
A BILL FOR AN ACT

RELATING TO AFFORDABLE HOUSING.

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

1 SECTION 1. The legislature finds that the State must take
2 proactive steps to preserve the long-term affordability of
3 government-assisted for-sale housing units. Currently,
4 affordability restrictions for these housing units expire after
5 ten years, at which point the units may be sold at market rates.
6 This undermines the State's investment in housing subsidies and
7 exacerbates the housing shortage. To address this, the
8 legislature finds it necessary to establish a framework for the
9 designation and regulation of permanently affordable for-sale
10 housing, including price indexing that allows homeowners to
11 build equity while preserving affordability across generations.

12 The purpose of this Act is to:

13 (1) Authorize the Hawaii housing finance and development
14 corporation to designate certain for-sale units as
15 permanently affordable housing, subject to certain
16 restrictions; and



1 (2) Clarify that certain resale and occupancy restrictions
2 apply only to projects developed prior to a certain
3 date.

4 SECTION 2. Chapter 201H, Hawaii Revised Statutes, is
5 amended by adding a new section to be appropriately designated
6 and to read as follows:

7 "§201H- _____ Permanently affordable for-sale housing;
8 designation; resale restrictions. (a) The corporation may
9 designate a for-sale housing unit as permanently affordable if
10 the unit is:

11 (1) Developed or assisted by the corporation; and
12 (2) Sold to an eligible buyer under criteria established
13 by the corporation by rule.

14 (b) Any unit designated as permanently affordable under
15 this section shall be:

16 (1) Sold to a qualified resident as defined in section
17 201H-32;
18 (2) Subject to resale only with the written approval of
19 the corporation, which may exercise its first option
20 to purchase or assign the unit to another qualified
21 purchaser;



- 1 (3) Prohibited from being used as a short-term rental,
2 including rental periods of less than ninety days;
- 3 (4) Restricted by a resale price formula or index
4 established by the corporation's program agreement,
5 which may include the Honolulu Housing Affordability
6 Index or other reasonable affordability measure;
- 7 (5) Enforced through deed restrictions, covenants, or
8 other legal instruments recorded against the unit;
- 9 (6) Subject to additional terms and conditions as
10 established by rule under chapter 91; and
- 11 (7) Subject to waiver or extinguishment of restrictions as
12 provided in the program agreement, or as otherwise
13 authorized by the corporation to preserve the intent
14 of the program or comply with federal law.
- 15 (c) The corporation shall adopt rules under chapter 91 to
16 implement this section, including but not limited to:
- 17 (1) Criteria for designation and eligibility; and
18 (2) Procedures for resale and transfer of ownership."

19 SECTION 3. Section 201H-32, Hawaii Revised Statutes, is
20 amended by amending the definition of "qualified resident" to
21 read as follows:



- 1 ""Qualified resident" means a person who:
- 2 (1) Is a citizen of the United States or a resident alien;
- 3 (2) Is at least eighteen years of age; and
- 4 (3) Is domiciled in the State and physically resides in
- 5 the dwelling unit purchased or rented under this
- 6 chapter[+]
- 7 ~~(4) In the case of the purchase of real property in fee~~
- 8 ~~simple or leasehold, has a gross income sufficient to~~
- 9 ~~qualify for the loan to finance the purchase; or in~~
- 10 ~~the case of a rental, demonstrates an ability to pay~~
- 11 ~~rent as determined by the corporation and meets any~~
- 12 ~~additional criteria established by the corporation for~~
- 13 ~~the respective rental housing development for which~~
- 14 ~~the applicant is applying; and~~
- 15 ~~(5) Meets the following qualifications:~~
- 16 ~~(A) Is a person who either by the person's self, or~~
- 17 ~~together with spouse or household member, does~~
- 18 ~~not own a majority interest in fee simple or~~
- 19 ~~leasehold lands suitable for dwelling purposes or~~
- 20 ~~a majority interest in lands under any trust~~
- 21 ~~agreement or other fiduciary arrangement in which~~



1 ~~another person holds the legal title to the land;~~
2 ~~and~~
3 ~~(B) Is a person whose spouse or household member does~~
4 ~~not own a majority interest in fee simple or~~
5 ~~leasehold lands suitable for dwelling purposes or~~
6 ~~more than a majority interest in lands under any~~
7 ~~trust agreement or other fiduciary arrangement in~~
8 ~~which another person holds the legal title to the~~
9 ~~land, except when husband and wife are living~~
10 ~~apart under a decree of separation from bed and~~
11 ~~board issued by the family court pursuant to~~
12 ~~section 580-71;~~
13 ~~provided that for purchasers of market-priced units in an~~
14 ~~economically integrated housing project, the term "qualified~~
15 ~~resident" means a person who is a citizen of the United States~~
16 ~~or a resident alien; is domiciled in the State and shall~~
17 ~~physically reside in the dwelling unit purchased; is at least~~
18 ~~eighteen years of age; and meets other qualifications as~~
19 ~~determined by the developer]."~~

20 SECTION 4. Section 201H-47, Hawaii Revised Statutes, is
21 amended by amending subsection (a) to read as follows:



1 "(a) The following restrictions shall apply to the
2 transfer of real property developed and sold under this
3 chapter[7] before _____, whether in fee simple or
4 leasehold:

5 (1) For a period of ten years after the purchase, whether
6 by lease, assignment of lease, deed, or agreement of
7 sale, if the purchaser wishes to transfer title to the
8 real property, the corporation shall have the first
9 option to purchase the real property at a price that
10 shall not exceed the sum of:

11 (A) The original cost to the purchaser, as defined in
12 rules adopted by the corporation;

13 (B) The cost of any improvements added by the
14 purchaser, as defined in rules adopted by the
15 corporation;

16 (C) Simple interest on the original cost and capital
17 improvements to the purchaser at the rate of one
18 per cent per year; and

19 (D) The amount, if any, previously paid by the
20 purchaser to the corporation as the corporation's
21 share of net appreciation in the real property;



- 1 (2) The corporation may purchase the real property either:
- 2 (A) By conveyance free and clear of all mortgages and
- 3 liens; or
- 4 (B) By conveyance subject to existing mortgages and
- 5 liens.

6 If the real property is conveyed in the manner
7 provided in subparagraph (A), it shall be conveyed to
8 the corporation only after all mortgages and liens are
9 released. If the real property is conveyed in the
10 manner provided in subparagraph (B), the corporation
11 shall acquire the real property subject to any first
12 mortgage created for the purpose of securing the
13 payment of a loan of funds expended solely for the
14 purchase of the real property by the seller; and any
15 mortgage or lien created for any other purpose;
16 provided that the corporation has previously consented
17 to it in writing.

18 The corporation's interest created by this
19 section shall constitute a statutory lien on the real
20 property and shall be superior to any other mortgage
21 or lien, except for any first mortgage created for the



1 purpose of securing the payment of a loan of funds
2 expended solely for the purchase of the real property
3 by the seller; any mortgage insured or held by a
4 federal housing agency; and any mortgage or lien
5 created for any other purpose; provided that the
6 corporation has previously consented to it in writing.
7 The amount paid by the corporation to the seller shall
8 be the difference, if any, between the purchase price
9 determined by paragraph (1) (A) to (D), and the total
10 of the outstanding principal balances of the mortgages
11 and liens assumed by the corporation;

12 (3) A purchaser may refinance real property developed and
13 sold under this chapter; provided that the purchaser
14 shall not refinance the real property within ten years
15 from the date of purchase for an amount in excess of
16 the purchase price as determined by paragraph (1) (A)
17 to (C); provided further that the purchaser shall
18 obtain the corporation's written consent if any
19 restriction on the transfer of the real property
20 remains applicable;



- 1 (4) After the end of the tenth year from the date of
2 initial purchase or execution of an agreement of sale,
3 the purchaser may sell the real property and sell or
4 assign the property free from any price restrictions;
5 provided that the purchaser shall be required to pay
6 to the corporation the sum of:
- 7 (A) The balance of any mortgage note, agreement of
8 sale, or other amount owing to the corporation;
- 9 (B) Any subsidy or deferred sales price made by the
10 corporation in the acquisition, development,
11 construction, and sale of the real property, and
12 any other amount expended by the corporation not
13 counted as costs under section 201H-45 but
14 charged to the real property by good accounting
15 practice as determined by the corporation whose
16 books shall be prima facie evidence of the
17 correctness of the costs;
- 18 (C) Interest on the subsidy or deferred sales price,
19 if applicable, and any other amount expended at a
20 rate established by the corporation computed as
21 to the subsidy or deferred sales price, if



1 applicable, from the date of purchase or
2 execution of the agreement of sale, and as to any
3 amount expended, from the date of expenditure;
4 provided that the computed interest shall not
5 extend beyond thirty years from the date of
6 purchase or execution of the agreement of sale of
7 the real property. If any proposed sale or
8 transfer will not generate an amount sufficient
9 to pay the corporation the sum as computed under
10 this paragraph, the corporation shall have the
11 first option to purchase the real property at a
12 price that shall not exceed the sum as computed
13 under paragraphs (1) and (2); and
14 (D) The corporation's share of appreciation in the
15 real property as determined under rules adopted
16 pursuant to chapter 91, when applicable;
17 (5) Notwithstanding any provision in this section to the
18 contrary, pursuant to rules adopted by the
19 corporation, the subsidy or deferred sales price
20 described in paragraph (4) (B) and any interest accrued



1 pursuant to paragraph (4) (C) may be paid, in part or
2 in full, at any time; and

3 (6) Notwithstanding any provision in this section to the
4 contrary, the corporation's share of appreciation in
5 the real property described in paragraph (4) (D):

6 (A) Shall apply when the sales price of the real
7 property that is developed and sold under this
8 chapter is less than the then-current,
9 unencumbered, fair market value of the real
10 property, as determined by a real property
11 appraisal obtained prior to the closing of the
12 sale;

13 (B) Shall be a restriction that runs with the land
14 until it is paid in full and released by the
15 corporation, or extinguished pursuant to
16 subsection (f); and

17 (C) May be paid, in part or in full, at any time
18 after recordation of the sale."

19 SECTION 5. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.



1 SECTION 6. This Act shall take effect on July 1, 3000;
2 provided that the amendments made to section 201H-47, Hawaii
3 Revised Statutes, by this Act shall not be repealed when that
4 section is reenacted on June 30, 2028, pursuant to section 5 of
5 Act 92, Session Laws of Hawaii 2023.



Report Title:

Hawaii Housing Finance and Development Corporation; Permanently Affordable For-sale Housing; Resale Restrictions; Criteria

Description:

Authorizes HHFDC to designate certain for-sale units as permanently affordable housing, subject to certain restrictions. Clarifies that certain resale and occupancy restrictions apply only to projects developed prior to a certain date. Amends the definition of "qualified resident" for the purposes of HHFDC housing development programs. Effective 7/1/3000. (HD1)

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

