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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. Section 46-4, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:

3           "(a) This section and any ordinance, rule, or regulation  
4 adopted in accordance with this section shall apply to lands not  
5 contained within the forest reserve boundaries as established on  
6 January 31, 1957, or as subsequently amended.

7           Zoning in all counties shall be accomplished within the  
8 framework of a long-range, comprehensive general plan prepared  
9 or being prepared to guide the overall future development of the  
10 county. Zoning shall be one of the tools available to the  
11 county to put the general plan into effect in an orderly manner.  
12 Zoning in the counties of Hawaii, Maui, and Kauai means the  
13 establishment of districts of [~~such~~] a number, shape, and area,  
14 and the adoption of regulations for each district to carry out  
15 the purposes of this section. In establishing or regulating the  
16 districts, full consideration shall be given to all available  
17 data as to soil classification and physical use capabilities of



1 the land to allow and encourage the most beneficial use of the  
2 land consonant with good zoning practices. The zoning power  
3 granted herein shall be exercised by ordinance [~~which~~] that may  
4 relate to:

- 5 (1) The areas within which agriculture, forestry,  
6 industry, trade, and business may be conducted;
- 7 (2) The areas in which residential uses may be regulated  
8 or prohibited;
- 9 (3) The areas bordering natural watercourses, channels,  
10 and streams, in which trades or industries, filling or  
11 dumping, erection of structures, and the location of  
12 buildings may be prohibited or restricted;
- 13 (4) The areas in which particular uses may be subjected to  
14 special restrictions;
- 15 (5) The location of buildings and structures designed for  
16 specific uses and designation of uses for which  
17 buildings and structures may not be used or altered;
- 18 (6) The location, height, bulk, number of stories, and  
19 size of buildings and other structures;
- 20 (7) The location of roads, schools, and recreation areas;
- 21 (8) Building setback lines and future street lines;



- 1 (9) The density and distribution of population;
- 2 (10) The percentage of a lot that may be occupied, size of
- 3 yards, courts, and other open spaces;
- 4 (11) Minimum and maximum lot sizes; [~~and~~]
- 5 (12) Promoting better labor standards, including but not
- 6 limited to living wages, benefits, requirements for
- 7 participation in state-approved apprenticeship
- 8 programs that promote the efficient and expeditious
- 9 completion of housing projects and permit and
- 10 encourage the orderly development of land resources
- 11 within the county's jurisdiction; and
- 12 [~~(12)~~] (13) Other regulations the boards or city council
- 13 find necessary and proper to permit and encourage the
- 14 orderly development of land resources within their
- 15 jurisdictions.

16 The council of any county shall prescribe rules,  
 17 regulations, and administrative procedures and provide personnel  
 18 it finds necessary to enforce this section and any ordinance  
 19 enacted in accordance with this section. The ordinances may be  
 20 enforced by appropriate fines and penalties, civil or criminal,



1 or by court order at the suit of the county or the owner or  
2 owners of real estate directly affected by the ordinances.

3 Any civil fine or penalty provided by ordinance under this  
4 section may be imposed by the district court, or by the zoning  
5 agency after an opportunity for a hearing pursuant to chapter  
6 91. The proceeding shall not be a prerequisite for any  
7 injunctive relief ordered by the circuit court.

8 Nothing in this section shall invalidate any zoning  
9 ordinance or regulation adopted by any county or other agency of  
10 government pursuant to the statutes in effect prior to July 1,  
11 1957.

12 The powers granted herein shall be liberally construed in  
13 favor of the county exercising them, and in such a manner as to  
14 promote the orderly development of each county or city and  
15 county in accordance with a long-range, comprehensive general  
16 plan to ensure the greatest benefit for the State as a whole.  
17 This section shall not be construed to limit or repeal any  
18 powers of any county to achieve these ends through zoning and  
19 building regulations, except insofar as forest and water reserve  
20 zones are concerned and as provided in subsections (c) and (d).



1           Neither this section nor any ordinance enacted pursuant to  
2 this section shall prohibit the continued lawful use of any  
3 building or premises for any trade, industrial, residential,  
4 agricultural, or other purpose for which the building or  
5 premises is used at the time this section or the ordinance takes  
6 effect; provided that a zoning ordinance may provide for  
7 elimination of nonconforming uses as the uses are discontinued,  
8 or for the amortization or phasing out of nonconforming uses or  
9 signs over a reasonable period of time in commercial,  
10 industrial, resort, and apartment zoned areas only. In no event  
11 shall such amortization or phasing out of nonconforming uses  
12 apply to any existing building or premises used for residential  
13 (single-family or duplex) or agricultural uses. Nothing in this  
14 section shall affect or impair the powers and duties of the  
15 director of transportation as set forth in chapter 262."

16           SECTION 2. Section 104-2, Hawaii Revised Statutes, is  
17 amended as follows:

18           1. By amending subsection (b) to read:

19           "(b) Every laborer and mechanic [~~performing work on the~~  
20 ~~job site~~] employed for the construction of any public work  
21 project, including but not limited to off-site construction



1 where a portion of the building or work is manufactured or  
2 constructed for the performance of the contract, shall be paid  
3 no less than prevailing wages; provided that:

4 (1) The prevailing wages shall be established by the  
5 director as the sum of the basic hourly rate and the  
6 cost to an employer of providing a laborer or mechanic  
7 with fringe benefits. In making prevailing wage  
8 determinations, the following shall apply:

9 (A) The director shall make separate findings of:

- 10 (i) The basic hourly rate; and
- 11 (ii) The rate of contribution or cost of fringe  
12 benefits paid by the employer when the  
13 payment of the fringe benefits by the  
14 employer constitutes a prevailing practice.  
15 The cost of fringe benefits shall be  
16 reflected in the wage rate scheduled as an  
17 hourly rate; and

18 (B) The rates of wages which the director shall  
19 regard as prevailing in each corresponding  
20 classification of laborers and mechanics shall be  
21 the rate of wages paid to the greatest number of



1                   those employed in the State, the modal rate, in  
2                   the corresponding classes of laborers or  
3                   mechanics on projects that are similar to the  
4                   contract work;

5           (2) Except for the project prevailing wages established by  
6           subsections (h) and (i), the prevailing wages shall be  
7           not less than the wages payable under federal law to  
8           corresponding classes of laborers and mechanics  
9           employed on public works projects in the State that  
10          are prosecuted under contract or agreement with the  
11          government of the United States; and

12          (3) Notwithstanding the provisions of the original  
13          contract, the prevailing wages shall be periodically  
14          adjusted during the performance of the contract in an  
15          amount equal to the change in the prevailing wage as  
16          periodically determined by the director."

17          2. By amending subsection (i) to read:

18          "(i) The terms of section 201H-36(a)(5) prevailing wages  
19 shall be deemed the prevailing wages serving as the basis of  
20 compliance with this chapter for work on the project when:



- 1           (1) The Hawaii housing finance and development corporation  
2           has approved and certified a qualified person or firm  
3           involved with a newly constructed, or moderately or  
4           substantially rehabilitated project under section  
5           201H-36(a) (5) for exemption from general excise taxes;  
6           and
- 7           (2) The qualified person or firm has entered into a  
8           contract with a general contractor or subcontractors  
9           whose workforce is subject to either:
- 10           (A) A collective bargaining agreement with a bona  
11           fide labor union for which a section  
12           201H-36(a) (5) prevailing wage for the laborers  
13           and mechanics employed for the construction  
14           project has been approved by the director; or
- 15           (B) A project labor agreement with the group whose  
16           wages are reflected in the Hawaii prevailing wage  
17           schedule for which section 201H-36(a) (5)  
18           prevailing wages for the laborers and mechanics  
19           employed for the construction project have been  
20           approved by the director[~~;~~and



1       ~~(3) The qualified person or firm has received no other~~  
2           ~~direct or indirect financing for the construction~~  
3           ~~project from any other governmental contracting~~  
4           ~~agency, including the Hawaii housing finance and~~  
5           ~~development corporation].~~

6       A project for which section 201H-36(a)(5) prevailing wages have  
7       been deemed the prevailing wages may receive a waiver of real  
8       property taxes, permitting fees, water and sewer development  
9       fees, and other development fees from a county."

10       SECTION 3. Section 171-11, Hawaii Revised Statutes, is  
11       amended to read as follows:

12       "**§171-11 Public purposes, lands set aside by the governor;**  
13       **management.** The governor may, with the prior approval of the  
14       board of land and natural resources, set aside public lands to  
15       any department or agency of the State, the city and county,  
16       county, or other political subdivisions of the State for public  
17       use or purpose. All withdrawals of the lands or portions  
18       thereof so set aside shall be made by the governor. Any order  
19       issued by the governor to set aside public lands for public  
20       purposes pursuant to this section to be under the control and  
21       management of any state or county agency for the development of



1 affordable housing projects and related purposes, and in the  
2 interests of promoting the fair, efficient, and expeditious  
3 completion of the projects, shall incorporate, as a condition of  
4 the order, that the applicable state or county agency, as part  
5 of any request for proposal for an affordable housing project,  
6 require the developer of the affordable housing project to enter  
7 into contracts with only general contractors and subcontractors  
8 whose wages are reflected in chapter 104, for laborers and  
9 mechanics employed for the affordable housing project. The  
10 developer shall certify to the applicable state or county agency  
11 that this requirement shall be met in the construction of the  
12 affordable housing project, including but not limited to off-  
13 site construction where a portion of the building or work is  
14 manufactured or constructed for the performance of the contract.

15 Any public lands set aside by the governor prior to the  
16 enactment of this chapter, or any public lands set aside by the  
17 governor of the Territory of Hawaii, shall be subject to the  
18 provisions of this section.

19 Lands while so set aside for such use or purpose or when  
20 acquired for roads and streets shall be managed by the  
21 department, agency, city and county, county, or other political



1 subdivisions of the State having jurisdiction thereof, unless  
2 otherwise provided by law. Such department, agency of the  
3 State, the city and county, county, or other political  
4 subdivisions of the State in managing such lands shall be  
5 authorized to exercise all of the powers vested in the board in  
6 regard to the issuance of leases, easements, licenses, revocable  
7 permits, concessions, or rights of entry covering such lands for  
8 such use as may be consistent with the purposes for which the  
9 lands were set aside on the same terms, conditions, and  
10 restrictions applicable to the disposition of public lands, as  
11 provided by this chapter all such dispositions being subject to  
12 the prior approval of the board; provided that any nonrenewable  
13 dispositions granting rights for a period not in excess of  
14 fourteen days shall not require (1) the approval of the board or  
15 (2) public auction or public advertisement for sealed tenders;  
16 and provided further that disposition of lands set aside for use  
17 as agricultural parks pursuant to chapter 166 shall not be  
18 subject to the prior approval of the board. If at the time of  
19 the disposition of any such leases the board shall have approved  
20 the same, any order withdrawing or setting aside any or all of  
21 such lands for any other public purpose shall be made subject to



1 such leases. Subject to section 5(f) of the Act of March 18,  
2 1959 (73 Stat. 6), all proceeds from such lands shall be  
3 deposited into the appropriate funds provided by law.

4 This section shall also apply where the purposes are the  
5 uses and purposes of the United States; provided that all  
6 revenues derived from the lands and improvements thereon shall  
7 be paid to the department of land and natural resources by the  
8 United States.

9 Whenever lands set aside for a public purpose to the  
10 various departments and agencies of the State, or to any city  
11 and county, county, or other political subdivisions of the  
12 State, or to the United States, are not being utilized or  
13 required for the public purpose stated, the order setting aside  
14 the lands shall be withdrawn and the lands shall be returned to  
15 the department. The governor may withdraw public lands and,  
16 with the prior approval of the board of land and natural  
17 resources, set aside the withdrawn lands to another department  
18 or agency of the State, the city and county, county, or  
19 political subdivision of the State, or to the United States for  
20 public use or purpose, provided that no structure on such lands



1 shall be built, demolished or altered until after the  
2 legislative action or inaction as hereinbelow provided.

3 The power granted to the governor in this section to set  
4 aside or withdraw or withdraw and set aside public lands shall  
5 be exercised subject to disapproval by the legislature by two-  
6 thirds vote of either the senate or the house of representatives  
7 or by the majority vote of both, in any regular or special  
8 session next following the date of the setting aside or  
9 withdrawal, or withdrawal and setting aside.

10 Whenever portions of lands set aside for a public purpose  
11 to the various departments and agencies of the State, or to any  
12 city and county, county, or other political subdivision of the  
13 State are not presently utilized or required for the public  
14 purpose stated, the board shall have the power, without  
15 withdrawing the order setting aside the lands, to dispose of any  
16 and all real property interest less than the fee in the portions  
17 of such lands where the disposition is for a use which is  
18 consistent or inconsistent with the purpose for which the land  
19 was set aside. All funds derived from disposition by the board  
20 shall be deposited in the general fund of the State or be paid  
21 to the appropriate account; provided that all such dispositions



1 shall be with the prior written approval of the department,  
2 agency, city and county, county, or other political subdivisions  
3 of the State and the governor, and shall be undertaken in  
4 compliance with all other applicable sections of this chapter."

5 SECTION 4. Section 201H-36, Hawaii Revised Statutes, is  
6 amended by amending subsection (a) to read as follows:

7 "(a) In accordance with section 237-29, the corporation  
8 may approve and certify for exemption from general excise taxes  
9 any qualified person or firm involved with a newly constructed,  
10 or a moderately or substantially rehabilitated, project that is:

- 11 (1) Developed under this part;
- 12 (2) Developed under a government assistance program  
13 approved by the corporation, including but not limited  
14 to the United States Department of Agriculture's  
15 section 502 direct loan program and Federal Housing  
16 Administration's section 235 program;
- 17 (3) Developed under the sponsorship of a private nonprofit  
18 organization providing home rehabilitation or new  
19 homes for qualified families in need of decent, low-  
20 cost housing;



- 1           (4)   Developed by a qualified person or firm to provide
- 2                   affordable rental housing where at least fifty per
- 3                   cent of the available units are for households with
- 4                   incomes at or below eighty per cent of the area median
- 5                   family income as determined by the United States
- 6                   Department of Housing and Urban Development, of which
- 7                   at least twenty per cent of the available units are
- 8                   for households with incomes at or below sixty per cent
- 9                   of the area median family income as determined by the
- 10                  United States Department of Housing and Urban
- 11                  Development; or
- 12           (5)   Approved or certified from July 1, 2018, to June 30,
- 13                   2030, and developed under a contract described in
- 14                   section 104-2(i)(2) by a qualified person or firm to
- 15                   provide affordable rental housing through new
- 16                   construction or substantial rehabilitation; provided
- 17                   that:
- 18                   (A)   The allowable general excise tax and use tax
- 19                           costs [~~shall apply to contracting only and~~] shall
- 20                           not exceed [~~\$30,000,000~~] \$ \_\_\_\_\_ per year in



1 the aggregate for all projects approved and  
2 certified by the corporation; and  
3 (B) All available units are for households with  
4 incomes at or below one hundred forty per cent of  
5 the area median family income as determined by  
6 the United States Department of Housing and Urban  
7 Development, of which at least twenty per cent of  
8 the available units are for households with  
9 incomes at or below eighty per cent of the area  
10 median family income as determined by the United  
11 States Department of Housing and Urban  
12 Development; provided that an owner shall not  
13 refuse to lease a unit solely because the  
14 applicant holds a voucher or certificate of  
15 eligibility under section 8 of the United States  
16 Housing Act of 1937, as amended."

17 SECTION 5. Statutory material to be repealed is bracketed  
18 and stricken. New statutory material is underscored.

19 SECTION 6. This Act shall take effect on June 30, 3000;  
20 provided that the amendments made to section 104-2(b), Hawaii  
21 Revised Statutes, in section 2 of this Act shall not be repealed



- 1 when that section is repealed and reenacted on June 30, 2030,
- 2 pursuant to Act 54, Session Laws of Hawaii 2017, as amended by
- 3 Act 39, Session Laws of Hawaii 2018.



**Report Title:**

Hawaii Housing and Finance Development Corporation; Rental Housing Projects; Affordable Housing; General Excise Tax Exemption; Prevailing Wages

**Description:**

Authorizes the counties to promote certain labor standards through zoning ordinances. Includes off-site construction of a public work project for purposes of the State's prevailing wage requirements. Allows certain affordable rental housing projects to receive a waiver of county property taxes and various county development fees. Requires that all orders from the governor to set aside public lands for the development of affordable housing projects contain a provision that the construction of the development be subject to the State's prevailing wage requirements. Amends the limit on the type of costs eligible for exemption from the general excise tax for development of affordable rental housing approved or certified by the Hawaii Housing Finance and Development Corporation. Effective 6/30/3000. (HD1)

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

