
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, "affordable or reserved
7 for low- or moderate-income ranges" shall be determined by the
8 commission pursuant to rules adopted in accordance with chapter
9 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, "affordable or reserved for low- or moderate-



1 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, "affordable or reserved for low- or moderate-income
11 ranges" shall be determined by the administration pursuant to
12 rules adopted in accordance with chapter 91."

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

15 "[+]§201H-12[+] **Development of property.** (a) The
16 administration, in its own behalf or on behalf of any federal,
17 state, or county agency, may:

- 18 (1) Clear, improve, and rehabilitate property;
19 (2) Plan, develop, construct, and finance housing
20 projects; and
21 (3) In cooperation with the department of education and
22 department of accounting and general services, plan



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

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

20 (c) The administration may develop or assist in the
21 development of federal lands with the approval of appropriate
22 federal authorities.

1 (d) The administration shall not develop any public land
2 where the development may endanger the receipt of any federal
3 grant, impair the eligibility of any public body for a federal
4 grant, prevent the participation of the federal government in
5 any government program, or impair any covenant between the
6 government and the holder of any bond issued by the government.

7 (e) Notwithstanding any law to the contrary, any
8 development agreement:

9 (1) Negotiated or executed by the administration after
10 July 1, 2006; and

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

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



1 housing development credits. For the purposes of this
 2 subsection, "affordable or reserved for low- or moderate-income
 3 ranges" shall be determined by the administration pursuant to
 4 rules adopted in accordance with chapter 91.

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

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

14 "**§206E-4 Powers; generally.** Except as otherwise limited
 15 by this chapter, the authority may:

- 16 (1) Sue and be sued;
- 17 (2) Have a seal and alter the same at pleasure;
- 18 (3) Make and execute contracts and all other instruments
 19 necessary or convenient for the exercise of its powers
 20 and functions under this chapter;
- 21 (4) Make and alter bylaws for its organization and
 22 internal management;



- 1 (5) Make rules with respect to its projects, operations,
2 properties, and facilities, which rules shall be in
3 conformance with chapter 91;
- 4 (6) Through its executive director appoint officers,
5 agents, and employees, prescribe their duties and
6 qualifications, and fix their salaries, without regard
7 to chapter 76;
- 8 (7) Prepare or cause to be prepared a community
9 development plan for all designated community
10 development districts;
- 11 (8) Acquire, reacquire, or contract to acquire or
12 reacquire by grant or purchase real, personal, or
13 mixed property or any interest therein; to own, hold,
14 clear, improve, and rehabilitate, and to sell, assign,
15 exchange, transfer, convey, lease, or otherwise
16 dispose of or encumber the same;
- 17 (9) Acquire or reacquire by condemnation real, personal,
18 or mixed property or any interest therein for public
19 facilities, including but not limited to streets,
20 sidewalks, parks, schools, and other public
21 improvements;



- 1 (10) By itself, or in partnership with qualified persons,
2 acquire, reacquire, construct, reconstruct,
3 rehabilitate, improve, alter, or repair or provide for
4 the construction, reconstruction, improvement,
5 alteration, or repair of any project; own, hold, sell,
6 assign, transfer, convey, exchange, lease, or
7 otherwise dispose of or encumber any project, and in
8 the case of the sale of any project, accept a purchase
9 money mortgage in connection therewith; and repurchase
10 or otherwise acquire any project which the authority
11 has theretofore sold or otherwise conveyed,
12 transferred, or disposed of;
- 13 (11) Arrange or contract for the planning, replanning,
14 opening, grading, or closing of streets, roads,
15 roadways, alleys, or other places, or for the
16 furnishing of facilities or for the acquisition of
17 property or property rights or for the furnishing of
18 property or services in connection with a project;
- 19 (12) Grant options to purchase any project or to renew any
20 lease entered into by it in connection with any of its
21 projects, on such terms and conditions as it deems
22 advisable;



- 1 (13) Prepare or cause to be prepared plans, specifications,
2 designs, and estimates of costs for the construction,
3 reconstruction, rehabilitation, improvement,
4 alteration, or repair of any project, and from time to
5 time to modify such plans, specifications, designs, or
6 estimates;
- 7 (14) Provide advisory, consultative, training, and
8 educational services, technical assistance, and advice
9 to any person, partnership, or corporation, either
10 public or private, [~~in order~~] to carry out the
11 purposes of this chapter, and engage the services of
12 consultants on a contractual basis for rendering
13 professional and technical assistance and advice;
- 14 (15) Procure insurance against any loss in connection with
15 its property and other assets and operations in such
16 amounts and from such insurers as it deems desirable;
- 17 (16) Contract for and accept gifts or grants in any form
18 from any public agency or from any other source; and
- 19 (17) Do any and all things necessary to carry out its
20 purposes and exercise the powers given and granted in
21 this chapter[~~;~~ ~~and~~



1 ~~(18) Allow satisfaction of any affordable housing~~
2 ~~requirements imposed by the authority upon any~~
3 ~~proposed development project through the construction~~
4 ~~of reserved housing, as defined in section 206E-101,~~
5 ~~by a person on land located outside the geographic~~
6 ~~boundaries of the authority's jurisdiction. Such~~
7 ~~substituted housing shall be located on the same~~
8 ~~island as the development project and shall be~~
9 ~~substantially equal in value to the required reserved~~
10 ~~housing units that were to be developed on site. The~~
11 ~~authority shall establish the following priority in~~
12 ~~the development of reserved housing:~~

13 ~~(A) Within the community development district;~~

14 ~~(B) Within areas immediately surrounding the~~
15 ~~community development district;~~

16 ~~(C) Areas within the central urban core;~~

17 ~~(D) In outlying areas within the same island as the~~
18 ~~development project.~~

19 ~~The Hawaii community development authority shall~~
20 ~~adopt rules relating to the approval of reserved~~
21 ~~housing that are developed outside of a community~~
22 ~~development district. The rules shall include, but~~



1 ~~are not limited to, the establishment of guidelines to~~
2 ~~ensure compliance with the above priorities]."~~

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

5 "(c) The authority may enter into cooperative agreements
6 with qualified persons or public agencies, where the powers,
7 services, and capabilities of such persons or agencies are
8 deemed necessary and appropriate for the development of the
9 community development plan. Notwithstanding any law to the
10 contrary, any agreement:

11 (1) Negotiated or executed by the authority after July 1,
12 2006; and

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

15 shall include a requirement that at least twenty per cent of the
16 residential dwelling units be affordable or reserved for low- or
17 moderate-income ranges; provided that if any other ordinance,
18 statute, or rule provides for a greater percentage of affordable
19 dwelling units per development on the land being developed, the
20 higher percentage shall apply. Developers who are subject to
21 the affordable housing requirement provided under this
22 subsection shall not be allowed to satisfy the affordable



1 housing requirement by any other means, including, without
2 limitation, impact fees, assessments, or offsite affordable
3 housing development credits. For the purposes of this
4 subsection, "affordable or reserved for low- or moderate-income
5 ranges" shall be determined by the authority pursuant to rules
6 adopted in accordance with chapter 91."

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

9 "(a) If the authority deems it desirable to develop a
10 residential project, it may enter into an agreement with
11 qualified persons to construct, maintain, operate, or otherwise
12 dispose of the residential project. Notwithstanding any law to
13 the contrary, any agreement:

14 (1) Negotiated or executed by the authority after July 1,
15 2006; and

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

18 shall include a requirement that at least twenty per cent of the
19 residential dwelling units be affordable or reserved for low- or
20 moderate-income ranges; provided that if any other ordinance,
21 statute, or rule provides for a greater percentage of affordable
22 dwellings per development on the land being developed, the



1 higher percentage shall apply. Developers who are subject to
2 the affordable housing requirement provided under this
3 subsection shall not be allowed to satisfy the affordable
4 housing requirement by any other means, including, without
5 limitation, impact fees, assessments, or offsite affordable
6 housing development credits. For the purposes of this
7 subsection, "affordable or reserved for low- or moderate-income
8 ranges" shall be determined by the authority pursuant to rules
9 adopted in accordance with chapter 91. Sale, lease, or rental
10 of dwelling units in the project shall be as provided by the
11 rules established by the authority. The authority may enter
12 into cooperative agreements with the Hawaii housing finance and
13 development administration for the financing, development,
14 construction, sale, lease, or rental of dwelling units and
15 projects."

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

18 SECTION 9. This Act shall take effect on July 1, 2007.



Report Title:

Housing Development; Affordable Housing

Description:

Requires that all housing developments proposing to develop at least 50 residential dwellings provide at least 20 percent of the dwellings as affordable dwelling units. (HB2242 HD1)

