
A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. The legislature finds that whatever form of
2 mass transit that is adopted by the city and county of Honolulu,
3 it will have an impact reaching far beyond transportation issues
4 alone. Development of a new transportation system provides the
5 State and the city and county of Honolulu the opportunity to
6 maximize affordable housing facilities and add to and improve
7 care of the elderly and related public functions as mass transit
8 development is planned between west Oahu and the University of
9 Hawaii at Manoa.

10 The legislature further finds that in areas with a
11 higher-than-average senior citizen population that also lack
12 adequate long-term care facilities, there is an opportunity to
13 meet the objective of "aging-in-place" through creative
14 distribution of services, such as aggregating services for
15 condominium-building residents in close proximity to one
16 another.



1 In areas with limited recreational spaces and facilities
2 for young people, public, private, and non-profit partnerships
3 can stimulate development of additional services, programs, and
4 facilities to serve at-risk youth, families with special needs,
5 and others, in a school, park, or church setting.

6 The purpose of this Act is to allow the State and the city
7 and county of Honolulu to meet the need for affordable housing,
8 care for the elderly, and services for Hawaii's disadvantaged by
9 providing general excise tax exemptions that will encourage and
10 enable mixed-use transit-oriented joint development projects
11 that include health care facilities and affordable housing.

12 SECTION 2. Chapter 321, Hawaii Revised Statutes, is
13 amended by adding a new section to be appropriately designated
14 and to read as follows:

15 "§321- Exemption from general excise taxes. (a) In
16 accordance with section 237-29, the department of health may
17 approve and certify for exemption from general excise taxes any
18 qualified person or firm involved with a newly constructed, or
19 moderately or substantially rehabilitated project developed by a
20 qualified person or firm to provide a community health care
21 facility within a mixed-use transit-oriented joint development
22 project approved by the department.



1 (b) All claims for exemption under this section shall be
2 filed with and certified by the department of health and
3 forwarded to the department of taxation. Any claim for
4 exemption that is filed and approved shall not be considered a
5 subsidy for the purpose of this section.

6 (c) For the purposes of this section:

7 "Community health care facility" means a health care
8 facility as defined in section 323D-2, which is leased or sold
9 to a person who is controlled by:

10 (1) A person who has received recognition of tax-exempt
11 status or who is a subordinate person of a person who
12 has received a group exemption letter under Section
13 501(c) (3) of the Internal Revenue Code of 1986, as
14 amended;

15 (2) The State;

16 (3) Any political subdivision of the State;

17 (4) A county;

18 (5) A state agency or any instrumentality of the State; or

19 (6) A county agency or any instrumentality of a county.

20 "Mixed-use transit-oriented joint development project"

21 means a transit-oriented joint development project that:



1 (1) Combines residential development with any combination
2 of commercial and industrial development, including
3 the development of community health care facilities;
4 and

5 (2) Is approved by the county in which the project is
6 located.

7 "Moderate rehabilitation" means rehabilitation to upgrade a
8 facility to a decent, safe, and sanitary condition, or to repair
9 or replace major building systems or components in danger of
10 failure.

11 "Substantial rehabilitation":

12 (1) Means the improvement of a facility to a decent, safe,
13 and sanitary condition that requires more than routine
14 or minor repairs or improvements. It may include
15 gutting and extensive reconstruction or cosmetic
16 improvements coupled with the curing of a substantial
17 accumulation of deferred maintenance; and

18 (2) Includes renovation, alteration, or remodeling to
19 convert or adapt structurally sound property to the
20 design and condition required for a specific use.

21 (d) The department may establish, revise, charge, and
22 collect a reasonable service fee, as necessary, in connection



1 with its approvals and certifications under this section. The
2 fees shall be deposited into the dwelling unit revolving fund."

3 SECTION 3. Section 46-15.1, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "(a) Any law to the contrary notwithstanding, any county
6 shall have and may exercise the same powers, subject to
7 applicable limitations, as those granted the Hawaii housing
8 finance and development corporation pursuant to chapter 201H
9 insofar as those powers may be reasonably construed to be
10 exercisable by a county for the purpose of developing,
11 constructing, and providing low- and moderate-income housing;
12 provided that no county shall be empowered to cause the State to
13 issue general obligation bonds to finance a project pursuant to
14 this section; provided further that county projects shall be
15 granted an exemption from general excise or receipts taxes in
16 the same manner as projects of the Hawaii housing finance and
17 development corporation pursuant to section 201H-36; except that
18 no county shall be empowered to grant an exemption from general
19 excise taxes for a mixed-use transit-oriented joint development
20 project as defined in sections 201H-36(c) and 321- ; and
21 provided further that section 201H-16 shall not apply to this
22 section unless federal guidelines specifically provide local



1 governments with that authorization and the authorization does
2 not conflict with any state laws. The powers shall include the
3 power, subject to applicable limitations, to:

- 4 (1) Develop and construct dwelling units, alone or in
5 partnership with developers;
- 6 (2) Acquire necessary land by lease, purchase, exchange,
7 or eminent domain;
- 8 (3) Provide assistance and aid to a public agency or other
9 person in developing and constructing new housing and
10 rehabilitating existing housing for elders of low- and
11 moderate-income, other persons of low- and moderate-
12 income, and persons displaced by any governmental
13 action, by making long-term mortgage or interim
14 construction loans available;
- 15 (4) Contract with any eligible bidders to provide for
16 construction of urgently needed housing for persons of
17 low- and moderate-income;
- 18 (5) Guarantee the top twenty-five per cent of the
19 principal balance of real property mortgage loans,
20 plus interest thereon, made to qualified borrowers by
21 qualified lenders;



- 1 (6) Enter into mortgage guarantee agreements with
- 2 appropriate officials of any agency or instrumentality
- 3 of the United States to induce those officials to
- 4 commit to insure or to insure mortgages under the
- 5 National Housing Act, as amended;
- 6 (7) Make a direct loan to any qualified buyer for the
- 7 downpayment required by a private lender to be made by
- 8 the borrower as a condition of obtaining a loan from
- 9 the private lender in the purchase of residential
- 10 property;
- 11 (8) Provide funds for a share, not to exceed fifty per
- 12 cent, of the principal amount of a loan made to a
- 13 qualified borrower by a private lender who is unable
- 14 otherwise to lend the borrower sufficient funds at
- 15 reasonable rates in the purchase of residential
- 16 property; and
- 17 (9) Sell or lease completed dwelling units.

18 For purposes of this section, a limitation is applicable to
19 the extent that it may reasonably be construed to apply to a
20 county."

21 SECTION 4. Section 201H-36, Hawaii Revised Statutes, is
22 amended by amending subsections (a), (b), and (c) as follows:



1 "(a) In accordance with section 237-29, the corporation
2 may approve and certify for exemption from general excise taxes
3 any qualified person or firm involved with a newly constructed,
4 or moderately or substantially rehabilitated project:

5 (1) Developed under this part;

6 (2) Developed under a government assistance program
7 approved by the corporation, including [~~but not~~
8 ~~limited to~~] the United States Department of
9 Agriculture 502 program and Federal Housing
10 Administration 235 program;

11 (3) Developed under the sponsorship of a private nonprofit
12 organization providing home rehabilitation or new
13 homes for qualified families in need of decent, low-
14 cost housing; [~~or~~]

15 (4) Developed by a qualified person or firm to provide
16 affordable rental housing where at least fifty per
17 cent of the available units are for households with
18 incomes at or below eighty per cent of the area median
19 family income as determined by the United States
20 Department of Housing and Urban Development, of which
21 at least twenty per cent of the available units are
22 for households with incomes at or below sixty per cent



1 of the area median family income as determined by the
2 United States Department of Housing and Urban
3 Development [~~-~~]; or

4 (5) Developed by a qualified person or firm to provide
5 affordable rental housing units within a mixed-use
6 transit-oriented joint development project approved by
7 the corporation.

8 (b) All claims for exemption under this section shall be
9 filed with and certified by the corporation and forwarded to the
10 department of taxation. Any claim for exemption that is filed
11 and approved [~~-~~] shall not be considered a subsidy for the
12 purpose of this part.

13 (c) For the purposes of this section:

14 "Mixed-use transit-oriented joint development project"
15 means a transit-oriented joint development project that:

16 (1) Combines residential development with any combination
17 of commercial and industrial development, including
18 the development of community health care facilities;
19 and

20 (2) Is approved by the county in which the project is
21 located.



1 "Moderate rehabilitation" means rehabilitation to upgrade a
2 dwelling unit to a decent, safe, and sanitary condition, or to
3 repair or replace major building systems or components in danger
4 of failure.

5 "Substantial rehabilitation":

6 (1) Means the improvement of a property to a decent, safe,
7 and sanitary condition that requires more than routine
8 or minor repairs or improvements. It may include [~~but~~
9 ~~is not limited to~~] the gutting and extensive
10 reconstruction of a dwelling unit, or cosmetic
11 improvements coupled with the curing of a substantial
12 accumulation of deferred maintenance; and

13 (2) Includes renovation, alteration, or remodeling to
14 convert or adapt structurally sound property to the
15 design and condition required for a specific use, such
16 as conversion of a hotel to housing for elders."

17 SECTION 5. Section 237-8.6, Hawaii Revised Statutes, is
18 amended by amending subsection (d) to read as follows:

19 "(d) No county surcharge on state tax shall be established
20 on any:

21 (1) Gross income or gross proceeds taxable under this
22 chapter at the one-half per cent tax rate;



- 1 (2) Gross income or gross proceeds taxable under this
- 2 chapter at the 0.15 per cent tax rate; or
- 3 (3) Transactions, amounts, persons, gross income, or gross
- 4 proceeds exempt from tax under this chapter~~[-]~~;
- 5 provided that the surcharge on state tax shall be
- 6 assessed, levied, and collected on transactions,
- 7 amounts, persons, gross income, or gross proceeds
- 8 exempted under section 237-29 pursuant to sections
- 9 201H-36(a) (5) and 321- ."

10 SECTION 6. Section 237-29, Hawaii Revised Statutes, is
 11 amended by amending its title and subsection (a) to read as
 12 follows:

13 **"§237-29 Exemptions for certified or approved housing or**
 14 **community health care facility projects.** (a) All gross income
 15 received by any qualified person or firm for the planning,
 16 design, financing, construction, sale, or lease in the [~~State~~]
 17 state of a housing or community health care facility project
 18 that has been certified or approved under [~~section~~] sections
 19 201H-36 and 321-_____ shall be exempt from general excise taxes."

20 SECTION 7. Section 238-2.6, Hawaii Revised Statutes, is
 21 amended by amending subsection (c) to read as follows:



1 "(c) No county surcharge on state tax shall be established
2 upon any use taxable under this chapter at the one-half per cent
3 tax rate or upon any use that is not subject to taxation or that
4 is exempt from taxation under this chapter~~[-]~~; provided that the
5 surcharge on state tax shall be levied on the use of property,
6 services, or contracting that is not subject to taxation under
7 section 238-3(j) as a result of an exemption under section
8 237-29 pursuant to sections 201H-36(a)(5) and 321- ."

9 SECTION 8. It is the intent of the legislature that in
10 adopting rules pursuant to section 237-29(c), Hawaii Revised
11 Statutes, for the purpose of this Act, the director of taxation
12 and the Hawaii housing finance and development corporation shall
13 consult with the director of health and representatives of any
14 interested county in an effort to streamline the approval
15 process for mixed-use transit-oriented joint development
16 projects and maximize the coordination among federal, state, and
17 county governments with respect to the projects.

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

20 SECTION 10. This Act shall take effect on July 1, 2020,
21 and shall apply to taxable years beginning after December 31,
22 2007.



Report Title:

Mixed-Use Transit-Oriented Joint Development Project; GET
Exemption

Description:

Specifies that a county shall not grant an exemption from the general excise tax (GET) or receipt taxes for a mixed-use transit-oriented joint development project. Exempts from GET a project developed to provide affordable rental housing or a community health care facility within a mixed-use transit-oriented joint development project. (SB3165 HD2)

