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# A BILL FOR AN ACT

RELATING TO AFFORDABLE HOUSING CREDITS.

**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 project demand.

12           The Federal Home Loan Corporation, more commonly known as  
13 Freddie Mac, has reported that the average 30-year fixed  
14 residential mortgage interest rate was 3.11 per cent in December  
15 2021 and 6.42 per cent in December 2022. This one hundred-six  
16 per cent increase reflects the dramatically increasing monthly  
17 cost of owning a home for residents and the decreasing maximum



1 sale price of income-specified affordable housing units that are  
2 constructed under the various programs of the Hawaii housing  
3 finance and development corporation. In addition, the Federal  
4 Reserve has reported that the one-month term of the secured  
5 overnight financing rate, a metric used by lenders to determine  
6 real estate construction loan interest rates, has increased from  
7 0.05 per cent in December 2021 to 4.30 per cent in December  
8 2022. The eight thousand five hundred per cent increase  
9 reflects the dramatically increasing cost of construction  
10 financing for residential units. These increases in home loan  
11 and construction loan interest rates have severely impaired the  
12 ability of the Hawaii housing finance and development  
13 corporation to increase the affordable housing supply in the  
14 State.

15 Accordingly, the purpose of this Act is to require the  
16 counties to issue affordable housing credits for affordable  
17 housing units that are constructed under the various programs of  
18 the Hawaii housing finance and development corporation.

19 SECTION 2. Section 46-15.1, Hawaii Revised Statutes, is  
20 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  
7                   moderate-income, and persons displaced by any  
8                   governmental action, by making long-term mortgage or  
9                   interim 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  
20          one-credit for one-unit basis, unless the housing unit is  
21          eligible for additional credits as provided by adopted county



1 ordinances, rules, or any memoranda of agreement between a  
2 county and the department of Hawaiian home lands. In the event  
3 that credits are transferred by the department of Hawaiian home  
4 lands, twenty-five per cent of any monetary proceeds from the  
5 transfer shall be used by the department of Hawaiian home lands  
6 to 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  
15 project-specific requirements for housing class, use, or type;  
16 or construction time for affordable housing units shall not  
17 impair, restrict, or condition the county's obligation to apply  
18 the credits in full satisfaction of all county requirements,  
19 whether by rule, ordinance, or particular zoning conditions of a  
20 project. Notwithstanding any provisions [~~herein~~] in this  
21 section to the contrary, the department may enter into a



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

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

20 (c) Each county shall recognize housing units developed  
21 pursuant to section 201H-38 and issue affordable housing credits



1 to the eligible developer for residences required to be sold or  
2 rented to individuals within a specified income range, if a  
3 developer chooses to receive affordable housing credits.  
4 Credits shall be issued for each single-family residence,  
5 multi-family unit, other residential unit, whether for purposes  
6 of sale, rental, or if allowed under the county's affordable  
7 housing programs, vacant lot, developed pursuant to chapter  
8 201H. Affordable housing credits shall not be issued if  
9 low-income housing tax credits are utilized in conjunction with  
10 the affordable housing developed pursuant to chapter 201H. The  
11 credits shall be transferable and shall be issued on a  
12 one-credit for one-unit basis, unless the housing unit is  
13 eligible for additional credits as provided by adopted county  
14 ordinances, rules, or any memoranda of agreement between a  
15 county and the Hawaii housing finance and development  
16 corporation. A county may impose a geographic constraint on the  
17 transfer of affordable housing credits under this subsection  
18 with a minimum radius of five miles by public road. In the  
19 event that the affordable housing credits are transferred to the  
20 Hawaii housing finance and development corporation, twenty-five  
21 per cent of any monetary proceeds from the transfer shall be



1 used by the Hawaii housing finance and development corporation  
2 to develop units for rental properties. The credits may be  
3 applied county-wide within the same county in which the credits  
4 were earned to satisfy affordable housing obligations imposed by  
5 the county on market-priced residential and non-residential  
6 developments. County-wide or project-specific requirements for  
7 housing class, use, or type, or construction time for affordable  
8 housing units, shall not impair, restrict, or condition the  
9 county's obligation to apply the credits in full satisfaction of  
10 all county requirements, whether by rule, ordinance, or  
11 particular zoning conditions of a project. Notwithstanding any  
12 provision of this section to the contrary, the Hawaii housing  
13 finance and development corporation may enter into a memorandum  
14 of agreement with any of the counties to establish, modify, or  
15 clarify the conditions for the issuance, transfer, and  
16 redemption of the affordable housing credits in accordance with  
17 county affordable housing ordinances or rules.

18 No affordable housing credit shall be issued under this  
19 subsection until a certificate of occupancy has been issued.

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~~]:

6 "Affordable housing obligation" means the requirement  
7 imposed by a county, regardless of the date of its imposition,  
8 to develop vacant lots, single-family residences, multi-family  
9 residences, or any other type of residence for sale or rent to  
10 individuals within a specified income range.

11 "Eligible developer" has the same meaning as in  
12 section 201H-32.

13 "Low- and moderate-income housing" means any housing  
14 project that meets the definition of "low- and moderate-income  
15 housing project" in section 39A-281.

16 "Qualified nonprofit housing trust" means a corporation,  
17 association, or other duly chartered organization that:

- 18 (1) Is registered and in good standing with the State;  
19 (2) Is recognized by the Internal Revenue Service as a  
20 charitable or otherwise tax-exempt organization under



1           section 501(c) (3) of the Internal Revenue Code of  
 2           1986, as amended; and  
 3           (3) Has the capacity, resources, and mission to carry out  
 4           the purposes of this section as determined by the  
 5           county in which the housing unit is located."

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

8           SECTION 4. This Act shall take effect on July 1, 3000;  
 9 provided that:

10           (1) The amendments made to section 46-15.1, Hawaii Revised  
 11 Statutes, by section 2 of this Act shall not be  
 12 repealed when that section is repealed and reenacted  
 13 on July 1, 2030, pursuant to section 3 of Act 141,  
 14 Session Laws of Hawaii 2009, as amended by section 3  
 15 of Act 102, Session Laws of Hawaii 2015, as amended by  
 16 section 1 of Act 80, Session Laws of Hawaii 2019, as  
 17 amended by section 2 of Act 90, Session Laws of Hawaii  
 18 2023; and

19           (2) This Act shall be repealed on June 30, 2031, and  
 20 section 46-15.1, Hawaii Revised Statutes, shall be  
 21 reenacted pursuant to section 3 of Act 141, Session



1           Laws of Hawaii 2009, section 23 of Act 96, Session  
2           Laws of Hawaii 2014, section 9 of Act 159, Session  
3           Laws of Hawaii 2017, section 2 of Act 80, Session Laws  
4           of Hawaii 2019, and section 3 of Act 90, Session Laws  
5           of Hawaii 2023.



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S.D. 2  
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**Report Title:**

Counties; Affordable Housing Credits; Hawaii Housing Finance and Development Corporation; Housing Production; County Powers

**Description:**

Requires the counties to issue affordable housing credits for affordable housing units that are constructed under the various programs of the Hawaii Housing Finance and Development Corporation. Sunsets 6/30/2031. Effective 7/1/3000. (HD1)

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