

JAN 24 2007

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# A BILL FOR AN ACT

RELATING TO HOUSING.

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

1           SECTION 1. Section 201H-4, Hawaii Revised Statutes, is  
2 amended by amending subsection (b) to read as follows:

3           "(b) In addition to other powers conferred upon it, the  
4 corporation may do all things necessary and convenient to carry  
5 out the powers expressly provided in this chapter[-]; provided  
6 that the corporation shall ensure that leased public lands are  
7 used solely for affordable housing, as defined in section  
8 201H-57."

9           SECTION 2. Section 201H-33, Hawaii Revised Statutes, is  
10 amended by amending subsection (d) to read as follows:

11           "(d) The corporation may acquire, by eminent domain,  
12 exchange, or negotiation, land or property required within the  
13 foreseeable future for the purposes of this chapter. Whenever  
14 land with a completed or substantially complete and habitable  
15 dwelling or dwellings thereon is acquired by exchange or  
16 negotiation, the exchange value or purchase price for each  
17 dwelling, including land, shall not exceed its appraised value.



1 Land or property acquired in anticipation of future use may be  
2 leased for the interim period by the corporation for such term  
3 and rent as it deems appropriate.

4 The corporation shall create a community land trust under  
5 this subsection; provided that no land shall be sold that has  
6 been acquired under a community land trust; and provided further  
7 that buildings or structures upon the land may be leased or  
8 sold. Section 201H-47 relating to first option to purchase by  
9 the corporation shall apply for purposes of a community land  
10 trust. The corporation shall serve as the trustee of a  
11 community land trust."

12 SECTION 3. Section 201H-47, Hawaii Revised Statutes, is  
13 amended by amending subsections (a) and (b) to read as follows:

14 "(a) The following restrictions shall apply to the  
15 transfer of real property developed and sold under this chapter,  
16 whether in fee simple or leasehold:

17 (1) For a period of ten years after the purchase, whether  
18 by lease, assignment of lease, deed, or agreement of  
19 sale, if the purchaser wishes to transfer title to the  
20 real property, the corporation shall have the first  
21 option to purchase the real property at a price that  
22 shall not exceed the sum of:



1 (A) The original cost to the purchaser, as defined in  
2 rules adopted by the corporation;

3 (B) The cost of any improvements added by the  
4 purchaser, as defined in rules adopted by the  
5 corporation; and

6 (C) Simple interest on the original cost and capital  
7 improvements to the purchaser at the rate of one  
8 per cent a year;

9 provided that in no event shall a purchaser transfer  
10 title to a property, including a leasehold interest,  
11 for a profit.

12 (2) The corporation may purchase the real property either:

13 (A) By conveyance free and clear of all mortgages and  
14 liens; or

15 (B) By conveyance subject to existing mortgages and  
16 liens.

17 If the real property is conveyed in the manner  
18 provided in subparagraph (A), it shall be conveyed to  
19 the corporation only after all mortgages and liens are  
20 released. If the real property is conveyed in the  
21 manner provided in subparagraph (B), the corporation  
22 shall acquire the property subject to any first



1 mortgage created for the purpose of securing the  
2 payment of a loan of funds expended solely for the  
3 purchase of the real property by the seller; and any  
4 mortgage or lien created for any other purpose  
5 provided that the corporation has previously consented  
6 to it in writing.

7 The corporation's interest created by this  
8 paragraph shall constitute a statutory lien on the  
9 real property and shall be superior to any other  
10 mortgage or lien except for:

11 (i) Any first mortgage created for the purpose  
12 of securing the payment of a loan of funds  
13 expended solely for the purchase of the real  
14 property by the seller;

15 (ii) Any mortgage insured or held by a federal  
16 housing agency; and

17 (iii) Any mortgage or lien created for any other  
18 purpose; provided that the corporation has  
19 previously consented to it in writing.

20 The amount paid by the corporation to the seller shall  
21 be the difference, if any, between the purchase price  
22 determined by paragraph (1) (A) to (C), and the total



1 of the outstanding principal balances of the mortgages  
2 and liens assumed by the corporation;

3 (3) A purchaser may refinance real property developed and  
4 sold under this chapter; provided that the purchaser  
5 shall not refinance the real property within ten years  
6 from the date of purchase for an amount in excess of  
7 the purchase price as determined by paragraph (1) (A)  
8 to (C);

9 (4) After the end of the tenth year from the date of  
10 purchase or execution of an agreement of sale, the  
11 purchaser may sell the real property and sell or  
12 assign the property free from any price restrictions;  
13 provided that the purchaser shall be required to pay  
14 to the corporation the sum of:

15 (A) The balance of any mortgage note, agreement of  
16 sale, or other amount owing to the corporation;

17 (B) Any subsidy or deferred sales price made by the  
18 corporation in the acquisition, development,  
19 construction, and sale of the real property, and  
20 any other amount expended by the corporation not  
21 counted as costs under section 201H-45 but  
22 charged to the real property by good accounting



1 practice as determined by the corporation whose  
2 books shall be prima facie evidence of the  
3 correctness of the costs;

4 (C) Interest on the subsidy or deferred sales price,  
5 if applicable, and any other amount expended at  
6 the rate of seven per cent a year computed as to  
7 the subsidy or deferred sales price, if  
8 applicable, from the date of purchase or  
9 execution of the agreement of sale, and as to any  
10 amount expended, from the date of expenditure;  
11 provided that the computed interest shall not  
12 extend beyond thirty years from the date of  
13 purchase or execution of the agreement of sale of  
14 the real property. If any proposed sale or  
15 transfer will not generate an amount sufficient  
16 to pay the corporation the sum as computed under  
17 this paragraph, the corporation shall have the  
18 first option to purchase the real property at a  
19 price that shall not exceed the sum as computed  
20 under paragraphs (1) and (2); and



1 (D) The corporation's share of appreciation in the  
2 real property as determined under rules adopted  
3 pursuant to chapter 91, when applicable; and  
4 (5) Notwithstanding any provision above to the contrary,  
5 pursuant to rules adopted by the corporation, the  
6 subsidy or deferred sales price described in paragraph  
7 (4)(B) and any interest accrued pursuant to paragraph  
8 (4)(C) may be paid, in part or in full, at any time.  
9 (b) For a period of ten years after the purchase, whether  
10 by lease, assignment of lease, deed, or agreement of sale, if  
11 the purchaser wishes to transfer title to the real property, and  
12 if the corporation does not exercise the option to purchase the  
13 real property as provided in subsection (a), then the  
14 corporation shall require the purchaser to sell the real  
15 property to a "qualified resident" as defined in section  
16 201H-32, and upon the terms that preserve the intent of this  
17 section and sections 201H-49 and 201H-50, and in accordance with  
18 rules adopted by the corporation[-] provided that in no event  
19 shall a purchaser transfer title to a property, including a  
20 leasehold interest, for a profit."

21 SECTION 4. Section 201H-58, Hawaii Revised Statutes, is  
22 amended to read as follows:



1           "~~§201H-58~~ Leases; self-help housing. (a) The  
 2   ~~corporation~~ may lease parcels that it deems suitable for  
 3   affordable housing at \$1 per year for up to fifty years to  
 4   organizations or community trusts to develop the parcel with  
 5   ownership units through self-help development.

6           (b) The ~~corporation~~ may extend or modify the fixed  
 7   rental period of the lease or extend the term of the lease.

8           (c) Parcels leased under this section may be transferred  
 9   or assigned by devise, bequest, or intestate succession, and may  
 10   be sublet with the approval of the ~~corporation~~.

11           (d) A self-help development under this section shall be  
 12   exempt from all statutes, ordinances, charter provisions, and  
 13   rules of any government agency relating to planning, zoning,  
 14   construction standards for subdivisions, development and  
 15   improvement of land, and construction of dwelling units  
 16   thereon."

17           SECTION 5. Statutory material to be repealed is bracketed  
 18   and stricken. New statutory material is underscored.

19           SECTION 6. This Act shall take effect upon its approval.

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INTRODUCED BY:

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**Report Title:**

Housing

**Description:**

Ensures leased public lands are used only for affordable housing. Prevents lessees of affordable housing from selling or transferring lease at a profit. Removes certain statutory and ordinance limitations pertaining to development and construction of self-help affordable housing. Establishes community land trust.

