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# 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 State has a  
2 housing crisis. A 2019 study commissioned by the department of  
3 business, economic development, and tourism found that the State  
4 will require an additional 50,156 homes by the year 2025, with  
5 the city and county of Honolulu requiring 22,168 new units,  
6 Hawaii county requiring 13,303 new units, Maui county requiring  
7 10,404 new units, and Kauai county requiring 4,281 new units.  
8 While this forecast projects an acute housing shortage, there  
9 has been a lack of measurable progress at the county level to  
10 enact policies that will stimulate housing production to meet  
11 the projected demand.

12           The legislature further finds that the Federal Home Loan  
13 Mortgage Corporation, commonly known as Freddie Mac, reflects  
14 that the average thirty-year fixed residential mortgage interest  
15 rate has increased from 3.07 per cent in October 2021 to 6.95  
16 per cent in December 2023, a one hundred twenty-five per cent  
17 increase, which dramatically increases the monthly cost of



1 owning a home for Hawaii residents and decreases the maximum  
2 sale price of income-specified units built under chapter 201H,  
3 Hawaii Revised Statutes. Furthermore, the one-month term  
4 secured overnight financing rate, which is a metric used by  
5 lenders to determine real estate construction loan interest  
6 rates, has increased from 0.05 per cent in November 2021 to 5.31  
7 per cent in November 2022, a one-hundred-five-fold increase,  
8 dramatically increasing the cost of construction financing to  
9 build residential units. These increases in home loan and  
10 construction loan interest rates have rendered chapter 201H,  
11 Hawaii Revised Statutes, unusable by the home building  
12 community.

13 Accordingly, the purpose of this Act is to provide a new  
14 source of interim financing for affordable housing projects  
15 using the housing program under the Hawaii housing finance and  
16 development corporation.

17 SECTION 2. Section 46-15.1, Hawaii Revised Statutes, is  
18 amended to read as follows:

19 **"§46-15.1 Housing; county powers.** (a) Notwithstanding  
20 any law to the contrary, any county shall have and may exercise  
21 the same powers, subject to applicable limitations, as those



1 granted the Hawaii housing finance and development corporation  
2 pursuant to chapter 201H insofar as those powers may be  
3 reasonably construed to be exercisable by a county for the  
4 purpose of developing, constructing, and providing low- and  
5 moderate-income housing; provided that no county shall be  
6 empowered to cause the State to issue general obligation bonds  
7 to finance a project pursuant to this section; provided further  
8 that county projects shall be granted an exemption from general  
9 excise or receipts taxes in the same manner as projects of the  
10 Hawaii housing finance and development corporation pursuant to  
11 section 201H-36; and provided further that section 201H-16 shall  
12 not apply to this section unless federal guidelines specifically  
13 provide local governments with that authorization and the  
14 authorization does not conflict with any state laws. The powers  
15 shall include the power, subject to applicable limitations, to:

- 16 (1) Develop and construct dwelling units, alone or in  
17 partnership with developers;
- 18 (2) Acquire necessary land by lease, purchase, exchange,  
19 or eminent domain;
- 20 (3) Provide assistance and aid to a public agency or other  
21 person in developing and constructing new housing and



- 1           rehabilitating existing housing for elders of low- and  
2           moderate-income, other persons of low- and moderate-  
3           income, and persons displaced by any governmental  
4           action, by making long-term mortgage or interim  
5           construction loans available;
- 6           (4) Contract with any eligible bidders to provide for  
7           construction of urgently needed housing for persons of  
8           low- and moderate-income;
- 9           (5) Guarantee the top twenty-five per cent of the  
10           principal balance of real property mortgage loans,  
11           plus interest thereon, made to qualified borrowers by  
12           qualified lenders;
- 13           (6) Enter into mortgage guarantee agreements with  
14           appropriate officials of any agency or instrumentality  
15           of the United States to induce those officials to  
16           commit to insure or to insure mortgages under the  
17           National Housing Act, as amended;
- 18           (7) Make a direct loan to any qualified buyer for the  
19           downpayment required by a private lender to be made by  
20           the borrower as a condition of obtaining a loan from



1 the private lender in the purchase of residential  
2 property;  
3 (8) Provide funds for a share, not to exceed fifty per  
4 cent, of the principal amount of a loan made to a  
5 qualified borrower by a private lender who is unable  
6 otherwise to lend the borrower sufficient funds at  
7 reasonable rates in the purchase of residential  
8 property; and

9 (9) Sell or lease completed dwelling units.

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

13 (b) Each county shall recognize housing units developed by  
14 the department of Hawaiian home lands and issue affordable  
15 housing credits to the department of Hawaiian home lands. The  
16 credits shall be transferable and shall be issued on a one-  
17 credit for one-unit basis, unless the housing unit is eligible  
18 for additional credits as provided by adopted county ordinances,  
19 rules, or any memoranda of agreement between a county and the  
20 department of Hawaiian home lands. In the event that credits  
21 are transferred by the department of Hawaiian home lands,



1 twenty-five per cent of any monetary proceeds from the transfer  
2 shall be used by the department of Hawaiian home lands to  
3 develop units for rental properties. Credits shall be issued  
4 for each single-family residence, multi-family unit, other  
5 residential unit, whether for purposes of sale or rental, or if  
6 allowed under the county's affordable housing programs, vacant  
7 lot, developed by the department of Hawaiian home lands. The  
8 credits may be applied county-wide within the same county in  
9 which the credits were earned to satisfy affordable housing  
10 obligations imposed by the county on market-priced residential  
11 and non-residential developments. County-wide or project-  
12 specific requirements for housing class, use, or type; or  
13 construction time for affordable housing units shall not impair,  
14 restrict, or condition the county's obligation to apply the  
15 credits in full satisfaction of all county requirements, whether  
16 by rule, ordinance, or particular zoning conditions of a  
17 project. Notwithstanding any provisions herein to the contrary,  
18 the department may enter into a memorandum of agreement with the  
19 county of Kauai to establish, modify, or clarify the conditions  
20 for the issuance, transfer, and redemption of the affordable  
21 housing credits in accordance with county affordable housing



1 ordinances or rules. Notwithstanding any provisions herein to  
 2 the contrary, the department may enter into a memorandum of  
 3 agreement with the city and county of Honolulu to establish,  
 4 modify, or clarify the conditions for the issuance, transfer,  
 5 and redemption of the affordable housing credits in accordance  
 6 with county affordable housing ordinances or rules. At least  
 7 half of the affordable housing credits issued by the city and  
 8 county of Honolulu shall be subject to a memorandum of agreement  
 9 pursuant to this subsection.

10 For purposes of this ~~[section,]~~ subsection, "affordable  
 11 housing obligation" means the requirement imposed by a county,  
 12 regardless of the date of its imposition, to develop vacant  
 13 lots, single-family residences, multi-family residences, or any  
 14 other type of residence for sale or rent to individuals within a  
 15 specified income range.

16 (c) Each county and the Hawaii community development  
 17 authority shall recognize housing units developed pursuant to  
 18 section 201H-38 and issue affordable housing credits to the  
 19 eligible developer, as defined in section 201H-32, for  
 20 residences required to be sold or rented to individuals within a  
 21 specified income range, if a developer chooses to receive



1 affordable housing credits. The credits shall be transferable  
2 and shall be issued on a one-credit for one-unit basis, unless  
3 the housing unit is eligible for additional credits by state law  
4 or rule, county ordinance or rule, or any memoranda of agreement  
5 between a county or the Hawaii community development authority  
6 and the Hawaii housing finance and development corporation.  
7 Each county shall be responsible for monitoring the use and  
8 transfer of credits. In the event that the Hawaii housing  
9 finance and development corporation owns credits, and the  
10 credits are transferred, twenty-five per cent of any monetary  
11 proceeds from the transfer shall be used by the Hawaii housing  
12 finance and development corporation to develop units for rental  
13 properties. Credits shall be issued for each income-specified  
14 single-family residence, multi-family residence, or other type  
15 of residence, whether for purposes of sale or rental as  
16 developed pursuant to section 201H-38. Credits shall not be  
17 issued if low-income housing tax credits are utilized. The  
18 credits may be applied county-wide within the same county in  
19 which the credits were earned to satisfy affordable housing  
20 obligations imposed by the county on market-priced residential  
21 and non-residential developments. County-wide or project-



1 specific requirements for housing class, use, or type or  
 2 construction time for affordable housing units shall not impair,  
 3 restrict, or condition the county's obligation to apply the  
 4 credits in full satisfaction of all county requirements, whether  
 5 by ordinance, rule, or particular zoning conditions of a  
 6 project.

7 Notwithstanding any provisions in this section to the  
 8 contrary, the Hawaii housing finance and development corporation  
 9 may enter into a memorandum of agreement with any county to  
 10 establish, modify, or clarify the conditions for the issuance,  
 11 transfer, and redemption of the affordable housing credits in  
 12 accordance with county affordable housing ordinances or rules.

13 For purposes of this subsection, "affordable housing  
 14 obligation" means the requirement imposed by a county or the  
 15 Hawaii community development authority, regardless of the date  
 16 of its imposition, to develop vacant lots, single-family  
 17 residences, multi-family residences, or any other type of  
 18 residence for sale or rent to individuals within a specified  
 19 income range.

20 [~~e~~] (d) Notwithstanding any law to the contrary, any  
 21 county may:



- 1           (1) Authorize and issue bonds under chapter 47 and chapter
- 2                   49 to provide moneys to carry out the purposes of this
- 3                   section or section 46-15.2, including the satisfaction
- 4                   of any guarantees made by the county pursuant to this
- 5                   section;
- 6           (2) Appropriate moneys of the county to carry out the
- 7                   purposes of this section;
- 8           (3) Obtain insurance and guarantees from the State or the
- 9                   United States, or grants from either;
- 10          (4) Designate, after holding a public hearing on the
- 11                   matter and with the approval of the respective
- 12                   council, any lands owned by it for the purposes of
- 13                   this section;
- 14          (5) Provide interim construction loans to partnerships of
- 15                   which it is a partner and to developers whose projects
- 16                   qualify for federally assisted project mortgage
- 17                   insurance, or other similar programs of federal
- 18                   assistance for persons of low and moderate income; and
- 19          (6) Adopt rules pursuant to chapter 91 as are necessary to
- 20                   carry out the purposes of this section.



1           ~~(d)~~ (e) Notwithstanding any law to the contrary, a  
2 county may waive its right to repurchase a privately-developed  
3 affordable housing unit built pursuant to a unilateral agreement  
4 or similar instrument, and may transfer that right of repurchase  
5 to a qualified nonprofit housing trust for the purpose of  
6 maintaining the unit as affordable for as long as required by  
7 the county program.

8           For the purposes of this subsection, "qualified nonprofit  
9 housing trust" means a corporation, association, or other duly  
10 chartered organization that is registered and in good standing  
11 with the State; that is recognized by the Internal Revenue  
12 Service as a charitable or otherwise tax-exempt organization  
13 under section 501(c)(3) of the Internal Revenue Code of 1986, as  
14 amended; and that has the capacity, resources, and mission to  
15 carry out the purposes of this section as determined by the  
16 county in which the housing unit is located.

17           ~~(e)~~ (f) A qualified nonprofit housing trust shall report  
18 the status and use of its housing units to its respective county  
19 by November 30 of each calendar year.

20           ~~(f)~~ (g) The provisions of this section shall be  
21 construed liberally so as to effectuate the purpose of this



1 section in facilitating the development, construction, and  
2 provision of low- and moderate-income housing by the various  
3 counties.

4 ~~[(g)]~~ (h) For purposes of this section, "low and moderate  
5 income housing" means any housing project that meets the  
6 definition of "low- and moderate-income housing project" in  
7 section 39A-281."

8 SECTION 3. Act 98, Session Laws of Hawaii 2012, as amended  
9 by section 4 of Act 102, Session Laws of Hawaii 2015, as amended  
10 by section 50 of Act 55, Session Laws of Hawaii 2016, as amended  
11 by section 2 of Act 80, Session Laws of Hawaii 2019, as amended  
12 by section 3 of Act 90, Session Laws of Hawaii 2023, is amended  
13 by amending section 3 to read as follows:

14 "SECTION 3. This Act shall take effect upon its approval,  
15 and shall be repealed on July 1, 2030; provided that section 46-  
16 15.1, Hawaii Revised Statutes, shall be reenacted pursuant to  
17 section 3 of Act 141, Session Laws of Hawaii 2009, and in  
18 accordance with section 23 of Act 96, Session Laws of Hawaii  
19 2014[-] and section 9 of Act 159, Session Laws of Hawaii 2017."

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



1 SECTION 5. This Act shall take effect on January 1, 3000;  
2 provided that on July 1, 2029, section 2 of this Act shall be  
3 repealed and section 46-15.1, Hawaii Revised Statutes, shall be  
4 reenacted in the form in which it read on the day prior to the  
5 effective date of this Act.



# H.B. NO. 2214 H.D. 1

**Report Title:**

HHFDC; Affordable Housing; Counties; Development; Housing Credits

**Description:**

Provides a new source of interim financing for affordable housing projects using housing programs developed under a Hawaii Housing Finance and Development Corporation housing program. Sunsets 7/1/2029. Effective 1/1/3000. (HD1)

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

