
A BILL FOR AN ACT

RELATING TO AFFORDABLE HOUSING.

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

1 SECTION 1. Chapter 205, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§205- Approval of land use permits that include plans
5 to develop residential dwellings; affordable housing
6 requirements. Notwithstanding any law to the contrary, the
7 commission shall not approve any land use permit application
8 that:

- 9 (1) Is subject to this chapter;
10 (2) Is submitted to the commission after July 1, 2006; and
11 (3) Includes a plan to develop fifty or more residential
12 dwelling units;
13 that does not include a requirement that at least twenty per
14 cent of the residential dwelling units being developed be
15 affordable or reserved for low- or moderate-income ranges;
16 provided that if any other ordinance, statute, or rule provides
17 for a greater percentage of affordable dwellings per development
18 on the land being developed, the higher percentage shall apply.



1 Developers who are subject to the affordable housing requirement
2 provided under this section shall not be allowed to satisfy the
3 affordable housing requirement by any other means, including,
4 without limitation, impact fees, assessments, or offsite
5 affordable housing development credits.

6 For the purposes of this section, the term "affordable or
7 reserved for low- or moderate-income ranges" shall be determined
8 by the commission pursuant to rules adopted in accordance with
9 chapter 91."

10 SECTION 2. Section 46-124, Hawaii Revised Statutes, is
11 amended to read as follows:

12 **"[+]§46-124[+] Negotiating development agreements. (a)**

13 The mayor or the designated agency appointed to administer
14 development agreements may make [~~such~~] arrangements as may be
15 necessary or proper to enter into development agreements,
16 including negotiating and drafting individual development
17 agreements; provided that the county has adopted an ordinance
18 pursuant to section 46-123.

19 (b) The final draft of each individual development
20 agreement shall be presented to the county legislative body for
21 approval or modification prior to execution. To be binding on
22 the county, a development agreement [~~must~~] shall be approved by

1 the county legislative body and executed by the mayor on behalf
2 of the county. County legislative approval shall be by
3 resolution adopted by a majority of the membership of the county
4 legislative body.

5 (c) Notwithstanding any law to the contrary, any
6 development agreement:

7 (1) Negotiated or executed on behalf of the county after
8 July 1, 2006; and

9 (2) That includes a plan to develop fifty or more
10 residential dwelling units;

11 shall include a requirement that at least twenty per cent of the
12 residential dwelling units be designated as affordable or
13 reserved for low- or moderate-income ranges; provided that if
14 any other ordinance, statute, or rule provides for a greater
15 percentage of affordable dwellings per development on the land
16 being developed, the higher percentage shall apply. Developers
17 who are subject to the affordable housing requirement provided
18 under this subsection shall not be allowed to satisfy the
19 affordable housing requirement by any other means, including,
20 without limitation, impact fees, assessments, or offsite
21 affordable housing development credits. For the purposes of
22 this subsection, the term "affordable or reserved for low- or



1 moderate-income ranges" shall be determined by ordinance of the
2 legislative body of each county."

3 SECTION 3. Section 201G-114, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§201G-114 Additional powers; development.** (a)

6 Notwithstanding and without compliance with section 103-7 but
7 with the approval of the governor, the administration may enter
8 into and carry out agreements and undertake projects or
9 participate in projects authorized by this chapter. The powers
10 conferred upon the administration by this subpart shall be in
11 addition and supplemental to the powers conferred upon it by
12 part I and any other law, and nothing herein shall be construed
13 as limiting any powers, rights, privileges, or immunities so
14 conferred upon it.

15 (b) Notwithstanding any law to the contrary, any
16 development agreement:

17 (1) Negotiated or executed by the administration after
18 July 1, 2006; and

19 (2) That includes a plan to develop fifty or more
20 residential dwelling units;

21 shall include a requirement that at least twenty per cent of the
22 residential dwelling units be affordable or reserved for low- or



1 moderate-income ranges; provided that if any other ordinance,
2 statute, or rule provides for a greater percentage of affordable
3 dwellings per development on the land being developed, the
4 higher percentage shall apply. Developers who are subject to
5 the affordable housing requirement provided under this
6 subsection shall not be allowed to satisfy the affordable
7 housing requirement by any other means, including, without
8 limitation, impact fees, assessments, or offsite affordable
9 housing development credits. For the purposes of this
10 subsection, the term "affordable or reserved for low- or
11 moderate-income ranges" shall be determined by the
12 administration pursuant to rules adopted in accordance with
13 chapter 91."

14 SECTION 4. Section 201H-12, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "~~{}~~§201H-12~~{}~~ **Development of property.** (a) The
17 administration, in its own behalf or on behalf of any federal,
18 state, or county agency, may:

- 19 (1) Clear, improve, and rehabilitate property;
20 (2) Plan, develop, construct, and finance housing
21 projects; and



1 (3) In cooperation with the department of education and
2 department of accounting and general services, plan
3 educational facilities and related infrastructure as a
4 necessary and integral part of its public housing
5 projects, using all its innovative powers toward
6 achieving that end expeditiously and economically;
7 provided that the educational facilities comply with
8 the department of education's educational
9 specifications, timelines, and siting requirements.

10 (b) The administration may develop public land in an
11 agricultural district subject to the prior approval of the land
12 use commission, when developing lands greater than fifteen acres
13 in size, and public land in a conservation district subject to
14 the prior approval of the board of land and natural resources.
15 The administration shall not develop state monuments or
16 historical sites or parks. When the administration proposes to
17 develop public land, it shall file with the department of land
18 and natural resources a petition setting forth such purpose.
19 The petition shall be conclusive proof that the intended use is
20 a public use superior to that which the land has been
21 appropriated.



1 subsection shall not be allowed to satisfy the affordable
2 housing requirement by any other means, including, without
3 limitation, impact fees, assessments, or offsite affordable
4 housing development credits. For the purposes of this
5 subsection, the term "affordable or reserved for low- or
6 moderate-income ranges" shall be determined by the
7 administration pursuant to rules adopted in accordance with
8 chapter 91.

9 [~~(e)~~] (f) The administration may contract or sponsor with
10 any county, housing authority, or person, subject to the
11 availability of funds, an experimental or demonstration housing
12 project designed to meet the needs: of elders; the disabled;
13 displaced or homeless persons; low- and moderate-income persons;
14 teachers or other government employees; or university and
15 college students and faculty."

16 SECTION 5. Section 206E-4, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "**§206E-4 Powers; generally.** Except as otherwise limited
19 by this chapter, the authority may:

20 (1) Sue and be sued;

21 (2) Have a seal and alter the same at pleasure;



- 1 (3) Make and execute contracts and all other instruments
2 necessary or convenient for the exercise of its powers
3 and functions under this chapter;
- 4 (4) Make and alter bylaws for its organization and
5 internal management;
- 6 (5) Make rules with respect to its projects, operations,
7 properties, and facilities, which rules shall be in
8 conformance with chapter 91;
- 9 (6) Through its executive director appoint officers,
10 agents, and employees, prescribe their duties and
11 qualifications, and fix their salaries, without regard
12 to chapter 76;
- 13 (7) Prepare or cause to be prepared a community
14 development plan for all designated community
15 development districts;
- 16 (8) Acquire, reacquire, or contract to acquire or
17 reacquire by grant or purchase real, personal, or
18 mixed property or any interest therein; to own, hold,
19 clear, improve, and rehabilitate, and to sell, assign,
20 exchange, transfer, convey, lease, or otherwise
21 dispose of or encumber the same;



- 1 (9) Acquire or reacquire by condemnation real, personal,
2 or mixed property or any interest therein for public
3 facilities, including but not limited to streets,
4 sidewalks, parks, schools, and other public
5 improvements;
- 6 (10) By itself, or in partnership with qualified persons,
7 acquire, reacquire, construct, reconstruct,
8 rehabilitate, improve, alter, or repair or provide for
9 the construction, reconstruction, improvement,
10 alteration, or repair of any project; own, hold, sell,
11 assign, transfer, convey, exchange, lease, or
12 otherwise dispose of or encumber any project, and in
13 the case of the sale of any project, accept a purchase
14 money mortgage in connection therewith; and repurchase
15 or otherwise acquire any project which the authority
16 has theretofore sold or otherwise conveyed,
17 transferred, or disposed of;
- 18 (11) Arrange or contract for the planning, replanning,
19 opening, grading, or closing of streets, roads,
20 roadways, alleys, or other places, or for the
21 furnishing of facilities or for the acquisition of

1 property or property rights or for the furnishing of
2 property or services in connection with a project;

3 (12) Grant options to purchase any project or to renew any
4 lease entered into by it in connection with any of its
5 projects, on such terms and conditions as it deems
6 advisable;

7 (13) Prepare or cause to be prepared plans, specifications,
8 designs, and estimates of costs for the construction,
9 reconstruction, rehabilitation, improvement,
10 alteration, or repair of any project, and from time to
11 time to modify such plans, specifications, designs, or
12 estimates;

13 (14) Provide advisory, consultative, training, and
14 educational services, technical assistance, and advice
15 to any person, partnership, or corporation, either
16 public or private, in order to carry out the purposes
17 of this chapter, and engage the services of
18 consultants on a contractual basis for rendering
19 professional and technical assistance and advice;

20 (15) Procure insurance against any loss in connection with
21 its property and other assets and operations in such
22 amounts and from such insurers as it deems desirable;



- 1 (16) Contract for and accept gifts or grants in any form
2 from any public agency or from any other source; and
- 3 (17) Do any and all things necessary to carry out its
4 purposes and exercise the powers given and granted in
5 this chapter[; ~~and~~
- 6 ~~(18) Allow satisfaction of any affordable housing~~
7 ~~requirements imposed by the authority upon any~~
8 ~~proposed development project through the construction~~
9 ~~of reserved housing, as defined in section 206E-101,~~
10 ~~by a person on land located outside the geographic~~
11 ~~boundaries of the authority's jurisdiction. Such~~
12 ~~substituted housing shall be located on the same~~
13 ~~island as the development project and shall be~~
14 ~~substantially equal in value to the required reserved~~
15 ~~housing units that were to be developed on site. The~~
16 ~~authority shall establish the following priority in~~
17 ~~the development of reserved housing:~~
- 18 ~~(A) Within the community development district;~~
- 19 ~~(B) Within areas immediately surrounding the~~
20 ~~community development district;~~
- 21 ~~(C) Areas within the central urban core;~~



1 ~~(D) In outlying areas within the same island as the~~
2 ~~development project.~~

3 ~~The Hawaii community development authority shall~~
4 ~~adopt rules relating to the approval of reserved~~
5 ~~housing that are developed outside of a community~~
6 ~~development district. The rules shall include, but~~
7 ~~are not limited to, the establishment of guidelines to~~
8 ~~ensure compliance with the above priorities]."~~

9 SECTION 6. Section 206E-5, Hawaii Revised Statutes, is
10 amended by amending subsection (c) to read as follows:

11 "(c) The authority may enter into cooperative agreements
12 with qualified persons or public agencies, where the powers,
13 services, and capabilities of such persons or agencies are
14 deemed necessary and appropriate for the development of the
15 community development plan. Notwithstanding any law to the
16 contrary, any agreement:

17 (1) Negotiated or executed by the authority after July 1,
18 2006; and

19 (2) That includes a plan to develop fifty or more
20 residential dwelling units;

21 shall include a requirement that at least twenty per cent of the
22 residential dwelling units be affordable or reserved for low- or

1 moderate-income ranges; provided that if any other ordinance,
2 statute, or rule provides for a greater percentage of affordable
3 dwellings per development on the land being developed, the
4 higher percentage shall apply. Developers who are subject to
5 the affordable housing requirement provided under this
6 subsection shall not be allowed to satisfy the affordable
7 housing requirement by any other means, including, without
8 limitation, impact fees, assessments, or offsite affordable
9 housing development credits. For the purposes of this
10 subsection, the term "affordable or reserved for low- or
11 moderate-income ranges" shall be determined by the authority
12 pursuant to rules adopted in accordance with chapter 91."

13 SECTION 7. Section 206E-15, Hawaii Revised Statutes, is
14 amended by amending subsection (a) to read as follows:

15 "(a) If the authority deems it desirable to develop a
16 residential project, it may enter into an agreement with
17 qualified persons to construct, maintain, operate, or otherwise
18 dispose of the residential project. Notwithstanding any law to
19 the contrary, any agreement:

20 (1) Negotiated or executed by the authority after July 1,
21 2006; and



1 (2) That includes a plan to develop fifty or more
2 residential dwelling units;
3 shall include a requirement that at least twenty per cent of the
4 residential dwelling units be affordable or reserved for low- or
5 moderate-income ranges; provided that if any other ordinance,
6 statute, or rule provides for a greater percentage of affordable
7 dwelling units per development on the land being developed, the
8 higher percentage shall apply. Developers who are subject to
9 the affordable housing requirement provided under this
10 subsection shall not be allowed to satisfy the affordable
11 housing requirement by any other means, including, without
12 limitation, impact fees, assessments, or offsite affordable
13 housing development credits. For the purposes of this
14 subsection, the term "affordable or reserved for low- or
15 moderate-income ranges" shall be determined by the authority
16 pursuant to rules adopted in accordance with chapter 91. Sale,
17 lease, or rental of dwelling units in the project shall be as
18 provided by the rules established by the authority. The
19 authority may enter into cooperative agreements with the Hawaii
20 housing finance and development administration for the
21 financing, development, construction, sale, lease, or rental of
22 dwelling units and projects."



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

3 SECTION 9. This Act shall take effect on July 1, 2006.

4

INTRODUCED BY: Michael P. Kaluhira

JAN 23 2006



HB 2242

Report Title:

Housing Development; Affordable Housing

Description:

Requires that all housing developments proposing to develop at least 50 residential dwellings provide at least 20% of the dwellings as affordable dwelling units.

