

ACT 127

S.B. NO. 2561

A Bill for an Act Relating to Rental Housing.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to address rental housing. More specifically, this Act:

- (1) Establishes an affordable rental housing goal; and
- (2) Establishes a special action team on affordable rental housing, led by the director of the office of planning, to make recommendations on actions to promote rental housing.

SECTION 2. For the period from 2015 to 2025, Hawaii will require an additional 64,700 housing units to meet projected long-term housing demands. Of this amount, 22,247 households of all income levels will require rental units.

The need for affordable rental units is particularly acute for households with low incomes. Approximately ninety-three to ninety-five per cent of rental unit tenants have a household income of less than one hundred forty per cent of the median Hawaii income. According to the Affordable Rental Housing Study Update, 2014, prepared for the department of community services, city and county of Honolulu:

The rule of thumb is that renter families generally come from the lower income part of our community, and economists and housing analysts think of this in terms of them making 80% of the area's median income, or AMI, or lower. It bears repeating that those making at or under than [sic] 60% and those at or under 30% of AMI are facing no rental unit availability, meaning crowding up or homelessness.

Relative to what has been supplied, the number of rental units affordable to those making 80% (and 60%, and 50%, and 30% of AMI), the supply/demand imbalance is tremendous, in quantitative terms. During the 10-year period from 2004-2013, just over 4,500 affordable rental units were delivered statewide with government assistance. (Source: HHFDC) To wit, there simply is an insufficient number of them being supplied, either in the affordable, the subsidized or the market-rate rental markets.

The lack of supply leads to higher rents for households of all income levels, leaving all tenants with less disposable income, increasing the personal stress of tenants, reducing tenant quality of life, and exacerbating the population overcrowding and homelessness problems. Without sufficient affordable rental housing, the future social, community, and economic consequences for Hawaii may be dire.

Although many reasons contribute to the lack of affordable rental units for low- and moderate-income households, the primary reason is a poor rate of return for investments in affordable rental housing projects. As the Affordable Rental Housing Study Update, 2014, succinctly states, “Simply put, affordable rental housing is unprofitable, so the market won’t address the need by itself.” Government regulations that restrict affordable housing development and lengthen the time tenants qualify for affordable rental housing also contribute to the lack of affordable rental housing.

Given these barriers, the legislature finds that the lack of affordable rental housing requires the concentrated attention of state government at the highest level. Thus, the legislature believes that the establishment of an affordable rental housing goal and special action team to make recommendations to achieve the goal are imperative.

SECTION 3. Goal for affordable rental housing units. (a) The legislature establishes the goal for state government, by itself or jointly with other parties, to develop or vest the development of at least 22,500 affordable rental housing units, ready for occupancy between January 1, 2017, and December 31, 2026.

- (b) For the purpose of measuring progress toward achieving the goal:
- (1) Fee simple residential units, rental housing units that are not affordable, and units in resort, commercial, industrial, or other uses on or before December 31, 2016, that are subsequently converted to affordable rental units, shall be counted as having been developed between January 1, 2017, and December 31, 2026; and
 - (2) Affordable rental housing units that have all entitlements for construction on or before December 31, 2016, but are completed and ready for occupancy after that date, shall not be counted as having been developed between January 1, 2017, and December 31, 2026.

SECTION 4. Definitions. For the purpose of this Act: “Affordable rental housing unit” means a privately-owned residential unit that the owner:

- (1) Has completed the construction, reconstruction, renovation, repair, or acquisition of after December 31, 2016; and
- (2) Pledges to comply and require each manager or successor owner of the unit to comply with the following for a period of at least thirty years:
 - (A) Rent the unit to a family with an annual income of not more than one hundred forty per cent of the area median income for a family of the same size; and
 - (B) Charge a monthly rent, excluding utility expenses, for the unit that does not exceed thirty per cent of the family’s monthly income.

The thirty-year period shall be measured from the date of issuance of the certificate of occupancy for the unit or, if no certificate of occupancy was necessary for the unit after December 31, 2016, the date the unit was first rented to a family in accordance with paragraph (2).

“Affordable rental housing unit” includes a residential unit owned by a federal, state, or county agency for the purpose of rental to a low- or moderate-income family, as may be defined by the agency or law, as applicable.

“Area median income” means the most current median family income for an area as estimated and adjusted for family size by the United States Department of Housing and Urban Development.

“Family” includes a family of one individual.

SECTION 5. Special action team on affordable rental housing; establishment, purpose, termination. (a) There is established for administrative purposes within the office of planning a temporary special action team on affordable rental housing.

(b) The special action team is established for the special purpose of recommending actions to increase the supply of rental housing, particularly rental housing affordable to low- and moderate-income families.

(c) The special action team shall terminate on December 31, 2019; provided that the chair and members of the special action team may represent themselves as the chair or a member after December 31, 2019, when testifying or commenting on actions or recommendations of the team.

SECTION 6. Membership. (a) The special action team shall be composed of the following members:

- (1) The director of the office of planning, who shall serve as chair;
- (2) The executive director of the Hawaii housing finance and development corporation;
- (3) A member of the house of representatives, to be appointed by the speaker of the house of representatives;
- (4) A member of the senate, to be appointed by the president of the senate;
- (5) A representative from each county, to be appointed by the mayor of the respective county;
- (6) A member of the public to represent affordable housing advocacy groups, to be appointed by the governor;
- (7) A member of the public to represent non-profit developers with expertise in housing development, to be appointed by the governor; and
- (8) A member of the public to represent for-profit developers with expertise in housing development, to be appointed by the governor.

(b) A special action team member may designate another officer or employee of the member's department or agency or member's representative group to attend one or more meetings in place of the member. The special action team member shall make the designation in writing and submit it to the special action team chair before the meeting that the designee is to attend. The designation may apply to more than one meeting or the entire term of the special action team. The designation may be withdrawn at any time by written notice to the special action team chair.

A designee of a special action team member shall have all rights and privileges of the member while serving as a designee.

(c) The special action team shall regularly hold public meetings without regard to chapter 92, Hawaii Revised Statutes.

(d) Members of the special action team shall receive no additional compensation for service on the team beyond their normal compensation.

Members shall be reimbursed for expenses necessarily incurred for service on the team.

(e) The special action team may elect officers from among its members.

SECTION 7. Duties. (a) The special action team shall recommend to the governor, legislature, and other parties, actions to be taken to achieve the affordable rental housing goal set forth in section 3.

(b) To comply with subsection (a), the special action team shall recommend short- and long-term actions to:

- (1) Increase the supply of rental housing affordable for low- and moderate-income families;
 - (2) Increase the supply of rental housing for the remainder of the resident population;
 - (3) Target rental housing development in transit-oriented development areas as a top priority;
 - (4) Preserve the existing rental housing stock;
 - (5) Enhance the attractiveness of and market for rental housing relative to fee simple housing; and
 - (6) Mitigate community concerns over the development of nearby rental housing projects, particularly affordable public or private rental housing projects for low-income families and individuals.
- (c) The special action team also shall establish performance measures and timelines for the development of affordable rental housing units for the following:

- (1) Families with not more than thirty per cent of the area median income;
- (2) Families with more than thirty per cent, but not more than fifty per cent, of the area median income;
- (3) Families with more than fifty per cent, but not more than sixty per cent, of the area median income;
- (4) Families with more than sixty per cent, but not more than eighty per cent, of the area median income;
- (5) Families with more than eighty per cent, but not more than one hundred per cent, of the area median income;
- (6) Families with more than one hundred per cent, but not more than one hundred twenty per cent, of the area median income; and
- (7) Families with more than one hundred twenty per cent, but not more than one hundred forty per cent, of the area median income.

The special action team shall also recommend the agency that should monitor and periodically report on the achievement of the performance measures and compliance with the timelines.

(d) The special action team shall also address and make recommendations to reconcile the public interests that may compete against and restrict the development of rental housing. The competing public interests shall include the following:

- (1) Regulatory burden associated with developing, managing, and operating subsidized affordable housing projects;
- (2) Preservation of the environment;
- (3) Protection of the quality of life of the surrounding communities;
- (4) Devotion of scarce public resources for mixed-use projects that include fee simple, market-priced housing;
- (5) Reluctance to use more public lands for affordable rental housing development; and
- (6) Preference of most persons for low-density dwelling units.

(e) The special action team shall also develop a ten-year plan that identifies state, county, and private parcels of land that are suitable for affordable housing units. The ten-year plan shall be incorporated into the state housing plan. In identifying parcels of land, the special action team shall consider:

- (1) The estimated number of affordable housing units the parcel of land can sustain;
- (2) What infrastructure challenges there are in developing affordable housing units on the parcel of land; and

- (3) The estimated cost to develop affordable housing units and address the infrastructure challenges on the parcel of land.
- (f) In the performance of its duties, the special action team shall periodically consult with the Hawaii interagency council on homelessness.

SECTION 8. Annual reports. The special action team shall submit reports to the legislature of its findings, recommendations, and progress with the ten-year plan no later than twenty days prior to the convening of the regular sessions of 2017, 2018, and 2019.

SECTION 9. Update to the Hawaii state planning act. The special action team shall submit legislation proposing an update to the Hawaii State Planning Act to include the state housing plan no later than twenty days prior to the convening of the regular session of 2017, in accordance with this Act.

SECTION 10. Appropriation. (a) There is appropriated out of the general revenues of the State of Hawaii the sum of \$100,000 or so much thereof as may be necessary for fiscal year 2016-2017 for the administration and operation of the special action team on rental housing, including the establishment and filling of one full-time equivalent (1.0 FTE) temporary planner position, which shall be exempt from chapter 76, Hawaii Revised Statutes, and to propose an update to the Hawaii State Planning Act to include the state housing plan, in accordance with this Act.

The sum appropriated shall be expended by the office of planning for the purposes of this Act.

(b) In addition to the appropriation under subsection (a), the office of planning may use other moneys appropriated to the office of planning for the special action team.

SECTION 11. This Act shall take effect upon its approval; provided that section 10 shall take effect on July 1, 2016.

(Approved June 29, 2016.)