

---

---

# 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 6.90  
16 per cent in October 2022, a one hundred twenty five per cent



1 increase, which dramatically increases the monthly cost of  
2 owning a home for Hawaii residents and decreases the maximum  
3 sale price of income-specified units built under chapter 201H,  
4 Hawaii Revised Statutes. Furthermore, the one-month term  
5 secured overnight financing rate, which is a metric used by  
6 lenders to determine real estate construction loan interest  
7 rates, has increased from 0.05 per cent in November 2021 to 3.81  
8 per cent in November 2022, a seventy-five-fold increase,  
9 dramatically increasing the cost of construction financing to  
10 build residential units. These increases in home loan and  
11 construction loan interest rates have rendered chapter 201H,  
12 Hawaii Revised Statutes, unusable by the home building  
13 community.

14 The purpose of this Act is to ensure the chapter 201H  
15 program can continue to be utilized as intended, to increase the  
16 affordable housing supply in Hawaii, during this period of high  
17 interest rates by requiring the counties to issue affordable  
18 housing credits for income-specified housing units built under  
19 chapter 201H, Hawaii Revised 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,~~] subsection, "affordable  
 14 housing 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 in this section to the  
7 contrary, the Hawaii housing finance and development corporation  
8 may enter into a memorandum of agreement with any county 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 For purposes of this subsection, "affordable housing  
13 obligation" means the requirement imposed by a county or the  
14 Hawaii community development authority, regardless of the date  
15 of its imposition, to develop vacant lots, single-family  
16 residences, multi-family residences, or any other type of  
17 residence for sale or rent to individuals within a specified  
18 income range.

19 [~~e~~] (d) Notwithstanding any law to the contrary, any  
20 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 Act 102, Session Laws of Hawaii 2015, section 4, as amended  
10 by Act 55, Session Laws of Hawaii 2016, section 50, as amended  
11 by Act 80, Session Laws of Hawaii 2019, section 2, is amended by  
12 amending section 3 to read as follows:

13 "SECTION 3. This Act shall take effect upon its approval,  
14 and shall be repealed on July 1, 2024; provided that section 46-  
15 15.1, Hawaii Revised Statutes, shall be reenacted pursuant to  
16 section 3 of Act 141, Session Laws of Hawaii 2009, and in  
17 accordance with section 23 of Act 96, Session Laws of Hawaii  
18 2014~~(-)~~ and section 9 of Act 159, Session Laws of Hawaii 2017."

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



1 SECTION 5. This Act shall take effect on January 1, 2024;  
2 provided that:

3 (1) The amendments made to section 46-15.1, Hawaii Revised  
4 Statutes, by section 2 of this Act shall not be  
5 repealed when that section is reenacted on July 1,  
6 2024, pursuant to:

7 (A) Section 3 of Act 141, Session Laws of Hawaii  
8 2009, as amended by Act 102, Session Laws of  
9 Hawaii 2015, section 3, as amended by Act 80,  
10 Session Laws of Hawaii 2019, section 1; and  
11 (B) Section 3 of Act 98, Session Laws of Hawaii 2012,  
12 as amended by Act 102, Session Laws of Hawaii  
13 2015, section 4, as amended by Act 55, Session  
14 Laws of Hawaii 2016, section 50, as amended by  
15 Act 80, Session Laws of Hawaii 2019, section 2;  
16 and

17 (2) On July 1, 2028, section 2 of this Act shall be  
18 repealed and section 46-15.1, Hawaii Revised Statutes,  
19 shall be reenacted in the form in which it read on  
20 June 29, 2009; provided further that the amendments  
21 made to section 46-15.1, Hawaii Revised Statutes, by



1 section 11 of Act 96, Session Laws of Hawaii 2014, and  
2 section 3 of Act 159, Session Laws of Hawaii 2017,  
3 shall not be repealed when that section is reenacted  
4 pursuant to this paragraph.



**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 7/1/2028. Effective 1/1/2024. (SD1)

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

