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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. 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 expire after ten years, at which  
5 point residential dwelling units may be sold at market rates.  
6 This undermines the State's investment in housing subsidies and  
7 exacerbates the housing shortage.

8           Accordingly, the purpose of this Act is to establish a  
9 framework for the designation and regulation of permanently  
10 affordable for-sale housing, including price indexing that  
11 allows homeowners to build equity while preserving affordability  
12 across generations, to apply to a majority of units developed  
13 under section 201H-38, Hawaii Revised Statutes, and to replace  
14 the existing ten-year buyback requirements and other  
15 requirements pursuant to section 201H-47, Hawaii Revised  
16 Statutes.



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

4 "§201H- Housing for locals forever program; designation;  
5 restrictions on transfer. (a) Beginning July 1, \_\_\_\_\_, the  
6 corporation may designate a for-sale housing unit as permanently  
7 affordable if the unit:

8 (1) Was developed by or with assistance from the  
9 corporation; and

10 (2) Is sold to an eligible buyer under criteria  
11 established by the corporation by rule.

12 (b) Any unit designated as permanently affordable under  
13 this section shall be:

14 (1) Sold to a qualified resident as defined in section  
15 201H-32; provided that no later than one year after  
16 the purchase of a unit pursuant to this section, an  
17 eligible buyer shall be:

18 (A) A person who either by the person's self, or  
19 together with spouse or household member, does  
20 not own a majority interest in fee simple or  
21 leasehold lands suitable for dwelling purposes or



1 a majority interest in lands under any trust  
2 agreement or other fiduciary arrangement in which  
3 another person holds the legal title to the land;  
4 and

5 (B) A person whose spouse or household member does  
6 not own a majority interest in fee simple or  
7 leasehold lands suitable for dwelling purposes or  
8 more than a majority interest in lands under any  
9 trust agreement or other fiduciary arrangement in  
10 which another person holds the legal title to the  
11 land, except when husband and wife are living  
12 apart under a decree of separation from bed and  
13 board issued by the family court pursuant to  
14 section 580-71;

15 (2) Subject to resale only:

16 (A) With the written approval of the corporation;  
17 provided that the corporation shall have the  
18 first option to purchase the real property or  
19 assign the unit to another qualified purchaser;  
20 and



1           (B) As restricted by a resale price formula or index  
2           established by the corporation's program  
3           agreement, which may include the housing  
4           affordability index or other reasonable  
5           affordability measures;

6           (3) Prohibited from use as a short-term rental, including  
7           for rental periods of fewer than ninety days; and

8           (4) Subject to additional terms and conditions as  
9           established by rule.

10          (c) The requirements of subsection (b) shall be  
11          enforceable by deed restrictions, covenants, or other legal  
12          instruments recorded against the unit.

13          (d) The corporation may waive the restrictions prescribed  
14          in subsection (b) to preserve the intent of this section or  
15          comply with or conform to requirements set forth in federal law.

16          (e) The corporation shall adopt rules pursuant to  
17          chapter 91 to implement this section, including but not limited  
18          to establishing:

19          (1) Designation and eligibility criteria for the  
20          permanently affordable for-sale housing program; and



1        (2) Procedures for the resale and transfer of ownership of  
2                    designated units."

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

6            "'Qualified resident" means a person who:

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

8            (2) Is at least eighteen years of age; and

9            (3) Is domiciled in the State and physically resides in  
10 the dwelling unit purchased or rented under this  
11 chapter[+]

12        ~~(4) In the case of the purchase of real property in fee~~  
13 ~~simple or leasehold, has a gross income sufficient to~~  
14 ~~qualify for the loan to finance the purchase; or in~~  
15 ~~the case of a rental, demonstrates an ability to pay~~  
16 ~~rent as determined by the corporation and meets any~~  
17 ~~additional criteria established by the corporation for~~  
18 ~~the respective rental housing development for which~~  
19 ~~the applicant is applying; and~~

20        ~~(5) Meets the following qualifications:~~



1           ~~(A) Is a person who either by the person's self, or~~  
2           ~~together with spouse or household member, does~~  
3           ~~not own a majority interest in fee simple or~~  
4           ~~leasehold lands suitable for dwelling purposes or~~  
5           ~~a majority interest in lands under any trust~~  
6           ~~agreement or other fiduciary arrangement in which~~  
7           ~~another person holds the legal title to the land,~~  
8           ~~and~~

9           ~~(B) Is a person whose spouse or household member does~~  
10          ~~not own a majority interest in fee simple or~~  
11          ~~leasehold lands suitable for dwelling purposes or~~  
12          ~~more than a majority interest in lands under any~~  
13          ~~trust agreement or other fiduciary arrangement in~~  
14          ~~which another person holds the legal title to the~~  
15          ~~land, except when husband and wife are living~~  
16          ~~apart under a decree of separation from bed and~~  
17          ~~board issued by the family court pursuant to~~  
18          ~~section 580-71,~~

19 ~~provided that for purchasers of market-priced units in an~~  
20 ~~economically integrated housing project, the term "qualified~~  
21 ~~resident" means a person who is a citizen of the United States~~



1 ~~or a resident alien; is domiciled in the State and shall~~  
2 ~~physically reside in the dwelling unit purchased; is at least~~  
3 ~~eighteen years of age; and meets other qualifications as~~  
4 ~~determined by the developer]."~~

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

7 "(a) The following restrictions shall apply to the  
8 transfer of real property developed and sold under this  
9 chapter[7] before July 1, \_\_\_\_\_, whether in fee simple or  
10 leasehold:

11 (1) For a period of ten years after the purchase, whether  
12 by lease, assignment of lease, deed, or agreement of  
13 sale, if the purchaser wishes to transfer title to the  
14 real property, the corporation shall have the first  
15 option to purchase the real property at a price that  
16 shall not exceed the sum of:

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

19 (B) The cost of any improvements added by the  
20 purchaser, as defined in rules adopted by the  
21 corporation;



- 1 (C) Simple interest on the original cost and capital
- 2 improvements to the purchaser at the rate of one
- 3 per cent per year; and
- 4 (D) The amount, if any, previously paid by the
- 5 purchaser to the corporation as the corporation's
- 6 share of net appreciation in the real property;
- 7 (2) The corporation may purchase the real property either:
- 8 (A) By conveyance free and clear of all mortgages and
- 9 liens; or
- 10 (B) By conveyance subject to existing mortgages and
- 11 liens.
- 12 If the real property is conveyed in the manner
- 13 provided in subparagraph (A), it shall be conveyed to
- 14 the corporation only after all mortgages and liens are
- 15 released. If the real property is conveyed in the
- 16 manner provided in subparagraph (B), the corporation
- 17 shall acquire the real property subject to any first
- 18 mortgage created for the purpose of securing the
- 19 payment of a loan of funds expended solely for the
- 20 purchase of the real property by the seller; and any
- 21 mortgage or lien created for any other purpose;



1 provided that the corporation has previously consented  
2 to it in writing.

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

18 (3) A purchaser may refinance real property developed and  
19 sold under this chapter; provided that the purchaser  
20 shall not refinance the real property within ten years  
21 from the date of purchase for an amount in excess of



1 the purchase price as determined by paragraph (1) (A)  
2 to (C); provided further that the purchaser shall  
3 obtain the corporation's written consent if any  
4 restriction on the transfer of the real property  
5 remains applicable;

6 (4) After the end of the tenth year from the date of  
7 initial purchase or execution of an agreement of sale,  
8 the purchaser may sell the real property and sell or  
9 assign the property free from any price restrictions;  
10 provided that the purchaser shall be required to pay  
11 to the corporation the sum of:

12 (A) The balance of any mortgage note, agreement of  
13 sale, or other amount owing to the corporation;

14 (B) Any subsidy or deferred sales price made by the  
15 corporation in the acquisition, development,  
16 construction, and sale of the real property, and  
17 any other amount expended by the corporation not  
18 counted as costs under section 201H-45 but  
19 charged to the real property by good accounting  
20 practice as determined by the corporation whose



1 books shall be prima facie evidence of the  
2 correctness of the costs;

3 (C) Interest on the subsidy or deferred sales price,  
4 if applicable, and any other amount expended at a  
5 rate established by the corporation computed as  
6 to the subsidy or deferred sales price, if  
7 applicable, from the date of purchase or  
8 execution of the agreement of sale, and as to any  
9 amount expended, from the date of expenditure;  
10 provided that the computed interest shall not  
11 extend beyond thirty years from the date of  
12 purchase or execution of the agreement of sale of  
13 the real property. If any proposed sale or  
14 transfer will not generate an amount sufficient  
15 to pay the corporation the sum as computed under  
16 this paragraph, the corporation shall have the  
17 first option to purchase the real property at a  
18 price that shall not exceed the sum as computed  
19 under paragraphs (1) and (2); and



- 1 (D) The corporation's share of appreciation in the  
2 real property as determined under rules adopted  
3 pursuant to chapter 91, when applicable;
- 4 (5) Notwithstanding any provision in this section to the  
5 contrary, pursuant to rules adopted by the  
6 corporation, the subsidy or deferred sales price  
7 described in paragraph (4)(B) and any interest accrued  
8 pursuant to paragraph (4)(C) may be paid, in part or  
9 in full, at any time; and
- 10 (6) Notwithstanding any provision in this section to the  
11 contrary, the corporation's share of appreciation in  
12 the real property described in paragraph (4)(D):
- 13 (A) Shall apply when the sales price of the real  
14 property that is developed and sold under this  
15 chapter is less than the then-current,  
16 unencumbered, fair market value of the real  
17 property, as determined by a real property  
18 appraisal obtained prior to the closing of the  
19 sale;
- 20 (B) Shall be a restriction that runs with the land  
21 until it is paid in full and released by the



1 corporation, or extinguished pursuant to  
2 subsection (f); and

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

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

7 SECTION 6. This Act shall take effect on July 1, 2050.



**Report Title:**

HHFDC; Real Property; Qualified Resident; Permanently Affordable; For-Sale Housing; Restrictions on Transfer

**Description:**

Authorizes the Hawaii Housing Finance and Development Corporation to designate certain for-sale housing units as permanently affordable. Requires the HHFDC to adopt rules to implement the Housing for Locals Forever Program. Repeals certain requirements defining a qualified resident. Removes restrictions applicable to the transfer of certain real property developed and sold under chapter 201H, HRS. Effective 7/1/2050. (SD1)

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

