

ACT 159

H.B. NO. 1409

A Bill for an Act Relating to Transit-Oriented Development.

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

SECTION 1. The legislature finds that Hawaii faces a persistent housing crisis. Demand for housing significantly outpaces supply, particularly in urban areas. Transit-oriented development districts present a critical opportunity for efficient land use by promoting higher-density development near public transit infrastructure, thereby maximizing the value of public investments. Higher residential density in transit-oriented development districts increases public transit ridership, thus reducing dependency on private automobiles and lowering greenhouse gas emissions, which supports the State's climate resilience and sustainability objectives.

The legislature established transit-oriented development infrastructure improvement districts to foster community development by strategically investing in infrastructure improvements through Act 184, Session Laws of Hawaii 2022. The legislature found that transit-oriented development promotes development patterns that enhance residents' quality of life; preserve the natural environment; provide a range of housing choices for residents; and encourage walking, biking, and the use of mass transit. Furthermore, the legislature concluded that the State plays an important role in overcoming barriers to transit-oriented development by encouraging needed investments in improving regional infrastructure such as roads, sewers, power, communication, and storm water management systems.

The legislature further recognizes that the ready availability of affordable workforce housing near transit hubs reduces transportation costs and improves access to employment, education, and other essential services, especially for low- and moderate-income households, thereby advancing social and economic equity for the people of Hawaii.

The underutilization of land in transit-oriented development districts, due partially to restrictive development standards, undermines the economic and environmental benefits of state investments in county-designated transit-oriented development infrastructure improvement districts, contributes to urban sprawl, and increases infrastructure costs and environmental degradation.

The legislature finds that numerous jurisdictions, including California, Oregon, and Washington, have adopted minimum density standards for transit-oriented developments, demonstrating the effectiveness of these measures in increasing housing supply while bolstering transit systems. Transit-oriented development infrastructure improvement districts can increase residential density near transit hubs in order to foster vibrant, walkable communities; support local businesses; and generate higher property tax revenues, contributing to Hawaii's fiscal and economic vitality.

Accordingly, the purpose of this Act is to:

- (1) Temporarily establish the mixed-income subaccount within the rental housing revolving fund for five years to finance certain projects, including those located in transit-oriented developments;
- (2) Require the transit-oriented development infrastructure improvement district board to consider the infrastructure needs of transit-supportive density requirements; and

- (3) Require the strategic plan developed by the Hawaii interagency council for transit-oriented development to delineate transit-oriented development areas for each county.

SECTION 2. Section 201H-202, Hawaii Revised Statutes, is amended to read as follows:

“§201H-202 Rental housing revolving fund. (a) There is established the rental housing revolving fund to be administered by the corporation.

(b) An amount from the fund, to be set by the corporation and authorized by the legislature, may be used for administrative expenses incurred by the corporation in administering the corporation’s housing finance programs; provided that fund moneys shall not be used to finance day-to-day administrative expenses of projects allotted fund moneys.

(c) The following may be deposited into the fund: ~~[appropriations]~~

(1) Appropriations made by the legislature~~[-conveyance];~~

(2) Conveyance taxes pursuant to section 247-7~~[-private];~~

(3) Private contributions~~[-repayment];~~

(4) Repayment of loans~~[-interest, other];~~

(5) Interest;

(6) Other returns~~[-];~~ and ~~[moneys]~~

(7) Moneys from other sources.

(d) ~~[The]~~ Except as provided in subsection (f), the fund shall be used to provide loans for the development, pre-development, construction, acquisition, preservation, and substantial rehabilitation of rental housing units. The corporation shall not forgive any loan made from the fund unless the corporation forecloses on the project. Permitted uses of the fund may include but are not limited to planning, design, land acquisition, costs of options, agreements of sale, downpayments, equity financing, capacity building of nonprofit housing developers, credit enhancement, gap financing, or other housing development services or activities as provided in rules adopted by the corporation pursuant to chapter 91. The rules may provide for a means of recapturing loans or grants made from the fund if a rental housing project financed under the fund is refinanced or sold at a later date. The rules may also provide that moneys from the fund shall be leveraged with other financial resources to the extent possible.

(e) ~~[Moneys]~~ Except as provided in subsection (f), moneys available in the fund shall be used for the purpose of providing, in whole or in part, loans for rental housing projects demonstrating project readiness, efficiency, and feasibility acceptable to the corporation in the following order of priority:

~~[(1) For projects that were awarded low-income housing credits pursuant to paragraph (2), priority shall be given to projects with a perpetual affordability commitment;~~

(2) (1) Projects or units in projects that are allocated low-income housing credits pursuant to the state housing credit ceiling under section 42(h) of the Internal Revenue Code of 1986, as amended, or projects or units in projects that are funded by programs of the United States Department of Housing and Urban Development and United States Department of Agriculture Rural Development wherein:

(A) At least fifty per cent of the available units are for persons and families with incomes at or below eighty per cent of the median family income of which at least five per cent of the available units are for persons and families with incomes at or below thirty per cent of the median family income; and

(B) The remaining units are for persons and families with incomes at or below one hundred per cent of the median family income; provided that the corporation may establish rules to ensure full occupancy of fund projects; provided further that for projects that were awarded low-income housing credits pursuant to this paragraph, priority shall be given to projects with a perpetual affordability commitment. For purposes of this paragraph, “perpetual” means the useful life of the project; and

~~[(3)]~~ (2) Mixed-income rental projects or units in a mixed-income rental project ~~[wherein all of the available units are]~~ for persons and families with incomes at or below one hundred forty per cent of the median family income.

~~(f)~~ There is established within the fund a mixed-income subaccount. Moneys in the mixed-income subaccount shall be used for financing, including but not limited to loans, equity investments, and credit enhancement, for mixed-income rentals for qualified residents as defined in section 201H-32. The corporation shall establish an application process for the allocation of funds in the mixed-income subaccount, separate from the fund allocation process pursuant to section 201H-204(c), that gives preference to projects meeting the following criteria:

- (1) A diverse range of affordability, prioritizing persons and families with incomes up to one hundred forty per cent of the median family income;
- (2) Projects located on state or county owned land or developed in partnership with the State or a county;
- (3) Projects that efficiently use state funding;
- (4) Mixed-income rental projects or units in a mixed-income rental project in an area that satisfy transit-supportive density requirements, as defined in section 206E-246; and
- (5) Any other criteria as the corporation deems necessary to carry out the purposes of this subsection.

If the corporation, after applying the process described in this subsection, finds a nonprofit or government project equally ranked with a for-profit project, the corporation shall give preference to the nonprofit or government project in allotting funds from the mixed-income subaccount.

Moneys derived from the repayment of loans funded by the mixed-income subaccount, interest thereon, and related fees and returns shall be deposited into the fund.

~~[(f)]~~ (g) There is established within the fund a bond volume cap recycling program subaccount. The bond volume cap recycling program subaccount shall be maintained as a reserve for the bond volume cap recycling program established pursuant to section 39B-2(f).

~~[(g)]~~ (h) The corporation shall submit an annual report to the legislature no later than twenty days prior to the convening of each regular session describing the projects funded and, with respect to rental housing projects targeted for persons and families with incomes at or below thirty per cent of the median family income, its efforts to develop those rental housing projects, a description of proposals submitted for this target group and action taken on the proposals, and any barriers to developing housing units for this target group.

~~[(h)]~~ (i) For the purposes of this subpart, the applicable median family income shall be the median family income for the county or standard metropoli-

tan statistical area in which the project is located as determined by the United States Department of Housing and Urban Development, as adjusted from time to time.

(4)(j) The corporation may provide loans under this section; provided that the corporation shall establish loan-to-value ratios to protect the fund from inordinate risk and that under no circumstances shall the rules permit the loan-to-value ratio to exceed one hundred per cent; provided further that the underwriting guidelines include a debt-coverage ratio of no less than 1.0 to 1.

(4)(k) For the period commencing July 1, 2005, through June 30, 2009, the fund may be used to provide grants for rental units set aside for persons and families with incomes at or below thirty per cent of the median family income in any project financed in whole or in part by the fund in proportion of those units to the total number of units in the project. At the conclusion of the period described in this subsection, the corporation shall report to the legislature on the number and use of grants provided and whether the grants were an effective use of the funds for purposes of developing rental housing for families at or below thirty per cent of the median family income.”

SECTION 3. Section 201H-204, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

“(a) Activities eligible for assistance from the fund shall include but not be limited to:

- (1) New construction, rehabilitation, or preservation of low-income rental housing units that meet the criteria for eligibility described in subsection (c) ~~or section 201H-202(f)~~;
- (2) The leveraging of moneys with the use of fund assets;
- (3) Pre-development activity grants or loans to nonprofit organizations; and
- (4) Acquisition of housing units for the purpose of preservation as low-income or very low-income housing.”

2. By amending subsection (c) to read:

“(c) ~~[The]~~ Except as provided in section 201H-202(f), the corporation shall establish an application process for fund allocation that gives preference to projects meeting the following criteria that are listed in descending order of priority:

- (1) Serve the original target group;
- (2) Provide at least five per cent of the total number of units for persons and families with incomes at or below thirty per cent of the median family income;
- (3) Provide the maximum number of units for persons or families with incomes at or below eighty per cent of the median family income;
- (4) Are committed to serving the target group over a longer period of time;
- (5) Increase the integration of income levels of the immediate community area;
- (6) Meet the geographic needs of the target group of the proposed rental housing project, such as proximity to employment centers and services; and
- (7) Have favorable past performance in developing, owning, managing, or maintaining affordable rental housing.

The corporation may include other criteria as it deems necessary to carry out the purposes of this subpart.

If the corporation, after applying the process described in this subsection, finds a nonprofit project equally ranked with a for-profit or government project, the corporation shall give preference to the nonprofit project in allotting fund moneys.”

SECTION 4¹ Section 206E-246, Hawaii Revised Statutes, is amended to read as follows:

“~~[[~~§206E-246~~]]~~ Transit-oriented development infrastructure improvement district program; assessment; rules. (a) The board shall develop a transit-oriented development infrastructure improvement district program to identify infrastructure improvements within each district. In determining the required infrastructure improvements to be undertaken, the board shall consider the infrastructure needs of transit-supportive density requirements, the strategic plan prepared by the Hawaii interagency council for transit-oriented development pursuant to section 226-63(c), and subsequent plans and studies prepared to further implement the strategic plan and the transit-oriented development projects therein.

(b) Whenever the board determines to undertake, or causes to be undertaken, any infrastructure improvement as part of the program, the cost of providing the infrastructure improvement may be assessed against the real property in each district specially benefiting from the infrastructure improvement. The board shall determine the areas of each district that will benefit from the infrastructure improvement to be undertaken, and if less than the entire district benefits, the board may establish assessment areas within the district. The board may issue and sell bonds in amounts as may be authorized by the legislature to provide funds to finance the infrastructure improvements. The board may fix the assessments against real property specially benefited. All assessments made pursuant to this section shall be a statutory lien against each lot or parcel of land assessed from the date of the notice declaring the assessment until the assessment is paid, and the lien shall have priority over all other liens except the lien of property taxes. As between liens of assessments, the earlier lien shall be superior to the later lien.

(c) Bonds issued to provide funds to finance transit-oriented development infrastructure improvements shall be secured solely by the real properties benefited or improved, the assessments thereon, or the revenues derived from the program for which the bonds are issued, including reserve accounts and earnings thereon, insurance proceeds, and other revenues, or any combination thereof. The bonds may be additionally secured by the pledge or assignment of loans and other agreements or any note or other undertaking, obligation, or property held by the board. Bonds issued pursuant to this section and the income therefrom shall be exempt from all state and county taxation, except transfer and estate taxes. The bonds shall be issued subject to rules adopted by the board pursuant to this section.

(d) Notwithstanding any other law to the contrary, in assessing real property for transit-oriented development infrastructure improvement, the board shall assess the real property within an assessment area according to the special benefits conferred upon the real property by the infrastructure improvement. These methods may include assessment on a frontage basis or according to the area of real property within an assessment area or any other assessment method that assesses the real property according to the special benefit conferred, or any combination thereof. No assessment levied against real property specially benefited as provided by this part shall constitute a tax on real property within the meanings of any constitutional or statutory provisions. No assessment shall

be levied against real property owned by the federal government, the State, or a county, or an agency thereof, without the prior written consent of the owner.

(e) The board shall adopt rules pursuant to chapter 91 to provide for the method of undertaking and financing transit-oriented development infrastructure improvement in an assessment area or an entire district. The rules adopted pursuant to this section shall include but not be limited to:

- (1) The methods by which the board shall establish assessment areas;
- (2) The method of assessment of real properties specially benefited;
- (3) The costs to be borne by the board, the county in which districts are situated, and the property owners;
- (4) The procedures before the board relating to the creation of the assessment areas by the owners of real property therein, including provisions for petitions, bids, contracts, bonds, and notices;
- (5) Provisions relating to assessments;
- (6) Provisions relating to financing, including bonds, revolving funds, advances from available funds, special funds for payment of bonds, payment of principal and interest, and sale and use of the bonds;
- (7) Provisions relating to funds and refunding of outstanding debts;
- (8) Provisions relating to limitations on time to sue; and
- (9) Other related provisions.

(f) Notwithstanding any other provisions to the contrary, the board may, in its discretion, enter into any agreement with the county in which the districts are located to implement all or part of the purposes of this section.

(g) All sums collected under this section shall be deposited into the transit-oriented development infrastructure improvement district special fund established under section 206E-247 and shall be applied solely to:

- (1) The payment of the principal and interest on the bonds and the cost of administering, operating, and maintaining the program;
- (2) The establishment of reserves; and
- (3) Other purposes as may be authorized in the proceedings providing for the issuance of the bonds.

If any surplus remains in the fund after the payment of the bonds chargeable against the fund, it shall be credited to and become a part of the fund.

(h) The transit-oriented development infrastructure improvements to be financed through bonds issued by the board may be dedicated to the county in which the infrastructure improvements are to be located. The board shall ensure that the infrastructure improvements are designed and constructed to meet county requirements and shall enter into an agreement with the county for dedication of the public facilities.

(i) Notwithstanding any law to the contrary, whenever it becomes necessary to remove, relocate, replace, or reconstruct public utility facilities that are part of a program, the board shall establish by rule the allocation of cost between the board, the affected public utilities, and the properties that may specially benefit from the improvement, if any. In determining the allocation of cost, the board shall consider the cost allocation policies for districts established by the county in which the removal, relocation, replacement, or reconstruction is to take place.

(j) For the purposes of this section:

“County-designated transit-oriented development area” has the same meaning as defined in section 226-63(d).

“Floor area ratio” means the quotient, expressed as a decimal number, that results from dividing a structure’s total floor area by the total area of the lot or parcel on which the structure is located.

“Ministerial” means a permit process based upon standards established through county ordinance or rule and issued by the director of the county agency responsible for land use or a single county officer designated by ordinance.

“Transit-supportive density” means a county-designated transit-oriented development area:

- (1) With development standards that allow a floor area ratio of at least:
 - (A) 4.0 for all uses that are permitted in a county-designated transit-oriented development area or by the underlying county zoning;
 - (B) 6.0 for all uses that are permitted in a county-designated transit-oriented development area within one-half mile of a station of a locally preferred alternative for a mass transit project; and
 - (C) For all uses that are permitted within one-quarter mile of a station of a locally preferred alternative for a mass transit project, whichever is greater:
 - (i) 7.0;
 - (ii) The maximum floor area ratio allowed by the adopted transit-oriented development special district; or
 - (iii) The maximum floor area ratio allowed by the applicable transit-oriented development plan;
- (2) For which permits for development are processed as a ministerial permit subject to applicable objective design standards;
- (3) Where there is no imposition of a development standard that renders it impracticable to build a usable structure for the permitted uses at the applicable transit-supportive density; and
- (4) Where funds collected pursuant to section 46-16.8 have been expended in the county-designated transit-oriented development area in which the development is located.”

SECTION 5. Section 226-63, Hawaii Revised Statutes, is amended to read as follows:

“[§226-63] Hawaii interagency council for transit-oriented development[-]; transit-oriented development planning and implementation. (a) There is established the Hawaii interagency council for transit-oriented development, which shall be an advisory body exempt from section 26-34, to coordinate and facilitate state agency transit-oriented development planning, and facilitate consultation and collaboration between the State and the counties on transit-oriented development initiatives. The Hawaii interagency council for transit-oriented development shall be established within the department of business, economic development, and tourism for administrative purposes.

(b) The Hawaii interagency council for transit-oriented development shall:

- (1) Serve as the State’s transit-oriented development planning and policy development entity with representation from state and county government and the community;
- (2) Formulate and advise the governor on the implementation of a strategic plan to [address] plan for and implement transit-oriented development projects, including [mixed-use] mixed-use and affordable for-sale and rental housing projects, on [state] lands in county-designated transit-oriented development areas in each county;
- (3) Facilitate the acquisition of funding and resources for state and county transit-oriented development programs, including affordable for-sale and rental housing projects, on state and county lands;

- (4) Monitor the preparation and conduct of plans and studies to facilitate implementation of state transit-oriented development plans prepared pursuant to this section, including but not limited to the preparation of site or master plans and implementation plans and studies;
 - (5) Review all capital improvement project requests to the legislature for transit-oriented development projects, including ~~[mixed-use]~~ mixed-use and affordable for-sale and rental housing projects, on [state] lands within county-designated transit-oriented development ~~[zones]~~ areas or within a one-half-mile radius of public transit stations, if a county has not designated transit-oriented development zones;
 - (6) Recommend policy, regulatory, and statutory changes, and identify resource strategies for the successful execution of the strategic plan;
 - (7) Assemble accurate fiscal and demographic information to support policy development and track outcomes;
 - (8) Consider collaborative transit-oriented development initiatives of other states that have demonstrated positive outcomes; and
 - (9) Report annually to the governor, the legislature, and the mayor of each county on the progress of its activities, including formulation and progress on the strategic plan no later than twenty days prior to the convening of each regular session.
- (c) The strategic plan developed by the Hawaii interagency council for transit-oriented development shall:
- (1) Coordinate with the counties on transit-oriented development;
 - (2) For each county, compile an inventory of state, county, and ~~[private sector]~~ private-sector transit-oriented development projects lacking infrastructure, identifying the type of infrastructure each project lacks, and the approximate time frame when additional capacity is needed;
 - (3) Prioritize the development of transit-oriented development projects, including ~~[mixed-use]~~ mixed-use and affordable for-sale and rental housing projects, on state and county lands;
 - (4) Identify financing and prioritize state financing for the public infrastructure, facility, and service investments required to support transit-oriented development, ~~[mixed-use;]~~ mixed-use, and affordable for-sale and rental housing ~~[project plans; and]~~ in county-designated transit-oriented development areas;
 - (5) Encourage and promote partnerships between public and private entities to identify, renovate, and secure affordable housing options on state and county lands within county-designated transit-oriented development areas or within a one-half-mile radius of public transit stations, if a county has not designated transit-oriented development ~~[zones;]~~ areas; and
 - (6) Delineate for each county, transit-oriented development areas within which transit-rich, pedestrian-oriented development is desired and investment in transit-oriented development and supporting infrastructure is to be directed.
- (d) For the purposes of this section and implementation of the strategic plan statewide:
- “County-designated transit-oriented development area” means a geographic area designated by a county for transit-oriented development by an adopted ordinance, plan, or resolution, and delineated in the strategic plan

pursuant to this section, that generally consists of lands within a one-half-mile radius of a transit hub or transit station; provided that the actual boundaries may differ under specific circumstances.

“Transit-oriented development” means the development of compact, dense, walkable, pedestrian-oriented, mixed-use neighborhoods centered around transit stations or transit hubs of public transit systems. “Transit-oriented development” features a mix of uses, such as housing, office, retail, civic and institutional, and other services and amenities at densities that support transit ridership and walkability.

“Transit-oriented development project” means a development project located within a geographic area designated as a transit-oriented development area by the county with a medium- to high-density mix of uses, such as housing, office, retail, and other amenities, that is designed to promote walkability and safe and convenient access to transit services.”

SECTION 6. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 7. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 8. This Act shall take effect upon its approval; provided that sections 2 and 3 of this Act shall be repealed on June 30, 2030, and sections 201H-202 and 201H-204, Hawaii Revised Statutes, shall be reenacted in the form in which they read on the day prior to the effective date of this Act.

(Approved June 3, 2025.)

Note

1. So in original.