 island burial council prior to contracting to retain the services
13 of the third-party consultant.

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

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

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1 SECTION 8. Section 201H-38(a), Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

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

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

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

20 (3) The legislative body of the county in which the
21 housing project is to be situated [~~shall have~~

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1 approved] may approve the project with or without
2 [~~modifications~~] recommendations:

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

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

16 (C) The final plans and specifications for the
17 project shall be deemed approved by the
18 legislative body if the final plans and
19 specifications do not substantially deviate from
20 the preliminary plans and specifications. The
21 final plans and specifications for the project
22 shall constitute the zoning, building,

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1 construction, and subdivision standards for that
2 project. For purposes of sections 501-85 and
3 502-17, the executive director of the corporation
4 or the responsible county official may certify
5 maps and plans of lands connected with the
6 project as having complied with applicable laws
7 and ordinances relating to consolidation and
8 subdivision of lands, and the maps and plans
9 shall be accepted for registration or recordation
10 by the land court and registrar; and

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

18 SECTION 9. There is appropriated out of the general
19 revenues of the State of Hawaii the sum of \$2,500,000 or so much
20 thereof as may be necessary for fiscal year 2023-2024 and the
21 same sum or so much thereof as may be necessary for fiscal year

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

11 SECTION 12. This Act shall take effect upon its approval;
12 provided that:

13 (1) Section 9 shall take effect on July 1, 2023; and

14 (2) On July 1, 2028, sections 5, 6, 7, and 8 shall be
15 repealed, and sections 6E-8, 6E-10, 6E-42, and 201H-
16 38(a), Hawaii Revised Statutes, shall be reenacted in
17 the form in which they read on the day before the
18 approval of this Act.

19

20

INTRODUCED BY: 

21

BY REQUEST

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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.

JUSTIFICATION SHEET

DEPARTMENT: Governor

TITLE: A BILL FOR AN ACT RELATING TO HOUSING

PURPOSE: Create the rental deposit loan program, create tax incentives for the development of affordable housing, allow third party reviews of applications and notifications to the state historic preservation division for five years, amend the definition of "historic property" to one hundred years old, temporarily expedite county reviews of 201H affordable housing applications, and appropriate rental deposit loan program funds.

MEANS: Add a new section to chapter 201H, add a new section to chapter 237, amend sections 6E-2, 6E-8, 6E-10, 6E-42, and 201H-38(a), Hawai'i Revised Statutes.

JUSTIFICATION: Hawai'i has reached the tipping point of our decades old severe housing shortage. Many Hawaii residents spend more than 30 or 40 per cent of their income on housing. Residents live in overcrowded homes, are a paycheck away from homelessness, face housing instability, and are migrating out of the State. We need to provide housing at all income levels including for our vital workers like teachers, healthcare workers, and first responders.

A 2019 study commissioned by the Hawaii department of business, economic development, and tourism found that the State will require an additional 50,156 homes by the year 2025. The recent increase in home loan and construction loan interest rates poses a significant risk to the continued production of affordable rental or for-sale units.

This bill will provide a rental deposit loan program for workforce renters to secure

housing and provide incentives for the development of affordable housing thru temporary expedited processes and third-party review, and general excise tax exemptions.

Impact on the public: Providing zero interest rental deposit loans to workforce renters enables them to secure housing they can afford and opens existing rental inventory for other renters in the market. By temporarily expediting reviews of affordable housing projects and providing tax incentives for the development of affordable units we will increase inventory and decrease costs for renters or buyers.

Impact on the department and other agencies: Hawai'i Housing and Finance Development Corporation will administer the rental deposit loan program, the Department of Taxation will administer the general excise tax exemption and the State Historic Preservation Division will be authorized to contract third-party reviewers to expedite permit applications.

GENERAL FUND: \$5,000,000

OTHER FUNDS:

PPBS PROGRAM
DESIGNATION: BED 160

OTHER AFFECTED
AGENCIES: Hawai'i Housing and Finance Development Corporation, Department of Taxation, State Historic Preservation Division, Department of Land and Natural Resources, Counties

EFFECTIVE DATE: Upon Approval