THE SENATE
THIRTY-THIRD LEGISLATURE, 2025
STATE OF HAWAII

S.B. NO. 490

JAN 17 2025

A BILL FOR AN ACT

RELATING TO HOUSING.

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

SECTION 1. The legislature finds that Hawaii is in the midst of a crisis as a substantial number of residents are unable to secure attainable housing to rent or to own. The exorbitant cost of real estate renders homeownership unattainable for many local families, with the average price of a home in Hawaii surpassing $800,000, an amount considerably beyond the financial reach of most local working residents.

The legislature further finds that Hawaii has been struggling with outmigration as local working residents are compelled to leave the islands in search of more affordable living situations. The department of business, tourism, and economic development reported that, on average, between July 1, 2022, and July 1, 2023, an average of twelve people departed from Hawaii each day. As a result, for the first time in history, a greater number of Native Hawaiians reside outside of Hawaii than in it. This exodus signifies a loss not only of population but also of cultural heritage.

A recent study of nearly fifteen hundred local working residents conducted by Holomua Collective found that seventy per cent of respondents plan to leave or are considering leaving Hawaii as they cannot afford to live here. Nearly half of that seventy per cent plan to move within the next five years.

The legislature also finds that another crucial aspect of Hawaii's housing crisis is the shortage of attainable housing for essential workers like teachers, police officers, health care providers, and others who serve the community. With limited attainable housing options and high building costs, it is becoming increasingly difficult to find suitable places for these workers to live, driving crucial workers to relocate to the continent.

The legislature additionally finds that like Hawaii, the town of Vail, Colorado has a tourism-based economy in which local working residents struggle to find attainable housing in part due to the large percentage of vacant homes owned by non-residents. In 2018, in an attempt to provide for local workforce housing and invest in the future of its town, the town of Vail implemented "Vail InDEED", a voluntary program that allowed the town to buy and place deed restrictions in

perpetuity on local homes from willing buyers that limited occupancy to owner-occupants or resident tenants that live and work in the town of Vail. Since 2018, the program has resulted in the establishment of over one thousand deed restricted residences for local working residents, helped provide more attainable housing options for local working residents, and created a culture in which Vail residents want to live in and support the deed restricted residences.

The legislature believes Hawaii can learn from the town of Vail, and that a program similar to Vail InDEED could develop a stock of homes in Hawaii that are dedicated to locals. This program could be effective in helping local families buy homes by bringing together the needs of employers, workers, and the community. Additionally, this program would not only aid people in securing housing but would also contribute to the preservation of Hawaii's distinctive culture by ensuring that local families remain in the State.

Accordingly, the purpose of this Act is to establish and fund the kamaaina homes program as an investment in the future of Hawaii and keep local working families in the State by securing a dedicated housing supply specifically for locals.

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:

" . KAMAAINA HOMES PROGRAM

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

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

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

(2) Is a resident domiciled in the State;

(3) Is at least eighteen years of age;

(4) Agrees to sell to the county and place a deed restriction on the property that is in compliance with section 201H-C;

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

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

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

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

(1) Has a physical presence within the State;

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

(3) Is subject to state income taxes pursuant to chapter 235; and

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

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

§201H-B Kamaaina homes program; established; general provisions. (a) There is established within the corporation the kamaaina homes program to provide counties funding through the dwelling unit revolving fund established pursuant to section 201H-191 to purchase voluntary deed restrictions from eligible homeowners or homebuyers.

(b) Upon application by a county, in a form prescribed by the corporation, the corporation shall allocate a dollar amount

necessary for a county to purchase a voluntary deed restriction from an eligible homeowner or homebuyer; provided that a county shall apply for no less than $ at a time.

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

(d) No eligible homeowner or homebuyer shall be granted funds under this subpart if a deed restriction that satisfies section 201H-C already runs with the land of the property.

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

(f) The deed restriction placed and owned by the county pursuant to this subpart shall take first priority over other restrictions on the property, if applicable.

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

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

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

(j) The corporation and each county may establish, revise, charge, and collect fees, premiums, and impose costs as necessary, reasonable, or convenient to effectuate the purposes of this subpart.

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

§201H-C Deed restriction; requirements. (a) Notwithstanding any other law to the contrary, a deed restriction shall be recorded against the property and shall run with the land in perpetuity, binding all future owners, successors, and assigns.

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

(1) Works an average of thirty hours or more per week at a qualified business within the State;

(2) Is involuntarily unemployed:

(A) From a job in which the owner-occupant or tenant worked an average of thirty hours or more per week at a qualified business within the State at the time of initial occupancy; and

(B) For a period of less than three hundred sixty-five days;

(3) Is retired; provided that the retiree:

(A) Was sixty-five years of age or older at the time of retirement; and

(B) Worked an average of thirty hours or more per week at a qualified business within the county for ten consecutive years immediately preceding retirement; or

(4) Has a disability, as defined in section 515-2; provided that the owner or tenant with a disability worked an average of thirty hours or more per week at a qualified business within the State for five consecutive years immediately prior to the determination of disability.

§201H-D Remedies. A county that reasonably believes a property with a deed restriction in place pursuant to this subpart is not in compliance with this subpart may bring action against the owner of the property for remedies based in contract or real property law, including but not limited to liens or specific performance.

§201H-E Conveyance tax; environmental impact statement; procurement code; exemptions. (a) An action on property with a deed restriction in place pursuant to this subpart shall be exempt from chapter 343.

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

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

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

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

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

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

(A) Providing loans secured by a mortgage;

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

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

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

(A) If bonds are issued pursuant to chapter 47 to finance one or more loan programs, the county may establish qualifications for the program or programs as it deems appropriate;

(B) If bonds are issued pursuant to chapter 49 to finance one or more loan programs, the loan program or programs shall comply with part III, subpart B of chapter 201H, to the extent applicable;

(C) If bonds are issued pursuant to section 47-4 or chapter 49, any loan program established pursuant to this section or any county-owned dwelling units constructed under section 46-15.1 shall be and constitute an "undertaking" under section 49-1 and chapter 49 shall apply to the loan program or county-owned dwelling units to the extent applicable;

(D) In connection with the establishment of any loan program pursuant to this section, a county may employ financial consultants, attorneys, real estate counselors, appraisers, and other consultants as may be required in the judgment of the county and fix and pay their compensation from funds available to the county therefor;

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

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

(G) Notwithstanding the requirement of any other law, a county may establish separate funds and accounts with respect to bonds issued pursuant to chapter 47 or 49 to provide moneys to carry out

the purposes of this section or section 46-15.1 as the county may deem appropriate;

(H) Notwithstanding any provision of chapter 47 or 49 or of any other law, but subject to the limitations of the state constitution, bonds issued to provide moneys to carry out the purposes of this section or section 46-15.1 may be sold at public or private sale at a price; may bear interest at a rate or rates per year; may be payable at a time or times; may mature at a time or times; may be made redeemable before maturity at the option of the county, the holder, or both, at a price or prices and upon terms and conditions; and may be issued in coupon or registered form, or both, as the county may determine;

(I) If deemed necessary or advisable, the county may designate a national or state bank or trust company within or without the State to serve as trustee for the holders of bonds issued to provide moneys to carry out the purposes of this

section or section 46-15.1, and enter into a trust indenture, trust agreement, or indenture of mortgage with the trustee whereby the trustee may be authorized to receive and receipt for, hold, and administer the proceeds of the bonds and to apply the proceeds to the purposes for which the bonds are issued, or to receive and receipt for, hold, and administer the revenues and other receipts derived by the county from the application of the proceeds of the bonds and to apply the revenues and receipts to the payment of the principal of, or interest on the bonds, or both. Any trust indenture, trust agreement, or indenture of mortgage entered into with the trustee may contain any covenants and provisions as may be deemed necessary, convenient, or desirable by the county to secure the bonds. The county may pledge and assign to the trustee any agreements related to the application of the proceeds of the bonds and the rights of the county thereunder, including the rights to

revenues and receipts derived thereunder. Upon appointment of the trustee, the director of finance of the county may elect not to serve as fiscal agent for the payment of the principal and interest, and for the purchase, registration, transfer, exchange, and redemption, of the bonds; or may elect to limit the functions the director of finance performs as a fiscal agent; and may appoint a trustee to serve as the fiscal agent; and may authorize and empower the trustee to perform the functions with respect to payment, purchase, registration, transfer, exchange, and redemption, as the director of finance deems necessary, advisable, or expedient, including without limitation the holding of the bonds and coupons that have been paid and the supervision and conduction or the destruction thereof in accordance with law;

(J) If a trustee is not appointed to collect, hold, and administer the proceeds of bonds issued to provide moneys to carry out the purposes of this

section or section 46-15.1, or the revenues and receipts derived by the county from the application of the proceeds of the bonds, as provided in subparagraph (I), the director of finance of the county may hold the proceeds or revenues and receipts in a separate account in the treasury of the county, to be applied solely to the carrying out of the ordinance, trust indenture, trust agreement, or indenture of mortgage, if any, authorizing or securing the bonds; and

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

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

(4) To enter into negotiations for, and purchase deed restrictions on, housing properties from eligible homeowners and homebuyers pursuant to subpart ___, part III of chapter 201H; and

[~~(4)~~] (5) To do any and all other things necessary or appropriate to carry out the purposes and exercise the powers granted in section 46-15.1 and this section."

SECTION 4. Section 201H-191, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) There is created a dwelling unit revolving fund. The funds appropriated for the purpose of the dwelling unit revolving fund and all moneys received or collected by the

corporation for the purpose of the revolving fund shall be deposited in the revolving fund. The proceeds in the revolving fund shall be used [~~to reimburse~~] for:

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

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

(3) Carrying out the purposes of housing development programs and regional state infrastructure programs, including but not limited to the expansion of community facilities and regional state infrastructure constructed in conjunction with housing and mixed-use transit-oriented development projects, permanent primary or secondary financing, and supplementing building costs, federal guarantees required for operational losses, and all things required by any federal agency in the construction and receipt of federal funds or low-income housing tax credits for housing projects[~~.~~]; and

(4) The administration of and purchase of deed restrictions as part of the kamaaina homes program under subpart ; provided that there shall be no area median income requirements for moneys expended for the purposes of this program."

SECTION 5. Section 247-3, Hawaii Revised Statutes, is amended to read as follows:

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

(1) Any document or instrument that is executed prior to January 1, 1967;

(2) Any document or instrument that is given to secure a debt or obligation;

(3) Any document or instrument that only confirms or corrects a deed, lease, sublease, assignment, transfer, or conveyance previously recorded or filed;

(4) Any document or instrument between husband and wife, reciprocal beneficiaries, or parent and child, in which only a nominal consideration is paid;

(5) Any document or instrument in which there is a consideration of $100 or less paid or to be paid;

(6) Any document or instrument conveying real property that is executed pursuant to an agreement of sale, and where applicable, any assignment of the agreement of sale, or assignments thereof; provided that the taxes under this chapter have been fully paid upon the agreement of sale, and where applicable, upon such assignment or assignments of agreements of sale;

(7) Any deed, lease, sublease, assignment of lease, agreement of sale, assignment of agreement of sale, instrument or writing in which the United States or any agency or instrumentality thereof or the State or any agency, instrumentality, or governmental or political subdivision thereof are the only parties thereto;

(8) Any document or instrument executed pursuant to a tax sale conducted by the United States or any agency or instrumentality thereof or the State or any agency, instrumentality, or governmental or political subdivision thereof for delinquent taxes or assessments;

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

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

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

(12) Any document or instrument between marital partners or reciprocal beneficiaries who are parties to a divorce action or termination of reciprocal beneficiary relationship that is executed pursuant to an order of the court in the divorce action or termination of reciprocal beneficiary relationship;

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

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

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

(16) Any document or instrument conveying real property, or any interest therein, from a dissolving limited partnership to its corporate general partner that owns, directly or indirectly, at least a ninety per cent interest in the partnership, determined by applying section 318 (with respect to constructive ownership of stock) of the federal Internal Revenue Code of 1986, as amended, to the constructive ownership of interests in the partnership; [~~and~~

[+](17)[+] Any document or instrument that conforms to the transfer on death deed as authorized under chapter 527[.]; and

(18) Any document or instrument conveying real property with a county owned deed restriction pursuant to subpart , part III of chapter 201H."

SECTION 6. Section 525-4, Hawaii Revised Statutes, is amended to read as follows:

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

(1) A fiduciary's power to sell, lease, or mortgage property, and the power of a fiduciary to determine principal and income;

(2) A discretionary power of a trustee to distribute principal before termination of a trust;

(3) A nonvested property interest held by a charity, government, or governmental agency or subdivision, if the nonvested property interest is preceded by an interest held by another charity, government, or governmental agency or subdivision;

(4) A property interest in or a power of appointment with respect to a pension, profit-sharing, stock bonus, health, disability, death benefit, income deferral, or other current or deferred benefit plan for one or more employees, independent contractors, or their beneficiaries or spouses;

(5) A property interest, power of appointment, or arrangement that was not subject to the common-law rule against perpetuities or is excluded by any other applicable law; [~~or~~]

(6) A trust described in chapter 554G[~~.~~]; or

(7) A property interest in property with a county owned deed restriction in place pursuant to subpart , part III of chapter 201H."

SECTION 7. In codifying the new sections added by section 2 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 8. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 9. This Act shall take effect upon its approval.

S.B. NO. 490

INTRODUCED BY: _____

S.B. NO. 490

Report Title:
Kamaaina Homes Program; Voluntary Deed Restrictions; Counties

Description:
Establishes the Kamaaina Homes Program to provide funding to the counties to purchase voluntary deed restrictions from eligible homeowners or homebuyers.

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