S.B. NO. ¹¹⁷⁰ S.D. 2 H.D. 1 C.D. 1

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 will require an additional 50,156 homes by the year 2025, with 4 the city and county of Honolulu requiring 22,168 new units, 5 Hawaii county requiring 13,303 new units, Maui county requiring 6 7 10,404 new units, and Kauai county requiring 4,281 new housing units. While this forecast projects an acute housing shortage, 8 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 18 sale price of income-specified affordable housing units that are 2024-2605 SB1170 CD1 SMA-4.docx



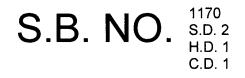
1 constructed under the various programs of the Hawaii housing finance and development corporation. In addition, the Federal 2 3 Reserve has reported that the one-month term of the secured 4 overnight financing rate, a metric used by lenders to determine 5 real estate construction loan interest rates,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

Accordingly, the purpose of this Act is to require 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.

18 SECTION 2. Section 46-15.1, Hawaii Revised Statutes, is 19 amended to read as follows:

20 "\$46-15.1 Housing; county powers. (a) Notwithstanding
21 any law to the contrary, any county shall have and may exercise

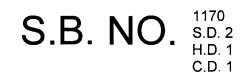




1 the same powers, subject to applicable limitations, as those 2 granted the Hawaii housing finance and development corporation 3 pursuant to chapter 201H insofar as those powers may be reasonably construed to be exercisable by a county for the 4 5 purpose of developing, constructing, and providing low- and moderate-income housing; provided that no county shall be 6 7 empowered to cause the State to issue general obligation bonds 8 to finance a project pursuant to this section; provided further 9 that county projects shall be granted an exemption from general 10 excise or receipts taxes in the same manner as projects of the 11 Hawaii housing finance and development corporation pursuant to 12 section 201H-36; [and] provided further that section 201H-16 13 shall not apply to this section unless federal quidelines 14 specifically provide local governments with that authorization 15 and the authorization does not conflict with any state laws. 16 The powers shall include the power, subject to applicable 17 limitations, to:

- 18 (1) Develop and construct dwelling units, alone or in19 partnership with developers;
- 20 (2) Acquire necessary land by lease, purchase, exchange,
 21 or eminent domain;

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

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1		the borrower as a condition of obtaining a loan from
2		the private lender in the purchase of residential
3		property;
4	(8)	Provide funds for a share, not to exceed fifty per
5		cent, of the principal amount of a loan made to a
6		qualified borrower by a private lender who is unable
7		otherwise to lend the borrower sufficient funds at
8		reasonable rates in the purchase of residential
9		property; and
10	(9)	Sell or lease completed dwelling units.
11	For	purposes of this section, a limitation is applicable to
12	the exten	t that it may reasonably be construed to apply to a
13	county.	
14	(b)	Each county shall recognize housing units developed by
15	the depar	tment of Hawaiian home lands and issue affordable
16	housing c	redits to the department of Hawaiian home lands. The
17	credits s	hall be transferable and shall be issued on a
18	one-credi	t for one-unit basis, unless the housing unit is
19	eligible	for additional credits as provided by adopted county
20	ordinance	s, rules, or any memoranda of agreement between a
21	county an	d the department of Hawaiian home lands. In the event

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

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1	issuance, transfer, and redemption of the affordable housing
2	credits in accordance with county affordable housing ordinances
3	or rules. [Notwithstanding-any provisions herein to the
4	contrary, the department may enter into a memorandum of
5	agreement-with the city and county of Honolulu to establish,
6	modify, or clarify the conditions for the issuance, transfer,
7	and redemption of the affordable housing credits in accordance
8	with county affordable housing ordinances or rules.] At least
9	half of the affordable housing credits issued by the city and
10	county of Honolulu shall be subject to a memorandum of agreement
11	pursuant to this subsection.
12	[For purposes of this section, "affordable housing
13	obligation"-means the requirement imposed by a county,
14	regardless of the date-of its imposition, to develop vacant
15	lots, single-family residences, multi-family residences, or any
16	other type of residence for sale or rent to individuals within a
17	<pre>specified-income range.]</pre>
18	(c) Each county shall recognize housing units developed
19	pursuant to section 201H-38 and issue affordable housing credits
20	to the eligible developer for residences required to be sold or
21	rented to individuals within a specified income range, if a

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1	developer chooses to receive affordable housing credits.
2	Credits shall be issued for each single-family residence,
3	multi-family unit, other residential unit, whether for purposes
4	of sale, rental, or if allowed under the county's affordable
5	housing programs, vacant lot, developed pursuant to chapter
6	201H. Affordable housing credits shall not be issued if
7	low-income housing tax credits are utilized in conjunction with
8	the affordable housing developed pursuant to chapter 201H. The
9	credits shall be transferable and shall be issued on a
10	one-credit for one-unit basis, unless the housing unit is
11	eligible for additional credits as provided by adopted county
12	ordinances, rules, or any memoranda of agreement between a
13	county and the Hawaii housing finance and development
14	corporation. In the event that the affordable housing credits
15	are transferred to the Hawaii housing finance and development
16	corporation, twenty-five per cent of any monetary proceeds from
17	the transfer shall be used by the Hawaii housing finance and
18	development corporation to develop units for rental properties.
19	The credits may be applied county-wide within the same county in
20	which the credits were earned to satisfy affordable housing
21	obligations imposed by the county on market-priced residential

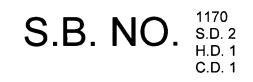


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1	and non-residential developments. The credits may be applied to
2	satisfy up to fifty per cent of the affordable housing
3	obligations imposed by the county for each market-priced
4	residential or non-residential development, unless the county
5	allows for more than fifty per cent as provided by county
6	ordinances, rules, or any memoranda of agreement between the
7	county and the Hawaii housing finance and development
8	corporation. County-wide or project-specific requirements for
9	housing class, use, or type, or construction time for affordable
10	housing units, shall not impair, restrict, or condition the
11	county's obligation to apply the credits in full satisfaction of
12	all county requirements, whether by rule, ordinance, or
13	particular zoning conditions of a project. Notwithstanding any
14	provision of this section to the contrary, the Hawaii housing
15	finance and development corporation may enter into a memorandum
16	of agreement with any of the counties to establish, modify, or
17	clarify the conditions for the issuance, transfer, and
18	redemption of the affordable housing credits in accordance with
19	county affordable housing ordinances or rules.
20	No affordable housing credit shall be issued under this
• •	

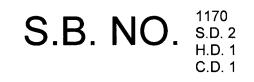
21 subsection until a certificate of occupancy has been issued.





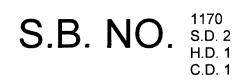
1	Prio	r to the issuance of an affordable housing credit under
2	this subs	ection, an agreement, including affordable housing-
3	related a	greements between a county or the Hawaii housing
4	finance a	nd development corporation and an eligible developer,
5	shall be	executed and include language requiring:
6	(1)	A new and sequential identification number of at least
7		four digits in length for each affordable housing
8		credit to be issued within each county for tracking
9		purposes;
10	(2)	An agreement to be recorded on title of at least one
11		parcel or tax map key of the originating housing
12		project, as defined in section 201H-1; and
13	(3)	The prompt amendment of an agreement when an
14		affordable housing credit originally generated by a
15		housing project is sold, transferred, or utilized to
16		create an easily auditable trail of ownership.
17	[(c)] <u>(d)</u> Notwithstanding any law to the contrary, any
18	county ma	у:
19	(1)	Authorize and issue bonds under chapter 47 and
20		chapter 49 to provide moneys to carry out the purposes
21		of this section or section 46-15.2, including the

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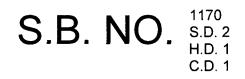
1		satisfaction of any guarantees made by the county
2		pursuant to this section;
3	(2)	Appropriate moneys of the county to carry out the
4		purposes of this section;
5	(3)	Obtain insurance and guarantees from the State or the
6		United States, or grants from either;
7	(4)	Designate, after holding a public hearing on the
8		matter and with the approval of the respective
9		council, any lands owned by it for the purposes of
10		this section;
11	(5)	Provide interim construction loans to partnerships of
12		which it is a partner and to developers whose projects
13		qualify for federally assisted project mortgage
14		insurance, or other similar programs of federal
15		assistance for persons of low and moderate income; and
16	(6)	Adopt rules pursuant to chapter 91 as are necessary to
17		carry out the purposes of this section.
18	[-(d)-] <u>(e)</u> Notwithstanding any law to the contrary, a
19	county mag	y waive its right to repurchase a privately-developed
20	affordabl	e housing unit built pursuant to a unilateral agreement
21	or simila	r instrument, and may transfer that right of repurchase

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1 to a gualified nonprofit housing trust for the purpose of 2 maintaining the unit as affordable for as long as required by 3 the county program. 4 [For the purposes of this subsection, "qualified nonprofit 5 housing-trust"-means a corporation, association, or other duly 6 chartered organization that is registered and in good standing 7 with the State; that is recognized by the Internal Revenue 8 Service as a charitable or otherwise tax-exempt organization under section 501(c)(3) of the Internal Revenue Code of 1986, as 9 10 amended; and that has the capacity, resources, and mission to 11 carry out the purposes of this section as determined by the 12 county in which the housing unit is located. 13 (c)] (f) A qualified nonprofit housing trust shall report 14 the status and use of its housing units to its respective county by November 30 of each calendar year. 15 16 $\left[\frac{f}{f}\right]$ (g) The provisions of this section shall be 17 construed liberally so as to effectuate the purpose of this 18 section in facilitating the development, construction, and 19 provision of low- and moderate-income housing by the various 20 counties.

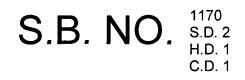
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1	[(g)] <u>(h)</u> For purposes of this section[, "low and moderate	
2	income-housing"]:	
3	"Affordable housing obligation" means the requirement	
4	imposed by a county, regardless of the date of its imposition,	
5	to develop vacant lots, single-family residences, multi-family	
6	residences, or any other type of residence for sale or rent to	
7	individuals within a specified income range.	
8	"Eligible developer" has the same meaning as defined in	
9	section 201H-32.	
10	"Low- and moderate-income housing" means any housing	
11	project that meets the definition of "low- and moderate-income	
12	housing project" in section 39A-281.	
13	"Qualified nonprofit housing trust" means a corporation,	
14	association, or other duly chartered organization that:	
15	(1) Is registered and in good standing with the State;	
16	(2) Is recognized by the Internal Revenue Service as a	
17	charitable or otherwise tax-exempt organization under	
18	section 501(c)(3) of the Internal Revenue Code of	
19	1986, as amended; and	

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1	(3) Has the capacity, resources, and mission to	carry out	
2	the purposes of this section as determined b	y the	
3	county in which the housing unit is located.	11	
4	SECTION 3. Statutory material to be repealed is 3	bracketed	
5	and stricken. New statutory material is underscored.		
6	SECTION 4. This Act shall take effect upon its approval;		
7	provided that the amendments made to section 46-15.1, Hawaii		
8	Revised Statutes, by section 2 of this Act shall not be repealed		
9	when that section is repealed and reenacted on July 1,	2030,	
10	pursuant to:		
11	(1) Section 3 of Act 141, Session Laws of Hawaii	2009, as	
12	amended by section 3 of Act 102, Session Law	s of	
13	Hawaii 2015, as amended by section 1 of Act	80,	
14	Session Laws of Hawaii 2019, as amended by se	ection 2	
15	of Act 90, Session Laws of Hawaii 2023; and		
16	(2) Section 3 of Act 98, Session Laws of Hawaii	2012, as	
17	amended by section 4 of Act 102, Session Law	s of	
18	Hawaii 2015, as amended by section 50 of Act	55,	
19	Session Laws of Hawaii 2016, as amended by se	ection 2	
20	of Act 80, Session Laws of Hawaii 2019, as an	mended by	
21	section 3 of Act 90, Session Laws of Hawaii 3	2023;	





provided further that this Act shall be repealed on July 1,
 2031, and section 46-15.1, Hawaii Revised Statutes, shall be
 reenacted pursuant to section 3 of Act 141, Session Laws of
 Hawaii 2009, and in accordance with section 23 of Act 96,
 Session Laws of Hawaii 2014, and section 9 of Act 159, Session
 Laws of Hawaii 2017.





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 7/1/2031. (CD1)

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

