

A BILL FOR AN ACT

RELATING TO HOUSING.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature believes that it is important
2 to promote the development of additional housing while securing
3 that housing for local residents working in Hawaii.

4 Accordingly, the purpose of this Act is to establish an
5 accessory dwelling unit financing and deed restriction program
6 under the Hawaii housing finance and development corporation.

SECTION 2. Chapter 201H, Hawaii Revised Statutes, is amended by adding a new subpart to part III to be appropriately designated and to read as follows:

10 "SUBPART . ACCESSORY DWELLING UNIT FINANCING AND DEED
11 RESTRICTION PROGRAM

12 **§201H-A Definitions.** As used in this subpart, unless the
13 context otherwise requires:

14 "Accessory dwelling unit" means an accessory or a second
15 dwelling unit that includes its own kitchen, bedroom, and
16 bathroom facilities, and is attached or detached from the



1 primary dwelling unit on the zoning lot on which the primary
2 dwelling unit of the owner is located.

3 "Development costs" includes costs associated with site
4 preparation, architectural or engineering design, permits, soil
5 tests, impact fees, and property survey.

6 "Eligible homeowner or homebuyer" means a person or family,
7 without regard to race, creed, national origin, or sex, who:

8 (1) Is a citizen of the United States or a resident alien;

9 (2) Is a resident domiciled in the State;

10 (3) Is at least eighteen years of age;

11 (4) Agrees to sell to the county and place a deed
12 restriction on the primary dwelling unit and accessory
13 dwelling unit that is in compliance with section
14 201H-C;

15 (5) Agrees to comply with annual reporting requirements as
16 provided pursuant to section 201H-F;

17 (6) Owns no other property with a deed restriction
18 pursuant to this subpart; and

19 (7) Meets any other qualifications as established by rules
20 adopted by the corporation or county.



1 "Qualified business" means a corporation, partnership, sole
2 proprietorship, trust, or foundation, or any other individual or
3 organization carrying on a business, whether or not operated for
4 profit, that:

5 (1) Has a physical presence within the State;

6 (2) Has a current and valid business license to operate in
7 the State;

8 (3) Pays state income taxes pursuant to chapter 235; and

9 (4) Is generally recognized as an operating business
10 within the community.

11 "Qualified business" includes state and county departments and
12 agencies.

13 **§201H-B Accessory dwelling unit financing and deed**
14 **restriction program; established.** (a) There shall be
15 established within the corporation an accessory dwelling unit
16 financing and deed restriction program. Under the accessory
17 dwelling unit financing and deed restriction program, the
18 corporation may allocate funds from the dwelling unit revolving
19 fund established under section 201H-191 to a county to:

20 (1) Provide grants to eligible homeowners or homebuyers to
21 finance construction costs, development costs, and



1 non-reoccurring closing costs associated with the
2 construction of an accessory dwelling unit; and
3 (2) Purchase a deed restriction from eligible homeowners
4 or homebuyers to be placed on the primary dwelling
5 unit and accessory dwelling unit funded pursuant to
6 this subpart.

7 (b) Upon application by a county, in a form prescribed by
8 the corporation, the corporation may allocate an annual lump
9 sum, in an amount to be determined by the corporation, necessary
10 for a county to purchase a voluntary deed restriction from an
11 eligible homeowner or homebuyer; provided that the corporation
12 shall not distribute funds solely based on the population size
13 of a county.

14 (c) A county may deposit funds received from the
15 corporation pursuant to subsection (b) into an escrow account
16 until the purchase of a deed restriction is finalized.

17 (d) Applications for grants shall be made to the counties
18 and contain the information as required by rules adopted under
19 this subpart. At a minimum, the applicant shall:

20 (1) Be an eligible homeowner or homebuyer under this
21 subpart;



- 1 (2) Agree to use state funds exclusively for the purposes
2 of this program;
- 3 (3) Indicate capability to properly use the grant for the
4 purpose of the accessory dwelling unit financing and
5 deed restriction program;
- 6 (4) Comply with all applicable federal and state laws
7 prohibiting discrimination against any person on the
8 basis of race, color, national origin, religion,
9 creed, sex, age, sexual orientation, disability, or
10 any other characteristic protected under applicable
11 federal or state law;
- 12 (5) Agree not to use state funds for purposes of
13 entertainment or perquisites;
- 14 (6) Comply with other requirements as the county may
15 prescribe;
- 16 (7) Comply with all applicable federal, state, and county
17 statutes, rules, and ordinances;
- 18 (8) Agree to indemnify and save harmless the State and its
19 officers, agents, and employees from and against any
20 and all claims arising out of or resulting from
21 activities carried out or projects undertaken with



1 funds provided hereunder and procure sufficient
2 insurance to provide this indemnification if requested
3 to do so by the corporation; and

4 (9) Agree to make available to the county all records the
5 applicant may have relating to the grant, to allow
6 state agencies to monitor the applicant's compliance
7 with this section.

8 (e) No eligible homeowner or homebuyer shall be granted
9 funds under this subpart if a deed restriction that satisfies
10 section 201H-C already runs with the land on which an accessory
11 dwelling unit that was funded pursuant to this subpart is
12 located.

13 (f) Any initial lease for tenancy offered at a property
14 with a deed restriction placed pursuant to this subpart shall be
15 for a minimum of six months. An initial lease may transfer to a
16 month-to-month lease upon completion of the original term.

17 (g) The deed restriction placed and owned by the county
18 pursuant to this subpart shall take first priority over other
19 restrictions on the property, if applicable; provided that for a
20 planned community under chapter 421J, a deed restriction may be



1 secondary only to conditions, covenants, and restrictions with a
2 requisite first position.

3 (h) Counties shall be responsible for validating the
4 evidence and ensuring compliance with this subpart. Counties
5 may contract with non-government persons or entities to ensure
6 compliance with this subpart. Counties shall report any
7 property not in compliance with this subpart to the corporation.

8 (i) If a property with a deed restriction in place
9 pursuant to this subpart is sold to a nonresident, or at sale it
10 is determined that any dwelling unit on the property has been
11 rented to a nonresident, the corporation may bring action
12 against the homeowner in the appropriate circuit court and shall
13 be entitled to fifty per cent of appreciation at the time of
14 sale, to be collected by the corporation and placed in the
15 dwelling unit revolving fund established under section 201H-191.

16 (j) If a county does not expend moneys allocated pursuant
17 to this section within one year of receipt, the moneys shall be
18 returned to the corporation and placed in the dwelling unit
19 revolving fund established under section 201H-191.

20 (k) The corporation and each county may establish, revise,
21 charge, and collect fees and premiums and impose costs as



1 necessary, reasonable, or convenient to effectuate the purposes
2 of this subpart.

3 (1) The corporation may adopt rules pursuant to chapter 91
4 for the purposes of this subpart. Each county may adopt rules
5 pursuant to chapter 91 for purposes of this subpart; provided
6 that the rules shall not conflict with rules adopted by the
7 corporation.

8 **§201H-C Deed restriction; requirements. (a)**

9 Notwithstanding any other law to the contrary, a deed
10 restriction shall be recorded against the property and shall run
11 with the land in perpetuity, binding all future owners,
12 successors, and assigns.

13 (b) Notwithstanding any other law to the contrary, a deed
14 restriction placed on a property and owned by a county pursuant
15 to this subpart shall require that the property be occupied by
16 at least one owner-occupant or tenant who:

17 (1) Works an average of thirty hours or more per week at a
18 qualified business;

19 (2) Is involuntarily unemployed:

20 (A) From a job in which the owner-occupant or tenant
21 worked an average of thirty hours or more per



- 1 week at a qualified business at the time of
2 initial occupancy; and
3 (B) For a period of less than three hundred sixty-
4 five days;
5 (3) Is retired; provided that the retiree:
6 (A) Was sixty-five years of age or older at the time
7 of retirement; and
8 (B) Worked an average of thirty hours or more per
9 week at a qualified business within the county;
10 or
11 (4) Has a disability, as defined in section 515-2;
12 provided that the owner or tenant with a disability
13 worked an average of thirty hours or more per week at
14 a qualified business.

15 **§201H-D Remedies.** A county that reasonably believes a
16 property with a deed restriction in place pursuant to this
17 subpart is not in compliance with this subpart may bring action
18 against the owner of the property for civil remedies based in
19 contract or real property law, including but not limited to
20 claiming a lien or obtaining specific performance.



1 **§201H-E Environmental impact statement; conveyance tax;**
2 **procurement code; exemptions.** (a) An action on property with a
3 deed restriction in place pursuant to this subpart shall be
4 exempt from chapter 343.

5 (b) Property sold for which a county has purchased a deed
6 restriction pursuant to this subpart shall be exempt from
7 chapter 247.

8 (c) Any contract entered into by a county pursuant to this
9 subpart shall be exempt from chapter 103D.

10 **§201H-F Annual reporting.** No later than of
11 each year, beginning in the year following the first year of
12 occupancy of the property after the deed restriction has been
13 entered into, the owner of the property shall submit a written
14 statement with accompanying evidence to the county verifying the
15 property was occupied by a qualified owner-occupant or tenant
16 during all of the prior calendar year; provided that, if
17 applicable, a copy of the lease form currently used for the
18 property shall be submitted with the statement."

19 SECTION 3. Section 46-15.2, Hawaii Revised Statutes, is
20 amended to read as follows:



1 **"§46-15.2 Housing; additional county powers.** In addition
2 and supplemental to the powers granted to counties by section
3 46-15.1, a county shall have and may exercise any of the
4 following powers:

5 (1) To provide assistance and aid to persons of low- and
6 moderate-income in acquiring housing by:

7 (A) Providing loans secured by a mortgage;

8 (B) Acquiring the loans from private lenders where
9 the county has made advance commitment to acquire
10 the loans; and

11 (C) Making and executing contracts with private
12 lenders or a public agency for the origination
13 and servicing of the loans and paying the
14 reasonable value of the services;

15 (2) In connection with the exercise of any powers granted
16 under this section or section 46-15.1, to establish
17 one or more loan programs and to issue bonds under
18 chapter 47 or 49 to provide moneys to carry out the
19 purposes of this section or section 46-15.1; provided
20 that:



- 1 (A) If bonds are issued pursuant to chapter 47 to
2 finance one or more loan programs, the county may
3 establish qualifications for the program or
4 programs as it deems appropriate;
- 5 (B) If bonds are issued pursuant to chapter 49 to
6 finance one or more loan programs, the loan
7 program or programs shall comply with part III,
8 subpart B of chapter 201H, to the extent
9 applicable;
- 10 (C) If bonds are issued pursuant to section 47-4 or
11 chapter 49, any loan program established pursuant
12 to this section or any county-owned dwelling
13 units constructed under section 46-15.1 shall be
14 and constitute an "undertaking" under section
15 49-1 and chapter 49 shall apply to the loan
16 program or county-owned dwelling units to the
17 extent applicable;
- 18 (D) In connection with the establishment of any loan
19 program pursuant to this section, a county may
20 employ financial consultants, attorneys, real
21 estate counselors, appraisers, and other



1 consultants as may be required in the judgment of
2 the county and fix and pay their compensation
3 from funds available to the county therefor;

4 (E) Notwithstanding any limitation otherwise
5 established by law, with respect to the rate of
6 interest on any loan made under any loan program
7 established pursuant to this section, the loan
8 may bear a rate or rates of interest per year as
9 the county shall determine; provided that no loan
10 made from the proceeds of any bonds of the county
11 shall be under terms or conditions that would
12 cause the interest on the bonds to be deemed
13 subject to income taxation by the United States;

14 (F) Notwithstanding any limitation otherwise
15 established by law, with respect to the amount of
16 compensation permitted to be paid for the
17 servicing of loans made under any loan program
18 established pursuant to this section, a county
19 may fix any reasonable compensation as the county
20 may determine;



1 (G) Notwithstanding the requirement of any other law,
2 a county may establish separate funds and
3 accounts with respect to bonds issued pursuant to
4 chapter 47 or 49 to provide moneys to carry out
5 the purposes of this section or section 46-15.1
6 as the county may deem appropriate;

7 (H) Notwithstanding any provision of chapter 47 or 49
8 or of any other law, but subject to the
9 limitations of the state constitution, bonds
10 issued to provide moneys to carry out the
11 purposes of this section or section 46-15.1 may
12 ~~[be]~~:

13 (i) Be sold at public or private sale at a
14 price; ~~[may bear]~~

15 (ii) Bear interest at a rate or rates per year;
16 ~~[may be]~~

17 (iii) Be payable at a time or times; ~~[may mature]~~

18 (iv) Mature at a time or times; ~~[may be]~~

19 (v) Be made redeemable before maturity at the
20 option of the county, the holder, or both,



1 at a price or prices and upon terms and
2 conditions; and [~~may be~~]

3 (vi) Be issued in coupon or registered form, or
4 both, as the county may determine;

5 (I) If deemed necessary or advisable, the county may
6 designate a national or state bank or trust
7 company within or without the State to serve as
8 trustee for the holders of bonds issued to
9 provide moneys to carry out the purposes of this
10 section or section 46-15.1, and enter into a
11 trust indenture, trust agreement, or indenture of
12 mortgage with the trustee whereby the trustee may
13 be authorized to receive and receipt for, hold,
14 and administer the proceeds of the bonds and to
15 apply the proceeds to the purposes for which the
16 bonds are issued, or to receive and receipt for,
17 hold, and administer the revenues and other
18 receipts derived by the county from the
19 application of the proceeds of the bonds and to
20 apply the revenues and receipts to the payment of
21 the principal of, or interest on the bonds, or



1 both. Any trust indenture, trust agreement, or
2 indenture of mortgage entered into with the
3 trustee may contain any covenants and provisions
4 as may be deemed necessary, convenient, or
5 desirable by the county to secure the bonds. The
6 county may pledge and assign to the trustee any
7 agreements related to the application of the
8 proceeds of the bonds and the rights of the
9 county thereunder, including the rights to
10 revenues and receipts derived thereunder. Upon
11 appointment of the trustee, the director of
12 finance of the county may elect not to serve as
13 fiscal agent for the payment of the principal and
14 interest, and for the purchase, registration,
15 transfer, exchange, and redemption, of the bonds;
16 or may elect to limit the functions the director
17 of finance performs as a fiscal agent; and may
18 appoint a trustee to serve as the fiscal agent;
19 and may authorize and empower the trustee to
20 perform the functions with respect to payment,
21 purchase, registration, transfer, exchange, and



1 redemption, as the director of finance deems
2 necessary, advisable, or expedient, including
3 without limitation the holding of the bonds and
4 coupons that have been paid and the supervision
5 and conduction or the destruction thereof in
6 accordance with law;

7 (J) If a trustee is not appointed to collect, hold,
8 and administer the proceeds of bonds issued to
9 provide moneys to carry out the purposes of this
10 section or section 46-15.1, or the revenues and
11 receipts derived by the county from the
12 application of the proceeds of the bonds, as
13 provided in subparagraph (I), the director of
14 finance of the county may hold the proceeds or
15 revenues and receipts in a separate account in
16 the treasury of the county, to be applied solely
17 to the carrying out of the ordinance, trust
18 indenture, trust agreement, or indenture of
19 mortgage, if any, authorizing or securing the
20 bonds; and



1 (K) Any law to the contrary notwithstanding, the
2 investment of funds held in reserves and sinking
3 funds related to bonds issued to provide moneys
4 to carry out the purposes of this section or
5 section 46-15.1 shall comply with section 201H-
6 77; provided that any investment that requires
7 approval by the county council pursuant to
8 section 46-48 or 46-50 shall first be approved by
9 the county council;

10 (3) To acquire policies of insurance and enter into
11 banking arrangements as the county may deem necessary
12 to better secure bonds issued to provide money to
13 carry out the purposes of this section or section 46-
14 15.1, including without limitation contracting for a
15 support facility or facilities as may be necessary
16 with respect to bonds issued with a right of the
17 holders to put the bonds and contracting for interest
18 rate swaps; [and]

19 (4) To enter into negotiations for, and purchase deed
20 restrictions on, housing properties from eligible



1 homeowners and homebuyers pursuant to subpart ,
2 part III of chapter 201H; and
3 [~~4~~] (5) To do any and all other things necessary or
4 appropriate to carry out the purposes and exercise the
5 powers granted in section 46-15.1 and this section."

6 SECTION 4. Section 103D-102, Hawaii Revised Statutes, is
7 amended by amending subsection (b) to read as follows:

8 "(b) Notwithstanding subsection (a), this chapter shall
9 not apply to contracts by governmental bodies:

10 (1) Solicited or entered into before July 1, 1994, unless
11 the parties agree to its application to a contract
12 solicited or entered into [~~prior to~~] before July 1,
13 1994;

14 (2) To disburse funds, irrespective of their source:

15 (A) For grants as defined in section 42F-101, made by
16 the State in accordance with standards provided
17 by law as required by article VII, section 4, of
18 the state constitution; or by the counties
19 pursuant to their respective charters or
20 ordinances;



- 1 (B) To make payments to or on behalf of public
2 officers and employees for salaries, fringe
3 benefits, professional fees, or reimbursements;
- 4 (C) To satisfy obligations that the State is required
5 to pay by law, including paying fees, permanent
6 settlements, subsidies, or other claims, making
7 refunds, and returning funds held by the State as
8 trustee, custodian, or bailee;
- 9 (D) For entitlement programs, including public
10 assistance, unemployment, and workers'
11 compensation programs, established by state or
12 federal law;
- 13 (E) For dues and fees of organizations of which the
14 State or its officers and employees are members,
15 including the National Association of Governors,
16 the National Association of State and County
17 Governments, and the Multi-State Tax Commission;
- 18 (F) For deposit, investment, or safekeeping,
19 including expenses related to their deposit,
20 investment, or safekeeping;
- 21 (G) To governmental bodies of the State;



- 1 (H) As loans, under loan programs administered by a
2 governmental body; ~~[and]~~
- 3 (I) For contracts awarded in accordance with chapter
4 103F; and
- 5 (J) For the purchase of deed restrictions for the
6 accessory dwelling unit financing and deed
7 restriction program established under
8 subpart , part III of chapter 201H;
- 9 (3) To procure goods, services, or construction from a
10 governmental body other than the university of Hawaii
11 bookstores, from the federal government, or from
12 another state or its political subdivision;
- 13 (4) To procure the following goods or services that are
14 available from multiple sources but for which
15 procurement by competitive means is either not
16 practicable or not advantageous to the State:
- 17 (A) Services of expert witnesses for potential and
18 actual litigation of legal matters involving the
19 State, its agencies, and its officers and
20 employees, including administrative quasi-
21 judicial proceedings;



- 1 (B) Works of art for museum or public display;
- 2 (C) Research and reference materials including books,
3 maps, periodicals, and pamphlets, which are
4 published in print, video, audio, magnetic, or
5 electronic form;
- 6 (D) Meats and foodstuffs for the Kalaupapa
7 settlement;
- 8 (E) Opponents for athletic contests;
- 9 (F) Utility services whose rates or prices are fixed
10 by regulatory processes or agencies;
- 11 (G) Performances, including entertainment, speeches,
12 and cultural and artistic presentations;
- 13 (H) Goods and services for commercial resale by the
14 State;
- 15 (I) Services of printers, rating agencies, support
16 facilities, fiscal and paying agents, and
17 registrars for the issuance and sale of the
18 State's or counties' bonds;
- 19 (J) Services of attorneys employed or retained to
20 advise, represent, or provide any other legal
21 service to the State or any of its agencies, on



1 matters arising under laws of another state or
2 foreign country, or in an action brought in
3 another state, federal, or foreign jurisdiction,
4 when substantially all legal services are
5 expected to be performed outside the State;

6 (K) Financing agreements under chapter 37D;

7 (L) Educational materials and related training for
8 direct student instruction in career and
9 technical education programs as defined in
10 section 302A-101, including supplies, implements,
11 tools, machinery, electronic devices, or other
12 goods purchased by the department of education;
13 provided that:

14 (i) The department of education shall acquire
15 three written quotes for purchases that
16 exceed \$100,000 made pursuant to this
17 subparagraph;

18 (ii) Awards over \$2,500 shall comply with section
19 103D-310(c); and

20 (iii) Awards over \$500,000 shall be approved by
21 the superintendent of education; and



1 (M) Any other goods or services that the policy board
2 determines by rules or the chief procurement
3 officer determines in writing is available from
4 multiple sources but for which procurement by
5 competitive means is either not practicable or
6 not advantageous to the State; and

7 (5) That are specific procurements expressly exempt from
8 any or all of the requirements of this chapter by:

9 (A) References in state or federal law to provisions
10 of this chapter or a section of this chapter, or
11 references to a particular requirement of this
12 chapter; and

13 (B) Trade agreements, including the Uruguay Round
14 General Agreement on Tariffs and Trade (GATT),
15 that require certain non-construction and non-
16 software development procurements by the
17 comptroller to be conducted in accordance with
18 its terms."

19 SECTION 5. Section 201H-191, Hawaii Revised Statutes, is
20 amended by amending subsection (a) to read as follows:



1 "(a) There ~~[is]~~ shall be created a dwelling unit revolving
2 fund. The funds appropriated for the purpose of the dwelling
3 unit revolving fund and all moneys received or collected by the
4 corporation for the purpose of the revolving fund shall be
5 deposited in the revolving fund. The proceeds in the revolving
6 fund shall be used ~~[to reimburse]~~ for:

7 (1) Reimbursements to the general fund to pay the interest
8 on general obligation bonds issued for the purposes of
9 the revolving fund~~[, for the necessary]~~;

10 (2) Necessary expenses in administering housing
11 development programs and regional state infrastructure
12 programs~~[, and for carrying]~~;

13 (3) Carrying out the purposes of housing development
14 programs and regional state infrastructure programs,
15 including but not limited to the expansion of
16 community facilities and regional state infrastructure
17 constructed in conjunction with housing and mixed-use
18 transit-oriented development projects, permanent
19 primary or secondary financing, and supplementing
20 building costs, federal guarantees required for
21 operational losses, and all things required by any



1 federal agency in the construction and receipt of
2 federal funds or low-income housing tax credits for
3 housing projects[-]; and
4 (4) The administration and purchase of deed restrictions
5 as part of the accessory dwelling unit financing and
6 deed restriction program under subpart ; provided
7 that there shall be no area median income requirements
8 for moneys expended for the purposes of this program."

9 SECTION 6. Section 247-3, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "**§247-3 Exemptions.** The tax imposed by section 247-1
12 shall not apply to:

- 13 (1) Any document or instrument that is executed [~~prior to~~]
14 before January 1, 1967;
15 (2) Any document or instrument that is given to secure a
16 debt or obligation;
17 (3) Any document or instrument that only confirms or
18 corrects a deed, lease, sublease, assignment,
19 transfer, or conveyance previously recorded or filed;



- 1 (4) Any document or instrument between husband and wife,
2 reciprocal beneficiaries, or parent and child, in
3 which only a nominal consideration is paid;
- 4 (5) Any document or instrument in which there is a
5 consideration of \$100 or less paid or to be paid;
- 6 (6) Any document or instrument conveying real property
7 that is executed pursuant to an agreement of sale, and
8 where applicable, any assignment of the agreement of
9 sale, or assignments thereof; provided that the taxes
10 under this chapter have been fully paid upon the
11 agreement of sale, and where applicable, upon such
12 assignment or assignments of agreements of sale;
- 13 (7) Any deed, lease, sublease, assignment of lease,
14 agreement of sale, assignment of agreement of sale,
15 instrument or writing in which the United States or
16 any agency or instrumentality thereof or the State or
17 any agency, instrumentality, or governmental or
18 political subdivision thereof are the only parties
19 thereto;
- 20 (8) Any document or instrument executed pursuant to a tax
21 sale conducted by the United States or any agency or



1 instrumentality thereof or the State or any agency,
2 instrumentality, or governmental or political
3 subdivision thereof for delinquent taxes or
4 assessments;

5 (9) Any document or instrument conveying real property to
6 the United States or any agency or instrumentality
7 thereof or the State or any agency, instrumentality,
8 or governmental or political subdivision thereof
9 pursuant to the threat of the exercise or the exercise
10 of the power of eminent domain;

11 (10) Any document or instrument that solely conveys or
12 grants an easement or easements;

13 (11) Any document or instrument whereby owners partition
14 their property, whether by mutual agreement or
15 judicial action; provided that the value of each
16 owner's interest in the property after partition is
17 equal in value to that owner's interest before
18 partition;

19 (12) Any document or instrument between marital partners or
20 reciprocal beneficiaries who are parties to a divorce
21 action or termination of reciprocal beneficiary



1 relationship that is executed pursuant to an order of
2 the court in the divorce action or termination of
3 reciprocal beneficiary relationship;

4 (13) Any document or instrument conveying real property
5 from a testamentary trust to a beneficiary under the
6 trust;

7 (14) Any document or instrument conveying real property
8 from a grantor to the grantor's revocable living
9 trust, or from a grantor's revocable living trust to
10 the grantor as beneficiary of the trust;

11 (15) Any document or instrument conveying real property, or
12 any interest therein, from an entity that is a party
13 to a merger or consolidation under chapter 414, 414D,
14 415A, 421, 421C, 425, 425E, or 428 to the surviving or
15 new entity;

16 (16) Any document or instrument conveying real property, or
17 any interest therein, from a dissolving limited
18 partnership to its corporate general partner that
19 owns, directly or indirectly, at least a ninety per
20 cent interest in the partnership, determined by
21 applying section 318 (with respect to constructive



1 ownership of stock) of the federal Internal Revenue
2 Code of 1986, as amended, to the constructive
3 ownership of interests in the partnership; [and
4 +] (17) [+] Any document or instrument that conforms to the
5 transfer on death deed as authorized under chapter
6 527[-]; and
7 (18) Any document or instrument conveying real property
8 with a county-owned deed restriction pursuant to
9 subpart , part III of chapter 201H, including any
10 document or instrument conveying such a county-owned
11 deed restriction."

12 SECTION 7. Section 525-4, Hawaii Revised Statutes, is
13 amended to read as follows:

14 **"§525-4 Exclusions from statutory rule against**
15 **perpetuities.** Section 525-1 shall not apply to:

- 16 (1) A fiduciary's power to sell, lease, or mortgage
17 property, and the power of a fiduciary to determine
18 principal and income;
19 (2) A discretionary power of a trustee to distribute
20 principal before termination of a trust;



- 1 (3) A nonvested property interest held by a charity,
2 government, or governmental agency or subdivision, if
3 the nonvested property interest is preceded by an
4 interest held by another charity, government, or
5 governmental agency or subdivision;
- 6 (4) A property interest in or a power of appointment with
7 respect to a pension, profit-sharing, stock bonus,
8 health, disability, death benefit, income deferral, or
9 other current or deferred benefit plan for one or more
10 employees, independent contractors, or their
11 beneficiaries or spouses;
- 12 (5) A property interest, power of appointment, or
13 arrangement that was not subject to the common-law
14 rule against perpetuities or is excluded by any other
15 applicable law; [~~or~~]
- 16 (6) A trust described in chapter 554G[~~-~~]; or
- 17 (7) A property interest in property with a county-owned
18 deed restriction in place pursuant to subpart ,
19 part III of chapter 201H."

20 SECTION 8. In codifying the new sections added by section
21 2 of this Act, the revisor of statutes shall substitute



1 appropriate section numbers for the letters used in designating
2 the new sections in this Act.

3 SECTION 9. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 10. This Act shall take effect on July 1, 3000;
6 provided that the amendments made to section 103D-102(b), Hawaii
7 Revised Statutes, by section 4 of this Act shall not be repealed
8 when that section is reenacted on July 1, 2027, pursuant to
9 section 4 of Act 150, Session Laws of Hawaii 2024.



Report Title:

HHFDC; Counties; Accessory Dwelling Units; Grants; Voluntary
Deed Restrictions; Dwelling Unit Revolving Fund

Description:

Establishes the Accessory Dwelling Unit Financing and Deed
Restriction Program to allocate funds to the counties to provide
grants to eligible homeowners or homebuyers to finance
construction costs, development costs, and non-reoccurring
closing costs associated with the construction of an accessory
dwelling unit and purchase deed restrictions on such property.
Effective 7/1/3000. (HD2)

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

