THE SENATE
THIRTY-THIRD LEGISLATURE, 2025
STATE OF HAWAII

S.B. NO. 379

JAN 15 2025

A BILL FOR AN ACT

RELATING TO AFFORDABLE HOUSING.

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

SECTION 1. The legislature finds that the State is experiencing a severe affordable housing crisis, with demand far exceeding supply and disproportionately impacting low- and moderate-income residents. The lack of affordable housing is exacerbated by limited land availability, high construction costs, and speculative real estate practices that undermine long-term affordability. To address the ongoing affordable housing shortage, the state must adopt policies to ensure that housing remains affordable for future generations and protects residents from environmental risks.

Policies requiring affordability covenants, as successfully implemented in jurisdictions such as California and New York City, have demonstrated their effectiveness in preserving long-term access to affordable housing while fostering community stability. Additionally, restricting development in flood-prone areas, as seen in states such as Louisiana and New Jersey,

reduces disaster risks and mitigates the long-term financial and physical impacts of climate change.

Accordingly, the purpose of this Act is to safeguard the perpetual affordability of state-assisted housing, protect residents from environmental hazards by prohibiting developments in special flood hazard areas, and streamline housing development approvals to expedite the creation of safe and sustainable affordable housing units.

SECTION 2. Section 201H-38, Hawaii Revised Statutes, is amended to read as follows:

"**§201H-38 Housing development; exemption from statutes, ordinances, charter provisions, and rules.** (a) The corporation may develop on behalf of the State or with an eligible developer, or may assist under a government assistance program in the development of, housing projects that shall be exempt from all statutes, charter provisions, ordinances, and rules of any government agency relating to planning, zoning, construction standards for subdivisions, development and improvement of land, and the construction of dwelling units thereon; provided that either:

(1) The housing projects meet the following conditions:

(A) The corporation finds the housing project is consistent with the purpose and intent of this chapter, and meets minimum requirements of health and safety;

(B) The development of the proposed housing project does not contravene any safety standards, tariffs, or rates and fees approved by the public utilities commission for public utilities or of the various boards of water supply authorized under chapter 54;

(C) The preliminary plans and specifications for the project shall include a restrictive covenant that states that the units designated as affordable housing, as described in the submitted project application, shall remain as affordable housing in perpetuity;

[~~(C)~~] (D) The legislative body of the county in which the housing project is to be situated has approved the project with or without modifications:

(i) The legislative body shall approve, approve with modification, or disapprove the project

by resolution within forty-five days after the corporation has submitted the preliminary plans and specifications for the project to the legislative body. If on the forty-sixth day a project is not disapproved, it shall be deemed approved by the legislative body;

(ii) No action shall be prosecuted or maintained against any county, its officials, or employees on account of actions taken by them in reviewing, approving, modifying, or disapproving the plans and specifications; and

(iii) The final plans and specifications for the project shall be deemed approved by the legislative body if the final plans and specifications do not substantially deviate from the preliminary plans and specifications. The final plans and specifications for the project shall constitute the zoning, building,

construction, and subdivision standards for that project. For purposes of sections 501-85 and 502-17, the executive director of the corporation or the responsible county official may certify maps and plans of lands connected with the project as having complied with applicable laws and ordinances relating to consolidation and subdivision of lands, and the maps and plans shall be accepted for registration or recordation by the land court and registrar; [~~and~~

~~(D)~~] (E) The land use commission has approved, approved with modification, or disapproved a boundary change within forty-five days after the corporation has submitted a petition to the commission as provided in section 205-4. If, on the forty-sixth day, the petition is not disapproved, it shall be deemed approved by the commission; [~~or~~] and

(F) The development is not within a special flood hazard area as identified on the current Federal

Emergency Management Agency's flood insurance rate maps; or

(2) The housing projects:

(A) Meet the conditions of paragraph (1);

(B) Do not impose stricter income requirements than those adopted or established by the State; and

(C) For the lifetime of the project, require one hundred per cent of the units in the project be exclusively for qualified residents.

(b) For the purposes of this section[~~, "government~~]:

"Affordable housing" has the same meaning as defined in section 201H-57.

"Government assistance program" means a housing program qualified by the corporation and administered or operated by the corporation or the United States or any of their political subdivisions, agencies, or instrumentalities, corporate or otherwise."

SECTION 3. Section 201H-41, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) The corporation may accept and approve housing projects independently initiated by private developers that

fully comply with subsections (a) and (b). The corporation may review the plans, specifications, districting, and zoning of the project for the purpose of exempting the project from all statutes, ordinances, charter provisions, and rules of any government agency relating to zoning and construction standards for subdivisions, development, and improvement of land and the construction, improvement, and sale of dwelling units thereon; provided that the procedures in section 201H-38(a)(1)(A), (B), [~~and~~] (C), and (D) have been satisfied."

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

SECTION 5. This Act shall take effect upon its approval.

INTRODUCED BY: _____

S.B. NO. 379

Report Title:
HHFDC; Affordable Housing; Housing Projects; Affordability; Perpetuity; Special Flood Hazard Area

Description:
Requires that Hawaii Housing Finance and Development Corporation housing projects include a restrictive covenant that states that the units designated as affordable housing, as described in the submitted project application, shall remain as affordable housing in perpetuity. Prohibits development of affordable housing in a special flood hazard area.

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