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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 housing  
8 units. While this forecast projects an acute housing shortage,  
9 there has been a lack of measurable progress at the county level  
10 to 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 6.90  
16 per cent in October 2022, 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 3.81  
7 per cent in November 2022, a seventy-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 has rendered chapter 201H,  
11 Hawaii Revised Statutes, unusable by the home building  
12 community.

13 The purpose of this Act is to breathe life back into the  
14 chapter 201H program during this period of high interest rates,  
15 so that the chapter 201H program can be utilized as intended--to  
16 increase the affordable housing supply in Hawaii--by requiring  
17 the counties to issue affordable housing credits for income-  
18 specified housing units built under chapter 201H, Hawaii Revised  
19 Statutes.

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



1           **"§46-15.1 Housing; county powers.** (a) Notwithstanding  
2 any law to the contrary, any county shall have and may exercise  
3 the same powers, subject to applicable limitations, as those  
4 granted the Hawaii housing finance and development corporation  
5 pursuant to chapter 201H insofar as those powers may be  
6 reasonably construed to be exercisable by a county for the  
7 purpose of developing, constructing, and providing low- and  
8 moderate-income housing; provided that no county shall be  
9 empowered to cause the State to issue general obligation bonds  
10 to finance a project pursuant to this section; provided further  
11 that county projects shall be granted an exemption from general  
12 excise or receipts taxes in the same manner as projects of the  
13 Hawaii housing finance and development corporation pursuant to  
14 section 201H-36; and provided further that section 201H-16 shall  
15 not apply to this section unless federal guidelines specifically  
16 provide local governments with that authorization and the  
17 authorization does not conflict with any state laws. The powers  
18 shall include the power, subject to applicable limitations, to:  
19           (1) Develop and construct dwelling units, alone or in  
20           partnership with developers;



- 1           (2) Acquire necessary land by lease, purchase, exchange,  
2                    or eminent domain;
- 3           (3) Provide assistance and aid to a public agency or other  
4                    person in developing and constructing new housing and  
5                    rehabilitating existing housing for elders of low- and  
6                    moderate-income, other persons of low- and moderate-  
7                    income, and persons displaced by any governmental  
8                    action, by making long-term mortgage or interim  
9                    construction loans available;
- 10          (4) Contract with any eligible bidders to provide for  
11                    construction of urgently needed housing for persons of  
12                    low- and moderate-income;
- 13          (5) Guarantee the top twenty-five per cent of the  
14                    principal balance of real property mortgage loans,  
15                    plus interest thereon, made to qualified borrowers by  
16                    qualified lenders;
- 17          (6) Enter into mortgage guarantee agreements with  
18                    appropriate officials of any agency or instrumentality  
19                    of the United States to induce those officials to  
20                    commit to insure or to insure mortgages under the  
21                    National Housing Act, as amended;

1           (7) Make a direct loan to any qualified buyer for the  
2           downpayment required by a private lender to be made by  
3           the borrower as a condition of obtaining a loan from  
4           the private lender in the purchase of residential  
5           property;

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

12          (9) Sell or lease completed dwelling units.

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

16          (b) Each county shall recognize housing units developed by  
17          the department of Hawaiian home lands and issue affordable  
18          housing credits to the department of Hawaiian home lands. The  
19          credits shall be transferable and shall be issued on a one-  
20          credit for one-unit basis, unless the housing unit is eligible  
21          for additional credits as provided by adopted county ordinances,



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



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

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

19 (c) Each county shall recognize housing units developed  
20 pursuant to chapter 201H and issue affordable housing credits to  
21 the eligible developer, as defined in section 201H-32, for



1 residences required to be sold or rented to individuals within a  
2 specified income range. The credits shall be transferable and  
3 shall be issued on a one-credit for one-unit basis, unless the  
4 housing unit is eligible for additional credits as provided by  
5 county ordinance or rule or any memoranda of agreement between a  
6 county and the Hawaii housing finance and development  
7 corporation. In the event that the Hawaii housing finance and  
8 development corporation owns credits and the credits are  
9 transferred, twenty-five per cent of any monetary proceeds from  
10 the transfer shall be used by the Hawaii housing finance and  
11 development corporation to develop units for rental properties.  
12 Credits shall be issued for each income-specified single-family  
13 residence, multi-family unit, other residential unit, whether  
14 for purposes of sale or rental, or if allowed under the county's  
15 affordable housing programs, vacant lot, developed pursuant to  
16 chapter 201H. If low-income housing tax credits are utilized in  
17 conjunction with chapter 201H, then credits shall not be issued.  
18 The 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. Notwithstanding any provisions herein to the contrary,  
7 the Hawaii housing finance and development corporation may enter  
8 into a memorandum of agreement with the county of Kauai to  
9 establish, modify, or clarify the conditions for the issuance,  
10 transfer, and redemption of the affordable housing credits in  
11 accordance with county affordable housing ordinances or rules.  
12 Notwithstanding any provisions herein to the contrary, the  
13 Hawaii housing finance and development corporation may enter  
14 into a memorandum of agreement with the city and county of  
15 Honolulu to establish, modify, or clarify the conditions for the  
16 issuance, transfer, and redemption of the affordable housing  
17 credits in accordance with county affordable housing ordinances  
18 or rules.

19 For purposes of this section, "affordable housing  
20 obligation" means the requirement imposed by a county,  
21 regardless of the date of its imposition, to develop vacant



1 lots, single-family residences, multi-family residences, or any  
2 other type of residence for sale or rent to individuals within a  
3 specified income range.

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

6 (1) Authorize and issue bonds under chapter 47 and chapter  
7 49 to provide moneys to carry out the purposes of this  
8 section or section 46-15.2, including the satisfaction  
9 of any guarantees made by the county pursuant to this  
10 section;

11 (2) Appropriate moneys of the county to carry out the  
12 purposes of this section;

13 (3) Obtain insurance and guarantees from the State or the  
14 United States, or grants from either;

15 (4) Designate, after holding a public hearing on the  
16 matter and with the approval of the respective  
17 council, any lands owned by it for the purposes of  
18 this section;

19 (5) Provide interim construction loans to partnerships of  
20 which it is a partner and to developers whose projects  
21 qualify for federally assisted project mortgage



1 insurance, or other similar programs of federal  
2 assistance for persons of low and moderate income; and  
3 (6) Adopt rules pursuant to chapter 91 as are necessary to  
4 carry out the purposes of this section.

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

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



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

4           ~~(f)~~ (g) The provisions of this section shall be  
5 construed liberally so as to effectuate the purpose of this  
6 section in facilitating the development, construction, and  
7 provision of low- and moderate-income housing by the various  
8 counties.

9           ~~(g)~~ (h) For purposes of this section, "low and moderate  
10 income housing" means any housing project that meets the  
11 definition of "low- and moderate-income housing project" in  
12 section 39A-281."

13           SECTION 3. Act 98, Session Laws of Hawaii 2012, as amended  
14 by Act 102, Session Laws of Hawaii 2015, section 4, as amended  
15 by Act 55, Session Laws of Hawaii 2016, section 50, as amended  
16 by Act 80, Session Laws of Hawaii 2019, section 2, is amended by  
17 amending section 3 to read as follows:

18           "SECTION 3. This Act shall take effect upon its approval,  
19 and shall be repealed on July 1, 2024; provided that section 46-  
20 15.1, Hawaii Revised Statutes, shall be reenacted pursuant to  
21 section 3 of Act 141, Session Laws of Hawaii 2009, and in



1 accordance with section 23 of Act 96, Session Laws of Hawaii  
2 2014[-] and section 9 of Act 159, Session Laws of Hawaii 2017."

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

5 SECTION 5. This Act shall take effect on July 1, 2023;  
6 provided that:

7 (1) The amendments made to section 46-15.1, Hawaii Revised  
8 Statutes, by section 2 of this Act shall not be  
9 repealed when that section is reenacted on July 1,  
10 2024, pursuant to:

11 (A) Section 3 of Act 141, Session Laws of Hawaii  
12 2009, as amended by Act 102, Session Laws of  
13 Hawaii 2015, section 3, as amended by Act 80,  
14 Session Laws of Hawaii 2019, section 1; and

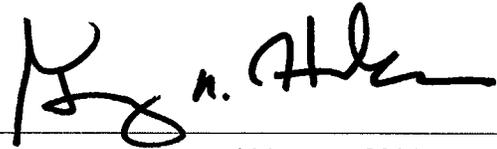
15 (B) Section 3 of Act 98, Session Laws of Hawaii 2012,  
16 as amended by Act 102, Session Laws of Hawaii  
17 2015, section 4, as amended by Act 55, Session  
18 Laws of Hawaii 2016, section 50, as amended by  
19 Act 80, Session Laws of Hawaii 2019, section 2;  
20 and



1           (2) On July 1, 2031, section 2 of this Act shall be  
2           repealed and section 46-15.1, Hawaii Revised Statutes,  
3           shall be reenacted in the form in which it read on  
4           June 29, 2009; provided further that the amendments  
5           made to section 46-15.1, Hawaii Revised Statutes, by  
6           section 11 of Act 96, Session Laws of Hawaii 2014, and  
7           section 3 of Act 159, Session Laws of Hawaii 2017,  
8           shall not be repealed when that section is reenacted  
9           pursuant to this paragraph.

10

INTRODUCED BY:



JAN 20 2023



# H.B. NO. 678

**Report Title:**

Affordable Housing; Counties; Development; HHFDC

**Description:**

Clarifies a county's obligations with respect to housing developed through the housing development programs overseen by the Hawaii housing finance and development corporation. Sunsets 7/1/2031.

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

