
A BILL FOR AN ACT

RELATING TO COUNTIES.

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

1 SECTION 1. The purpose of this Act is to authorize each
2 county to impose an affordable housing requirement on certain
3 subdividers or developers as a condition of approval of a
4 subdivision or the issuance of a building permit.

5 SECTION 2. Chapter 46, Hawaii Revised Statutes, is amended
6 by adding a new section to be appropriately designated and to
7 read as follows:

8 "§46- Authority to impose affordable housing requirement
9 at subdivision or building permit stage. (a) For the purposes
10 of this section:

11 "Affordable housing unit" means a dwelling unit, the rent
12 or purchase price of which is affordable to a low- or moderate-
13 income family for a minimum period, as determined by the
14 applicable county.

15 "Eligible project" means a project on a discrete parcel of
16 land that will be developed for either of the following:



1 (1) A building for a commercial, industrial, resort, or
2 commercial-, industrial-, or resort-emphasis mixed
3 use; or

4 (2) A multi-family dwelling.

5 "Eligible subdivision" means a subdivision or consolidation
6 of land that will result in separate parcels zoned for
7 residential, commercial, industrial, resort, or commercial-,
8 industrial-, or resort-emphasis mixed use.

9 (b) Each county shall have the power to require a
10 subdivider applying for an eligible subdivision approval to
11 provide a certain number of affordable housing units within or
12 outside the subdivision as a condition of the issuance of the
13 final subdivision approval. A county may choose to impose the
14 affordable housing requirement only upon a subdivider of an
15 eligible subdivision that will have a minimum number of parcels
16 specified by the county. A county also may choose to allow a
17 subdivider to pay the county cash in lieu of providing the
18 required number of affordable dwelling units.

19 A county, however, shall not impose an affordable housing
20 requirement upon a subdivider who previously has had imposed
21 upon the subdivider or predecessor landowner an affordable



1 housing exaction as a condition for reclassification or rezoning
2 of the land proposed to be subdivided.

3 (c) Each county shall have the power to require the
4 developer of an eligible project to provide a certain number of
5 affordable housing units within or outside the project as a
6 condition of issuance of the first building permit for the
7 project. A county may choose to impose the affordable housing
8 requirement only upon an eligible project that will have a
9 minimum number of dwelling units specified by the county. A
10 county also may choose to allow a developer to pay the county
11 cash in lieu of providing the required number of affordable
12 dwelling units.

13 A county, however, shall not impose any affordable housing
14 requirement upon a developer who previously has had imposed upon
15 the developer or predecessor landowner an affordable housing
16 exaction as a condition for reclassification, rezoning, or
17 subdivision of the land upon which the project is situated.

18 (d) Any affordable housing requirement imposed by a county
19 upon an eligible subdivision or eligible project shall have a
20 rational nexus with the eligible subdivision or eligible
21 project. The county shall establish a formula for determining
22 the affordable housing requirement to be imposed upon different



1 types or sizes of eligible subdivisions or eligible projects.
 2 The formula shall be established by ordinance and shall be
 3 presumed valid in any administrative or judicial proceeding
 4 unless the preponderance of the evidence shows that the county
 5 clearly abused its discretion in establishing the formula.

6 (e) A county imposing an affordable housing requirement
 7 under this section shall require the subdivider or developer to
 8 enter into an agreement binding the subdivider or developer, as
 9 well as any successor, to comply with the affordable housing
 10 requirement. The county shall require the subdivider or
 11 developer to enter into the agreement before the issuance of the
 12 final subdivision approval or building permit. The agreement
 13 shall be enforceable through appropriate judicial action."

14 SECTION 3. New statutory material is underscored.

15 SECTION 4. This Act shall take effect upon its approval.

16

INTRODUCED BY: 

JAN 15 2008



Report Title:

Affordable Housing Requirement for Subdivision Approval or Building Permit

Description:

Authorizes each county to impose upon certain subdividers or developers an affordable housing requirement as a condition for approval of a subdivision or issuance of a building permit.

