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# 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 petition that includes  
5 plans to develop residential dwellings; affordable housing  
6 requirements. Notwithstanding any law to the contrary, the  
7 commission shall not approve any land use petition that:

8           (1) Is subject to this chapter;

9           (2) Is submitted to the commission after July 1, 2006; and

10           (3) Includes a plan to develop fifty or more residential  
11 dwelling units,

12 which does not include a requirement that at least           per cent  
13 of the residential dwelling units being developed be affordable  
14 or reserved for low- or moderate-income ranges; provided that if  
15 any other ordinance, statute, or rule provides for a greater  
16 percentage of affordable dwellings per development on the land  
17 being developed, the higher percentage shall apply. Developers  
18 who are subject to the affordable housing requirement provided



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

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

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

11 "[~~f~~]§46-124[~~f~~] **Negotiating development agreements.** (a)

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

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



1 of the county. County legislative approval shall be by  
2 resolution adopted by a majority of the membership of the county  
3 legislative body.

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

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

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

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



1        For the purposes of this subsection, "affordable or  
2 reserved for low- or moderate-income ranges" shall be determined  
3 by ordinance of the legislative body of each county."

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

6        "**§201G-114 Additional powers; development.** (a)

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

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

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

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



1 shall include a requirement that at least per cent of the  
 2 residential dwelling units be affordable or reserved for low- or  
 3 moderate-income ranges; provided that if any other ordinance,  
 4 statute, or rule provides for a greater percentage of affordable  
 5 dwellings per development on the land being developed, the  
 6 higher percentage shall apply. Developers who are subject to  
 7 the affordable housing requirement provided under this  
 8 subsection shall not be allowed to satisfy the affordable  
 9 housing requirement by any other means, including, without  
 10 limitation, impact fees, assessments, or offsite affordable  
 11 housing development credits.

12 For the purposes of this subsection, "affordable or  
 13 reserved for low- or moderate-income ranges" shall be determined  
 14 by the administration pursuant to rules adopted in accordance  
 15 with chapter 91."

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

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

21 (1) Clear, improve, and rehabilitate property;

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

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



1 a public use superior to that which the land has been  
2 appropriated[-] or set aside.

3 (c) The administration may develop or assist in the  
4 development of federal lands with the approval of appropriate  
5 federal authorities.

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

12 (e) Notwithstanding any law to the contrary, any  
13 development agreement:

14 (1) Negotiated or executed by the administration after  
15 July 1, 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 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.

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

11 [~~e~~] (f) The administration may contract or sponsor with  
12 any county, housing authority, or person, subject to the  
13 availability of funds, an experimental or demonstration housing  
14 project designed to meet the needs[+] of [~~elders; the~~]

15 (1) Elders;

16 (2) The disabled; [~~displaced~~]

17 (3) Displaced or homeless persons; [~~low-~~]

18 (4) Low- and moderate-income persons; [~~teachers~~]

19 (5) Teachers or other government employees; or

20 [~~university~~]

21 (6) University and college students and faculty."





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

3 "**§206E-4 Powers; generally.** Except as otherwise limited  
4 by this chapter, the authority may:

- 5 (1) Sue and be sued;
- 6 (2) Have a seal and alter the same at pleasure;
- 7 (3) Make and execute contracts and all other instruments  
8 necessary or convenient for the exercise of its powers  
9 and functions under this chapter;
- 10 (4) Make and alter bylaws for its organization and  
11 internal management;
- 12 (5) Make rules with respect to its projects, operations,  
13 properties, and facilities, which rules shall be in  
14 conformance with chapter 91;
- 15 (6) Through its executive director, appoint officers,  
16 agents, and employees, prescribe their duties and  
17 qualifications, and fix their salaries, without regard  
18 to chapter 76;
- 19 (7) Prepare or cause to be prepared a community  
20 development plan for all designated community  
21 development districts;



- 1 (8) Acquire, reacquire, or contract to acquire or  
2 reacquire by grant or purchase real, personal, or  
3 mixed property or any interest therein; to own, hold,  
4 clear, improve, and rehabilitate, and to sell, assign,  
5 exchange, transfer, convey, lease, or otherwise  
6 dispose of or encumber the same;
- 7 (9) Acquire or reacquire by condemnation real, personal,  
8 or mixed property or any interest therein for public  
9 facilities, including but not limited to streets,  
10 sidewalks, parks, schools, and other public  
11 improvements;
- 12 (10) By itself, or in partnership with qualified persons,  
13 acquire, reacquire, construct, reconstruct,  
14 rehabilitate, improve, alter, or repair or provide for  
15 the construction, reconstruction, improvement,  
16 alteration, or repair of any project; own, hold, sell,  
17 assign, transfer, convey, exchange, lease, or  
18 otherwise dispose of or encumber any project, and in  
19 the case of the sale of any project, accept a purchase  
20 money mortgage in connection therewith; and repurchase  
21 or otherwise acquire any project [~~which~~] that the



- 1 authority has theretofore sold or otherwise conveyed,  
2 transferred, or disposed of;
- 3 (11) Arrange or contract for the planning, replanning,  
4 opening, grading, or closing of streets, roads,  
5 roadways, alleys, or other places, or for the  
6 furnishing of facilities or for the acquisition of  
7 property or property rights or for the furnishing of  
8 property or services in connection with a project;
- 9 (12) Grant options to purchase any project or to renew any  
10 lease entered into by it in connection with any of its  
11 projects, on such terms and conditions as it deems  
12 advisable;
- 13 (13) Prepare or cause to be prepared plans, specifications,  
14 designs, and estimates of costs for the construction,  
15 reconstruction, rehabilitation, improvement,  
16 alteration, or repair of any project, and from time to  
17 time to modify such plans, specifications, designs, or  
18 estimates;
- 19 (14) Provide advisory, consultative, training, and  
20 educational services, technical assistance, and advice  
21 to any person, partnership, or corporation, either  
22 public or private, [~~in order~~] to carry out the



1 purposes of this chapter, and engage the services of  
2 consultants on a contractual basis for rendering  
3 professional and technical assistance and advice;

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

7 (16) Contract for and accept gifts or grants in any form  
8 from any public agency or from any other source; and

9 (17) Do any and all things necessary to carry out its  
10 purposes and exercise the powers given and granted in  
11 this chapter[~~;~~ and

12 ~~(18) Allow satisfaction of any affordable housing~~  
13 ~~requirements imposed by the authority upon any~~  
14 ~~proposed development project through the construction~~  
15 ~~of reserved housing, as defined in section 206E-101,~~  
16 ~~by a person on land located outside the geographic~~  
17 ~~boundaries of the authority's jurisdiction. Such~~  
18 ~~substituted housing shall be located on the same~~  
19 ~~island as the development project and shall be~~  
20 ~~substantially equal in value to the required reserved~~  
21 ~~housing units that were to be developed on site. The~~



1 ~~authority shall establish the following priority in~~  
2 ~~the development of reserved housing:~~

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

4 ~~(B) Within areas immediately surrounding the~~  
5 ~~community development district;~~

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

7 ~~(D) In outlying areas within the same island as the~~  
8 ~~development project.~~

9 ~~The Hawaii community development authority shall~~  
10 ~~adopt rules relating to the approval of reserved~~  
11 ~~housing that are developed outside of a community~~  
12 ~~development district. The rules shall include, but~~  
13 ~~are not limited to, the establishment of guidelines to~~  
14 ~~ensure compliance with the above priorities]."~~

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

17 "(c) The authority may enter into cooperative agreements  
18 with qualified persons or public agencies, where the powers,  
19 services, and capabilities of such persons or agencies are  
20 deemed necessary and appropriate for the development of the  
21 community development plan. Notwithstanding any law to the  
22 contrary, any agreement:



1       (1) Negotiated or executed by the authority after July 1,  
2             2006; and

3       (2) That includes a plan to develop fifty or more  
4             residential dwelling units,

5 shall include a requirement that at least        per cent of the  
6 residential dwelling units be affordable or reserved for low- or  
7 moderate-income ranges; provided that if any other ordinance,  
8 statute, or rule provides for a greater percentage of affordable  
9 dwelling per development on the land being developed, the  
10 higher percentage shall apply. Developers who are subject to  
11 the affordable housing requirement provided under this  
12 subsection shall not be allowed to satisfy the affordable  
13 housing requirement by any other means, including, without  
14 limitation, impact fees, assessments, or offsite affordable  
15 housing development credits.

16       For the purposes of this subsection, "affordable or  
17 reserved for low- or moderate-income ranges" shall be determined  
18 by the authority pursuant to rules adopted in accordance with  
19 chapter 91."

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



1        "(a) If the authority deems it desirable to develop a  
2 residential project, it may enter into an agreement with  
3 qualified persons to construct, maintain, operate, or otherwise  
4 dispose of the residential project. Notwithstanding any law to  
5 the contrary, any agreement:

6        (1) Negotiated or executed by the authority after July 1,  
7        2006; and

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

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

21        For the purposes of this subsection, "affordable or  
22 reserved for low- or moderate-income ranges" shall be determined



1 by the authority pursuant to rules adopted in accordance with  
2 chapter 91. Sale, lease, or rental of dwelling units in the  
3 project shall be as provided by the rules established by the  
4 authority. The authority may enter into cooperative agreements  
5 with the Hawaii housing finance and development administration  
6 for the financing, development, construction, sale, lease, or  
7 rental of dwelling units and projects."

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

10 SECTION 9. This Act shall take effect on July 1, 2096.





*HB 2242 HD 2*

**Report Title:**

Housing Development; Affordable Housing

**Description:**

Requires developers with plans to develop 50 or more residential dwelling units to dedicate a certain percentage of the units to affordable housing. (HB2242 HD2)

