
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, and may:

14 (1) Impose the affordable housing requirement only upon a
15 subdivider of an eligible subdivision that will have a
16 minimum number of parcels specified by the county; or

17 (2) Allow a subdivider to pay the county cash in lieu of
18 providing the required number of affordable dwelling
19 units;

20 provided that any requirement imposed under this subsection
21 shall only be imposed upon approval of the requirement by the
22 land use commission.



1 A county shall not impose an affordable housing requirement
2 under this subsection upon a subdivider who previously has had
3 imposed upon the subdivider or predecessor landowner an
4 affordable housing exaction as a condition for reclassification
5 or rezoning of the land proposed to be subdivided.

6 (c) Each county shall have the power to require a
7 developer of an eligible project to provide a certain number of
8 affordable housing units within or outside the project as a
9 condition of issuance of the first building permit for the
10 project, and may:

11 (1) Impose the affordable housing requirement only upon an
12 eligible project that will have a minimum number of
13 dwelling units specified by the county; or

14 (2) Allow a developer to pay the county cash in lieu of
15 providing the required number of affordable dwelling
16 units;

17 provided that any requirement imposed under this subsection
18 shall only be imposed upon approval of the requirement by the
19 land use commission.

20 A county shall not impose an affordable housing requirement
21 under this subsection upon a developer who previously has had
22 imposed upon the developer or predecessor landowner an



1 affordable housing exaction as a condition for reclassification,
2 rezoning, or subdivision of the land upon which the project is
3 situated.

4 (d) Any affordable housing requirement imposed by a county
5 upon an eligible subdivision or eligible project shall have a
6 rational nexus with the eligible subdivision or eligible
7 project. The county shall establish a formula for determining
8 the affordable housing requirement to be imposed upon different
9 types or sizes of eligible subdivisions or eligible projects.
10 The formula shall be established by ordinance and shall be
11 presumed valid in any administrative or judicial proceeding
12 unless the preponderance of the evidence shows that the county
13 clearly abused its discretion in establishing the formula.

14 (e) A county imposing an affordable housing requirement
15 under this section shall require the subdivider or developer to
16 enter into an agreement binding the subdivider or developer, as
17 well as any successor, to comply with the affordable housing
18 requirement. The county shall require the subdivider or
19 developer to enter into the agreement before the issuance of the
20 final subdivision approval or building permit. The agreement
21 shall be enforceable through appropriate judicial action."

22 SECTION 3. New statutory material is underscored.



1 SECTION 4. This Act shall take effect on July 1, 2034.



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. Requires approval of the requirement by the Land Use Commission. (HB2242 HD1)

