
A BILL FOR AN ACT

RELATING TO HOUSING.

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

1 SECTION 1. Section 46-15.1, Hawaii Revised Statutes, is
2 amended to read as follows:
3 **"§46-15.1 Housing; county powers.** (a) Notwithstanding
4 any law to the contrary, any county shall have and may exercise
5 the same powers, subject to applicable limitations, as those
6 granted the Hawaii housing finance and development corporation
7 pursuant to chapter 201H insofar as those powers may be
8 reasonably construed to be exercisable by a county for the
9 purpose of developing, constructing, financing, refinancing, or
10 otherwise providing low- and moderate-income housing projects
11 and mixed-use developments; provided that no county shall be
12 empowered to cause the State to issue general obligation bonds
13 to finance a project pursuant to this section; provided further
14 that county projects shall be granted an exemption from general
15 excise or receipts taxes in the same manner as projects of the
16 Hawaii housing finance and development corporation pursuant to
17 section 201H-36; provided further that county projects shall



1 prioritize walkability to the extent practicable; provided
2 further that section 201H-16 shall not apply to this section
3 unless federal guidelines specifically provide local governments
4 with that authorization and the authorization does not conflict
5 with any state laws. The powers shall include the power,
6 subject to applicable limitations, to:

7 (1) Develop and construct dwelling units, alone or in
8 partnership with developers;

9 (2) Acquire necessary land by lease, purchase, exchange,
10 or eminent domain;

11 (3) Provide assistance and aid to a public agency or other
12 person in developing and constructing new housing and
13 rehabilitating existing housing for elders of low- and
14 moderate-income, other persons of low- and moderate-
15 income, and persons displaced by any governmental
16 action, by making long-term mortgage or interim
17 construction loans available;

18 (4) Contract with any eligible bidders to provide for
19 construction of urgently needed housing for persons of
20 low- and moderate-income;



- 1 (5) Guarantee the top twenty-five per cent of the
2 principal balance of real property mortgage loans,
3 plus interest thereon, made to qualified borrowers by
4 qualified lenders;
- 5 (6) Enter into mortgage guarantee agreements with
6 appropriate officials of any agency or instrumentality
7 of the United States to induce those officials to
8 commit to insure or to insure mortgages under the
9 National Housing Act, as amended;
- 10 (7) Make a direct loan to any qualified buyer for the
11 downpayment required by a private lender to be made by
12 the borrower as a condition of obtaining a loan from
13 the private lender in the purchase of residential
14 property;
- 15 (8) Provide funds for a share, not to exceed fifty per
16 cent, of the principal amount of a loan made to a
17 qualified borrower by a private lender who is unable
18 otherwise to lend the borrower sufficient funds at
19 reasonable rates in the purchase of residential
20 property; and
- 21 (9) Sell or lease completed dwelling units.



1 For purposes of this section, a limitation is applicable to
2 the extent that it may reasonably be construed to apply to a
3 county.

4 (b) Each county shall recognize housing units developed by
5 the department of Hawaiian home lands and issue affordable
6 housing credits to the department of Hawaiian home lands. The
7 credits shall be transferable and shall be issued on a one-
8 credit for one-unit basis, unless the housing unit is eligible
9 for additional credits as provided by adopted county ordinances,
10 rules, or any memoranda of agreement between a county and the
11 department of Hawaiian home lands. In the event that credits
12 are transferred by the department of Hawaiian home lands,
13 twenty-five per cent of any monetary proceeds from the transfer
14 shall be used by the department of Hawaiian home lands to
15 develop units for rental properties. Credits shall be issued
16 for each single-family residence, multi-family unit, other
17 residential unit, whether for purposes of sale or rental, or if
18 allowed under the county's affordable housing programs, vacant
19 lot, developed by the department of Hawaiian home lands. The
20 credits may be applied county-wide within the same county in
21 which the credits were earned to satisfy affordable housing



1 obligations imposed by the county on market-priced residential
2 and non-residential developments. County-wide or project-
3 specific requirements for housing class, use, or type; or
4 construction time for affordable housing units shall not impair,
5 restrict, or condition the county's obligation to apply the
6 credits in full satisfaction of all county requirements, whether
7 by rule, ordinance, or particular zoning conditions of a
8 project. Notwithstanding any provisions in this section to the
9 contrary, the department may enter into a memorandum of
10 agreement with any of the counties to establish, modify, or
11 clarify the conditions for the issuance, transfer, and
12 redemption of the affordable housing credits in accordance with
13 county affordable housing ordinances or rules. At least half of
14 the affordable housing credits issued by the city and county of
15 Honolulu shall be subject to a memorandum of agreement pursuant
16 to this subsection.

17 (c) Each county shall recognize housing units developed
18 pursuant to section 201H-38 and issue affordable housing credits
19 to the eligible developer for residences required to be sold or
20 rented to individuals within a specified income range, if a
21 developer chooses to receive affordable housing credits.



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



1 per cent of the affordable housing obligations imposed by the
2 county for each market-priced residential or non-residential
3 development, unless the county allows for more than fifty per
4 cent as provided by county ordinances, rules, or any memoranda
5 of agreement between the county and the Hawaii housing finance
6 and development corporation. County-wide or project-specific
7 requirements for housing class, use, or type, or construction
8 time for affordable housing units, shall not impair, restrict,
9 or condition the county's obligation to apply the credits in
10 full satisfaction of all county requirements, whether by rule,
11 ordinance, or particular zoning conditions of a project.

12 Notwithstanding any provision of this section to the contrary,
13 the Hawaii housing finance and development corporation may enter
14 into a memorandum of agreement with any of the counties to
15 establish, modify, or clarify the conditions for the issuance,
16 transfer, and redemption of the affordable housing credits in
17 accordance with 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 [~~Prior to~~] Before the issuance of an affordable housing
21 credit under this subsection, an agreement, including affordable



1 housing-related agreements between a county or the Hawaii
2 housing finance and development corporation and an eligible
3 developer, shall be executed and include language requiring:

4 (1) A new and sequential identification number of at least
5 four digits in length for each affordable housing
6 credit to be issued within each county for tracking
7 purposes;

8 (2) An agreement to be recorded on title of at least one
9 parcel or tax map key of the originating housing
10 project, as defined in section 201H-1; and

11 (3) The prompt amendment of an agreement when an
12 affordable housing credit originally generated by a
13 housing project is sold, transferred, or utilized to
14 create an easily auditable trail of ownership.

15 (d) Notwithstanding any law to the contrary, any county
16 may:

17 (1) Authorize and issue bonds under chapter 47 and chapter
18 49 to provide moneys to carry out the purposes of this
19 section or section 46-15.2, including the satisfaction
20 of any guarantees made by the county pursuant to this
21 section;



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



1 the unit as affordable for as long as required by the county
2 program.

3 (f) A qualified nonprofit housing trust shall report the
4 status and use of its housing units to its respective county by
5 November 30 of each calendar year.

6 (g) The provisions of this section shall be construed
7 liberally so as to effectuate the purpose of this section in
8 facilitating the development, construction, financing,
9 refinancing, or other provision of low- and moderate-income
10 housing projects and mixed-use developments by the various
11 counties.

12 (h) Any mixed-use development developed, constructed,
13 financed, refinanced, or otherwise provided by this section
14 shall be confined to transit-oriented developments.

15 (i) The authority provided under this section shall
16 continue to apply to any mixed-use development project for
17 which, before July 1, 2033, the county has obtained county
18 council approval or entered into a binding agreement, including
19 a purchase agreement, pre-development agreement, development
20 agreement, or ground lease, committing the county to the
21 acquisition or development of the property for mixed-use



1 development. Any such project shall be deemed vested and may
2 proceed to completion notwithstanding any subsequent repeal or
3 modification of the authority provided under this section.

4 [~~h~~] (j) For purposes of this section:

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

10 "Eligible developer" has the same meaning as [~~defined~~] in
11 section 201H-32.

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

15 "Mixed-use development" has the same meaning as [~~defined~~]
16 in section 201H-12(a).

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

19 (1) Is registered and in good standing with the State;

20 (2) Is recognized by the Internal Revenue Service as a

21 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 2. Act 45, Session Laws of Hawaii 2024, is amended
7 by amending section 4 to read as follows:

8 "SECTION 4. This Act shall take effect upon its approval,
9 and shall apply to bond proceeds expended by a county after
10 December 31, 2023~~[, and shall be repealed on June 30, 2028;~~
11 ~~provided that section 46-15.1, Hawaii Revised Statutes, shall be~~
12 ~~reenacted in the form in which it read on the day before the~~
13 ~~effective date of this Act.]; provided that the amendments made
14 to section 46-15.1, Hawaii Revised Statutes, by section 2 of
15 this Act shall only apply to bonds originally issued before July
16 1, 2033, and shall not be repealed when that section is
17 reenacted on:~~

18 (1) July 1, 2030, pursuant to:

19 (A) Section 3 of Act 141, Session Laws of Hawaii
20 2009, as amended by section 3 of Act 102, Session
21 Laws of Hawaii 2015, as amended by section 1 of



1 Act 80, Session Laws of Hawaii 2019, as amended
2 by section 2 of Act 90, Session Laws of Hawaii
3 2023; and

4 (B) Section 3 of Act 98, Session Laws of Hawaii 2012,
5 as amended by section 4 of Act 102, Session Laws
6 of Hawaii 2015, as amended by section 50 of Act
7 55, Session Laws of Hawaii 2016, as amended by
8 section 2 of Act 80, Session Laws of Hawaii 2019,
9 as amended by section 3 of Act 90, Session Laws
10 of Hawaii 2023; and

11 (2) July 1, 2031, pursuant to section 4 of Act 31, Session
12 Laws of Hawaii 2024."

13 SECTION 3. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 4. This Act shall take effect upon its approval;
16 provided that the amendments made to section 46-15.1, Hawaii
17 Revised Statutes, by section 1 of this Act shall not be repealed
18 when that section is reenacted on:

19 (1) July 1, 2030, pursuant to:

20 (A) Section 3 of Act 141, Session Laws of Hawaii
21 2009, as amended by section 3 of Act 102, Session



1 Laws of Hawaii 2015, as amended by section 1 of
2 Act 80, Session Laws of Hawaii 2019, as amended
3 by section 2 of Act 90, Session Laws of Hawaii
4 2023; and

5 (B) Section 3 of Act 98, Session Laws of Hawaii 2012,
6 as amended by section 4 of Act 102, Session Laws
7 of Hawaii 2015, as amended by section 50 of Act
8 55, Session Laws of Hawaii 2016, as amended by
9 section 2 of Act 80, Session Laws of Hawaii 2019,
10 as amended by section 3 of Act 90, Session Laws
11 of Hawaii 2023; and

12 (2) July 1, 2031, pursuant to section 4 of Act 31, Session
13 Laws of Hawaii 2024.



Report Title:

HHFDC; Affordable Housing; Mixed-Use Developments; County Powers; Sunset

Description:

Limits mixed-use developments to transit-oriented developments. Repeals the sunset date of Act 45, SLH 2024, thereby making permanent the authority of the counties to share in facilitating the development, construction, financing, refinancing, or other provision of mixed-use developments, including low- and moderate-income housing projects, and issue county bonds before 7/1/2033 for this purpose. (CD1)

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

