

JAN 19 2024

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 in chapter 201H, Hawaii Revised
16 Statutes.

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 or
4 county ordinance or rule or any memoranda of agreement between a
5 county or the Hawaii community development authority and the
6 Hawaii housing finance and development corporation. Each county
7 or state authority shall be responsible for monitoring the use
8 and 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 unit, other residential
15 unit, whether for purposes of sale or rental as developed
16 pursuant to section 201H-38. If low-income housing tax credits
17 are utilized, then credits shall not be issued. The credits may
18 be applied county-wide within the same county in which the
19 credits were earned to satisfy affordable housing obligations
20 imposed by the county on market-priced residential and non-
21 residential developments. County-wide or project-specific



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

6 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 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, 2025;
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 2030, pursuant to:

7 (A) Section 3 of Act 141, Session Laws of Hawaii
8 2009, as amended by section 3 of Act 102, Session
9 Laws of Hawaii 2015, as amended by section 1 of
10 Act 80, Session Laws of Hawaii 2019, as amended
11 by section 2 of Act 90, Session Laws of Hawaii
12 2023; and

13 (B) Section 3 of Act 98, Session Laws of Hawaii 2012,
14 as amended by section 4 of Act 102, Session Laws
15 of Hawaii 2015, as amended by section 50 of Act
16 55, Session Laws of Hawaii 2016, as amended by
17 section 2 of Act 80, Session Laws of Hawaii
18 2019, as amended by section 3 of Act 90, Session
19 Laws of Hawaii 2023; and

20 (2) On July 1, 2029, section 2 of this Act shall be
21 repealed and section 46-15.1, Hawaii Revised Statutes,



S.B. NO. 2840

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6 shall not be repealed when that section is reenacted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

8

INTRODUCED BY:





S.B. NO. 2840

Report Title:

HHFDC; Affordable Housing; Counties; Development

Description:

Provides a new source of interim financing for affordable housing projects using housing programs under chapter 201H, Hawaii Revised Statutes. Sunsets 7/1/2029. Effective 1/1/2025.

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

