
A BILL FOR AN ACT

RELATING TO HOUSING.

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

1 SECTION 1. **Definitions.** For the purpose of this Act:

2 "Corporation" means the Hawaii housing finance and
3 development corporation.

4 "County" means a county with at least seven hundred fifty
5 thousand residents.

6 "County median income" means the median income in a county,
7 as determined by the United States Department of Housing and
8 Urban Development and adjusted for family size.

9 "Eligible project" means a rental housing project that
10 meets all of the following requirements:

11 (1) Makes available for its entire useful life at least
12 per cent of its dwelling units for rent to
13 families whose incomes do not exceed eighty per cent
14 of the county median income;

15 (2) Charges rent for every rental unit that does not
16 exceed the maximum amount set by the corporation;

17 (3) Has at least rental units but not more than
18 allowed by applicable zoning laws;



- 1 (4) Is located on not more than fifteen acres of land
2 within the county's urban growth boundary;
- 3 (5) Is not on land classified as agricultural or
4 conservation;
- 5 (6) Is not within the geographic area covered by a habitat
6 conservation plan or safe harbor agreement approved
7 under chapter 195D, part II, Hawaii Revised Statutes;
- 8 (7) Does not include any commercial, industrial, resort,
9 or transient accommodation unit or use;
- 10 (8) Does not exceed the structure height limit of the
11 underlying county zoning;
- 12 (9) Is designed and constructed to have a useful life of
13 at least thirty years;
- 14 (10) Is pledged, after its useful life, to be renovated,
15 reconstructed, or redeveloped in perpetuity into
16 successive eligible projects which have at least the
17 same number of rental units as the original project
18 and complies with paragraphs (1) to (9) and (11) to
19 (13);
- 20 (11) Is subject to a regulatory agreement with the
21 corporation in accordance with federal section 8
22 housing requirements;



1 (12) Is developed and operated by a non-profit entity; and

2 (13) Is dedicated to meeting the requirements of paragraphs

3 (1) to (12).

4 "Land under a county's zoning jurisdiction" means land
5 within the boundaries of a county, but outside the following
6 districts:

7 (1) The Kakaako community development district established
8 by section 206E-32;

9 (2) The Kalaeloa community development district
10 established by section 206E-193; and

11 (3) The Aloha Tower complex established by section 206J-3.

12 "Rental unit" means a dwelling unit in an eligible project
13 that is rented to a family. The term does not include any
14 dwelling unit in an eligible project that may be occupied by one
15 or more resident managers or caretakers.

16 "Urban growth boundary" means the land designated under the
17 county's general, development, or sustainable community plan as
18 an urban growth, urban expansion, urban community, or urban
19 fringe area; provided that the term shall not include land
20 classified as agricultural or conservation.

21 "Useful life of an eligible project" means the duration
22 that the project may be reasonably and economically repaired,



1 refurbished, redeveloped, and maintained in a safe and habitable
2 condition; provided that the duration shall not be less than
3 thirty years.

4 SECTION 2. **Applicable only in county with at least seven**
5 **hundred fifty thousand residents.** This Act shall only apply in
6 a county with at least seven hundred fifty thousand residents.

7 SECTION 3. **Eligible project; exemption from county**
8 **requirements.** (a) The developer of a proposed eligible project
9 on land under a county's zoning jurisdiction may choose to
10 proceed under this section instead of section 201H-38, Hawaii
11 Revised Statutes. If the developer so chooses, the county shall
12 review and approve or disapprove the proposed eligible project
13 under this section instead of section 201H-38, Hawaii Revised
14 Statutes.

15 (b) Before the developer of a proposed eligible project
16 submits an application to the county under subsection (c), the
17 developer shall:

18 (1) Provide notice regarding the proposed project to the
19 neighborhood board of the area in which the project is
20 to be located; and

21 (2) If the proposed project is to be within a special
22 management area or shoreline setback area, obtain any



1 necessary special management area use permit,
2 shoreline setback variance, or other approval required
3 under parts II or III of chapter 205A, Hawaii Revised
4 Statutes.

5 The county shall not accept an application for a proposed
6 project if the developer has not complied with this subsection.

7 (c) If the developer of a proposed eligible project on
8 land under a county's zoning jurisdiction desires to have the
9 proposed project exempted from any county ordinance or rule
10 relating to planning, zoning, or construction standards for
11 subdivisions, development and improvement of land, or
12 construction of dwelling units thereon, the developer may submit
13 to the county an application for review and approval of the
14 proposed project in accordance with this section.

15 This section shall not exempt a proposed eligible project
16 from complying with:

- 17 (1) The county's building code, fire code, or other
18 ordinance or rule establishing minimum health and
19 safety requirements;
- 20 (2) The structure height limit of the underlying county
21 zoning; or



1 (3) Any applicable requirement under chapters 174, 342B to
2 342H, 342J, 342L, and 342P, Hawaii Revised Statutes.

3 (d) The developer shall submit with the application the
4 preliminary plans and specifications for the proposed project,
5 including a list of requested exemptions.

6 The county department responsible for administering the
7 zoning code shall accept the application from the developer upon
8 payment by the developer of a reasonable processing fee
9 established by the county department. The county department
10 shall review the developers preliminary plans and
11 specifications, with particular attention to the listed
12 exemptions. During the review, the county department may
13 request the developer to revise the preliminary plans and
14 specifications, and the developer may agree or disagree with the
15 request.

16 No later than ninety days from receipt of the application,
17 the county department shall submit to the county council the
18 preliminary plans and specifications, along with a
19 recommendation of approval or disapproval of the proposed
20 project. If the developer has agreed to a revision of the
21 preliminary plans and specifications, the county department
22 shall submit the revised preliminary plans and specifications.



1 If the developer has not agreed to any revision, the county
2 department shall submit the preliminary plans and specifications
3 in the form submitted with the application.

4 If the county department fails or refuses to submit the
5 preliminary plans and specifications of the proposed project to
6 the county council within the ninety day period, the proposed
7 project shall be forfeited to the jurisdiction of the
8 corporation on the ninety-first day.

9 (e) If the county department submits to the county council
10 the preliminary plans and specifications of the proposed
11 eligible project, the county council shall have forty-five days
12 from receipt to act on the proposed eligible project.

13 If the county council does not express its approval or
14 disapproval within the forty-five day period, the proposed
15 eligible project and the preliminary plans and specifications
16 submitted shall be forfeited to the jurisdiction of the
17 corporation on the forty-sixth day.

18 (f) The county council may approve the preliminary plans
19 and specifications with or without modification.

20 (g) Upon approval by the county council of the eligible
21 project, the preliminary plans and specifications, with the
22 requested exemptions, shall be deemed the final plans and



1 specifications. The final plans and specifications shall
2 constitute the planning, zoning, construction, and subdivision
3 standards for the project.

4 For the purpose of any state law or county ordinance, the
5 responsible county officer may certify maps and plans of the
6 land on which the project is situated as having complied with
7 applicable laws and ordinances relating to consolidation or
8 subdivision of land. The certified maps and plans shall be
9 accepted for registration or recordation by the land court and
10 bureau of conveyances.

11 (h) Once an eligible project is approved under this
12 section, the county:

13 (1) Shall expedite the review of the grading permit,
14 building permit, and other county ministerial permits
15 for the project and shall not unreasonably delay or
16 deny the issuance of such permits;

17 (2) Shall not unreasonably delay or deny the issuance of a
18 certificate of occupancy for the project; and

19 (3) Shall not charge an unreasonable fee for review of an
20 application for a grading permit, building permit,
21 other county ministerial permit, or certificate of
22 occupancy.



1 SECTION 4. **Eligible project; Hawaii housing finance and**
2 **development corporation jurisdiction.** (a) The developer of a
3 proposed eligible project that is forfeited to the jurisdiction
4 of the corporation pursuant to section 3(d) or 3(e) may apply to
5 the corporation for approval of the proposed project. The
6 application shall be accompanied by the preliminary plans and
7 specifications for the proposed project and a reasonable fee set
8 by the corporation.

9 (b) Within ninety days from receipt of the application,
10 the corporation shall approve, approve with modification, or
11 disapprove the proposed eligible project and preliminary plans
12 and specifications. Before making its decision, the corporation
13 shall hold at least once public hearing on the proposed project
14 pursuant to chapter 92, Hawaii Revised Statutes.

15 (c) Upon approval by the corporation of the eligible
16 project, the preliminary plans and specifications, with the
17 requested exemptions, shall be deemed the final plans and
18 specifications. The final plans and specifications shall
19 constitute the planning, zoning, construction, and subdivision
20 standards for the project.

21 For the purpose of any state law or county ordinance, the
22 relevant county officer may certify maps and plans of the land



1 on which the project is situated as having compiled with
2 applicable laws and ordinances relating to consolidation or
3 subdivision or land. If the relevant county officer refuses or
4 fails to certify the maps or plans within a reasonable time as
5 determined by the corporation, the corporation's executive
6 director may perform the duty. The certified maps and plans
7 shall be accepted for registration or recordation by the land
8 court and bureau of conveyances.

9 (d) Once an eligible project is approved under this
10 section, the relevant county shall expedite the review of the
11 grading permit, building permit, and other county ministerial
12 permits necessary to construct the project. The relevant county
13 shall issue such permits within one year from the approval of
14 the eligible project by the corporation.

15 The county also shall not unreasonably delay or deny the
16 issuance of a certificate of occupancy for the project. The
17 county also shall not charge an unreasonable fee for review of
18 an application for a grading permit, building permit, other
19 county ministerial permit, or certificate of occupancy.

20 **SECTION 5. Required connection of approved eligible**
21 **project to county infrastructure; required acceptance of offsite**
22 **infrastructure constructed to county standards.** (a) If an



1 eligible project is approved by the county under section 3 or
2 the corporation under section 4, the county shall allow the
3 project to connect to county-owned infrastructure, including
4 water, wastewater, drainage, and highway systems, upon the
5 payment of any applicable connection fee that may be charged by
6 the county.

7 (b) The county shall accept any offsite infrastructure
8 constructed and dedicated by the developer of the eligible
9 project if the infrastructure meets county standards set by
10 ordinance or rule. This subsection shall apply whether the
11 eligible project has been approved by the county under section 3
12 or the corporation under section 4.

13 SECTION 6. **Eligible project; applicability of**
14 **environmental review process and cultural review process.** (a)
15 Chapter 343, Hawaii Revised Statutes, shall apply to a proposed
16 eligible project that falls within section 343-5, Hawaii Revised
17 Statutes.

18 (b) Section 6E-8, Hawaii Revised Statutes, shall apply to
19 any person who is the developer of a proposed eligible project,
20 including a private person, notwithstanding the language of that
21 section.

22 SECTION 7. **Eligible project on public non-ceded land; set**



1 **aside; nominal lease rent.** If an approved eligible project is
2 to be developed on public non-ceded land, the land shall be set
3 aside to the corporation without the approval of the board of
4 land and natural resources as required by section 171-11, Hawaii
5 Revised Statutes. The corporation shall make the land available
6 to the developer of the eligible project at a lease rent of \$1
7 per year for the useful life of the project.

8 SECTION 8. **Eligible project on ceded land; set aside;**
9 **nominal lease rent.** If an approved eligible project is to be
10 developed on ceded land, fifty per cent of the rental-housing
11 opportunities developed on the land shall be set aside for
12 perpetual use by eligible beneficiaries of the office of
13 Hawaiian affairs. The corporation shall make the land available
14 to the developer of the eligible project for a lease rent of \$1
15 per year for the useful life of the project.

16 SECTION 9. **Regulatory agreement with developer of eligible**
17 **project.** (a) The developer of an eligible project approved by
18 the county council under section 3 or the corporation under
19 section 4 shall enter into a regulatory agreement with the
20 corporation before the developer commences any work at the site
21 of the project. The regulatory agreement shall set forth the
22 obligations and responsibilities of the developer with respect



1 to the project and shall be consistent with this Act. The
2 regulatory agreement shall include penalties that may be imposed
3 on the developer of the eligible project for failure to comply
4 with the regulatory agreement. The regulatory agreement shall
5 run with the land on which the eligible project is situated and
6 shall be binding upon the developer and any subsequent owner.

7 The corporation shall monitor and enforce the terms and
8 conditions of the regulatory agreement.

9 (b) If a county council has approved an eligible project
10 under section 3, this section shall not prohibit the county from
11 entering into its own regulatory agreement with the developer.

12 SECTION 10. **Expedited temporary rules.** The corporation
13 may adopt rules to implement this Act without regard to the
14 notice and public hearing requirements of section 91-3, Hawaii
15 Revised Statutes, or the small business impact review
16 requirements of chapter 201M, Hawaii Revised Statutes. Rules
17 adopted pursuant to this section shall be repealed on December
18 31, 2013, without necessity of any action by the corporation.

19 SECTION 11. **Act superior to conflicting law.** This Act
20 shall be superior to any conflicting law, except any collective
21 bargaining or labor protection law or any law that protects
22 against adverse effects to health, safety, and the environment.



1 SECTION 12. **Task force.** (a) There is created an
2 affordable housing inventory advisory task force to be placed
3 within the Hawaii housing finance and development corporation
4 for administrative purposes.

5 (b) The task force shall consist of eleven members to be
6 appointed as follows:

7 (1) The governor shall appoint, not subject to section 26-
8 34, Hawaii Revised Statutes:

9 (A) Two state legislators; provided that one shall be
10 appointed upon the recommendation of the senate
11 president and one shall be appointed upon the
12 recommendation of the speaker of the house of
13 representatives;

14 (B) Two elected officials from any of the counties;
15 and

16 (C) One resident of the State of Hawaii; and

17 (2) Pursuant to section 26-34, Hawaii Revised Statutes the
18 governor shall appoint:

19 (A) A real estate developer, who shall have a minimum
20 of ten years of experience in the field;

21 (B) A real estate attorney, who shall have a minimum
22 of ten years of experience in the field;



1 (C) A planning and zoning professional, who shall
2 have a minimum of ten years of experience in the
3 field;

4 (D) A real estate financing and banking professional,
5 who shall have a minimum of ten years of
6 experience in the field;

7 (E) An economist, who shall have a minimum of ten
8 years of experience in the field; and

9 (F) The director of a nonprofit corporation dealing
10 with housing issues, who shall have a minimum of
11 ten years of experience in the field.

12 (c) The task force shall submit to the governor and the
13 legislature a report, along with any proposed legislation, not
14 later than twenty days prior to the convening of the 2009
15 regular session. The report shall include:

16 (1) An estimate of the existing and potential supply of
17 all categories of affordable housing within the State;
18 and

19 (2) An estimate of the existing and potential demand for
20 all categories of affordable housing within the State.

21 SECTION 13. **Appropriation to county.** There is
22 appropriated out of the general revenues of the State of Hawaii



1 the sum of \$1 or so much thereof as may be necessary for fiscal
2 year 2008-2009 as a grant-in-aid to a county with at least seven
3 hundred fifty thousand residents for contracting planners and
4 engineers to expedite the processing and review of applications
5 for the approval of proposed eligible projects and issuance of
6 grading, building, and other ministerial permits for approved
7 eligible projects. The Hawaii housing finance and development
8 corporation shall establish a procedure for reimbursing the
9 county for the costs of such contracted personnel. The grant-
10 in-aid may also be used for the planning, design, and
11 construction of offsite infrastructure to serve eligible
12 projects constructed under this Act.

13 The sums appropriated shall be expended by the Hawaii
14 housing finance and development corporation for the purpose of
15 this Act.

16 SECTION 14. **Appropriation for county impact fees.** There
17 is appropriated out of the general revenues of the State of
18 Hawaii the sum of \$ or so much thereof as may be
19 necessary for fiscal year 2008-2009 for the purpose of
20 subsidizing per cent of any applicable county-demanded
21 impact fees resulting from the implementation of this Act.

22 The sums appropriated shall be expended by the department



1 of budget and finance for the purpose of this Act.

2 SECTION 15. **Appropriation to Hawaii housing finance and**
3 **development corporation.** There is appropriated out of the
4 general revenues of the State of Hawaii the sum of \$1 or so much
5 thereof as may be necessary for fiscal year 2008-2009 for the
6 implementation of this Act by the Hawaii housing finance and
7 development corporation.

8 The sums appropriated shall be expended by the Hawaii
9 housing finance and development corporation for the purpose of
10 this Act.

11 SECTION 16. **Procedural-oversight ombudsman.** The county
12 shall appoint and fund, through an expenditure from its
13 appropriation hereunder, a single individual to serve as a
14 procedural-oversight ombudsman, who shall receive, review and
15 make recommendations upon any complaints lodged by governmental
16 entities, agencies, or departments, regarding the implementation
17 of this Act. All such recommendations shall be submitted to the
18 Hawaii housing finance and development corporation.

19 SECTION 17. **Effective date and repeal.** This Act shall
20 take effect on July 1, 2008, and shall be repealed on December
21 31, 2013; provided that:



H.B. NO. 3385

- 1 (1) The repeal shall not affect the validity of any
- 2 regulatory agreement entered into by a developer of an
- 3 eligible project with the corporation or a county
- 4 under this Act;
- 5 (2) The repeal shall not affect any application for review
- 6 and approval of a proposed eligible project under
- 7 section 3 or 4 that is pending on December 31, 2013,
- 8 which shall remain subject to this Act until decided.
- 9 If the eligible project is approved, the review and
- 10 issuance of the grading, building, and other county
- 11 ministerial permits and the certificate of occupancy
- 12 shall be subject to this Act; and
- 13 (3) The repeal shall not affect any grading, building, or
- 14 other ministerial permit application for an eligible
- 15 project approved under this Act that is pending on
- 16 December 3, 2013, which application shall remain
- 17 subject to this Act.

18

INTRODUCED BY: *Adrienne King*

JAN 23 2008

Report Title:

Affordable Rental Housing; Expedited Process

Description:

Provides an expedited process for county review and decision on planning, zoning, and construction exemptions sought by a developer of an affordable rental project. Provides, if the county fails or refuses to take action on the proposed project, the Hawaii Housing Finance and Development Corporation may review and make a decision on the proposed project. Makes the provisions applicable only to a county with at least 750,000 residents. Appropriates funds. Sunsets on December 31, 2013.

