

JAN 24 2007

A BILL FOR AN ACT

RELATING TO SUSTAINABILITY.

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

1 SECTION 1. The legislature finds that Hawaii is a unique
2 and beautiful State that is largely dependent on the importation
3 of fuel, food, and supplies to sustain its economy and
4 communities. In 2005, the legislature enacted Act 8, Special
5 Session Laws of Hawaii 2005, to establish the Hawaii 2050
6 sustainability task force. The task force was established to
7 review the Hawaii state plan and other fundamental components of
8 community planning, and to develop a Hawaii 2050 sustainability
9 plan to address the real, serious, and immediate problems the
10 State faces today and recommend various solutions to preserve
11 and maintain a healthy future for the State.

12 Since then, the interest in the concept of sustainability
13 has grown through the efforts of the task force; state and
14 county departments and agencies; local businesses and community
15 groups; and community engagement programs and projects. Private
16 industries and developers have introduced technology and
17 concepts that can assist communities into becoming more



1 sustainable and independent with minimal detrimental effects to
2 the environment and the economy. Sustainability has transformed
3 from the conceptual stage to an actual lifestyle that can be
4 achieved, but only through a comprehensive joint effort with the
5 government and the community.

6 The purpose of this Act is to develop and establish
7 sustainable communities in the State.

8 SECTION 2. The Hawaii Revised Statutes is amended by
9 adding a new chapter within title 13 to be appropriately
10 designated and to read as follows:

11 "CHAPTER

12 SUSTAINABLE COMMUNITIES

13 § -1 Sustainable communities; established; objectives.

14 To maintain and preserve a healthy quality of life and
15 environment for Hawaii's future generations, the State, in a
16 combined effort with all state departments and agencies, shall
17 develop and maintain sustainable communities that will:

- 18 (1) Generate its own energy onsite by utilizing
19 alternative energy sources to fulfill a large
20 percentage of its energy requirements, and become less
21 reliant on imported fossil fuels;



1 (2) Implement extensive recycling programs for its solid
2 waste management and avoid adding more waste to
3 landfills, which can result in further pollution and
4 other harmful affects to the environment;

5 (3) Implement an extensive wastewater recycling and
6 treatment management system that will enable the
7 community to conserve water and protect waters in and
8 around the State;

9 (4) Protect and preserve open space;

10 (5) Promote and encourage visitation to any nearby
11 cultural or historic sites, public beaches, shores,
12 trails, and other outdoor recreational areas by not
13 restricting public access to these areas;

14 (6) Provide affordable housing units for residents to
15 enable them to stay in Hawaii and provide shelter for
16 their families; and

17 (7) Educate and promote awareness that sustainability is
18 more than a concept, but a lifestyle that can be
19 achieved and implemented in the daily lives of Hawaii
20 residents.

21 § -2 **Applicability.** This chapter shall apply to
22 residential communities with development plans for fifty or more



1 residential units for which general planning, development, and
2 construction has commenced after December 31, 2007.

3 **§ -3 Community energy requirements. (a)**

4 Notwithstanding any provision under chapter 196 to the contrary,
5 the energy resource coordinator shall advise and coordinate with
6 other state departments and agencies and a developer who is
7 subject to this chapter to develop a plan on a case-by-case
8 basis that will enable a residential community in Hawaii for
9 which general planning, development, and construction has
10 commenced after December 21, 2007, to generate at least fifty
11 per cent of all of its energy requirements for the entire
12 community under development, including but not limited to
13 residential homes and areas and services provided for and used
14 by the entire community under development.

15 (b) The energy resources coordinator shall develop a plan
16 for the developer's implementation that explores all types of
17 energy resources, as defined under section 196-2, and determine
18 which resources are the most feasible for the community under
19 development to use to meet its energy needs and energy
20 generating requirements under this section.

21 (c) The coordinator shall cooperate and coordinate with
22 any state department or agency to expedite the application



1 process for any permits relating to generating energy, and allow
2 the state department or agency three hundred sixty days to
3 review and decide on the permit application. If the three
4 hundred sixty-day time period has expired on a state permit
5 application and no decision has been rendered, the permit shall
6 be deemed approved.

7 (d) The coordinator shall adopt rules in accordance with
8 chapter 91 to carry out the purposes of this chapter.

9 **§ -4 State department and agency cooperation and**
10 **compliance; required.** Each state department and agency shall
11 cooperate and comply with any request made pursuant to this
12 chapter from the energy resource coordinator. The department or
13 agency shall prioritize the energy resource coordinator's
14 request and expedite the processing thereof.

15 **§ -5 Community solid waste management requirements.** (a)
16 Notwithstanding any provision under chapter 342G to the
17 contrary, the director of health shall advise and coordinate
18 with other state departments and agencies and a developer who is
19 subject to this chapter to develop a plan on a case-by-case
20 basis that will enable a residential community in Hawaii for
21 which general planning, development, and construction has
22 commenced after December 31, 2007, to implement a comprehensive



1 recycling program. The purpose of the plan shall be to enable
2 the community to divert at least seventy-five per cent of its
3 solid waste from the landfills.

4 (b) The solid waste management plan shall include
5 provisions for recycling, bioconversion, and composting,
6 including recycling provisions for building or structure
7 demolition. The plan shall also provide safety measures for the
8 proper disposal and treatment of hazardous waste or materials
9 with hazardous components under chapter 342J. The director of
10 health shall explore all types of recycling programs and
11 determine which programs are the most feasible for the community
12 under development to implement and fulfill its solid waste
13 management requirements under this section.

14 (c) Notwithstanding any provision relating to permits
15 under chapter 342H or any other applicable chapter to the
16 contrary, the department of health shall expedite the
17 application process for any permit application from a developer
18 of a residential community that is subject to this chapter and
19 have three hundred sixty days to review and decide on the permit
20 application. If the three hundred sixty-day time period has
21 expired on a permit application and no decision has been
22 rendered, the permit shall be deemed approved.



1 (d) The director of health shall adopt rules in accordance
2 with chapter 91 to carry out the purposes of this chapter.

3 **§ -6 Community wastewater treatment and recycling.** (a)

4 Notwithstanding any provision under chapter 342D to the
5 contrary, the director of health shall advise and coordinate
6 with other state departments and agencies and a developer who is
7 subject to this chapter to develop a plan on a case-by-case
8 basis that will enable a residential community in Hawaii for
9 which general planning, development, and construction has
10 commenced after December 31, 2007, to implement a wastewater
11 treatment and recycling plan.

12 (b) The purpose of the plan is to enable the community
13 under development to treat and recycle all of its wastewater for
14 landscaping water requirements onsite of the community and any
15 agricultural water irrigation requirements offsite of the
16 community. The plan shall also provide safety measures for the
17 proper treatment and disposal of wastewater, which may contain
18 hazardous materials under chapter 342J. The director of health
19 shall explore all types of wastewater treatment and recycling
20 programs, and determine which programs are the most feasible for
21 the community under development to fulfill its wastewater
22 treatment and recycling requirements under this section.



1 (c) Notwithstanding any provision relating to permits
2 under chapter 342D or any other applicable section to the
3 contrary, the department of health shall expedite the
4 application process for any permit application from a developer
5 of a residential community that is subject to this chapter and
6 have three hundred sixty days to review and decide on the permit
7 application. If the three hundred sixty-day time period has
8 expired on a permit application and no decision has been
9 rendered, the permit shall be deemed approved.

10 (d) The director of health shall adopt rules in accordance
11 with chapter 91 to carry out the purposes of this chapter.

12 **§ -7 Community land use and planning.** (a)
13 Notwithstanding any provision under chapter 205 to the contrary,
14 the developer of any residential community in Hawaii for which
15 general planning, development, and construction has commenced
16 after December 31, 2007, shall coordinate with the energy
17 resources coordinator and land use commission and shall
18 cooperate and coordinate with other state departments and
19 agencies to develop a residential community land use plan that
20 is in compliance with this chapter.

21 (b) The development plan for the residential community
22 shall include but not be limited to:



1 (1) Designate at least fifty per cent of the entire tract
2 of land for the residential community for open space;
3 provided that:

4 (A) Open space shall not include areas designated for
5 golf courses; and

6 (B) Open space shall include the shoreline, if the
7 planned community abuts and includes shoreline
8 space.

9 (2) Be designed with the intent to be accessible by the
10 public and shall not be designed to be a gated
11 community; and

12 (3) Allow free and open access to any nearby cultural or
13 historic sites, public beaches, shore, parks, trails,
14 or other public recreational areas.

15 (c) The land use commission shall coordinate with any
16 state department or agency to expedite the application process
17 for any permit application from a developer of a residential
18 community that is subject to this chapter to provide other state
19 departments or agencies sufficient time to review and decide on
20 the permit application within the three hundred sixty-day permit
21 processing time period imposed under this chapter.



1 (d) The land use commission shall adopt rules in
2 accordance with chapter 91 to carry out the purposes of this
3 chapter.

4 **§ -8 Community affordable units.** (a) Notwithstanding
5 any provision under chapter 201H to the contrary, the developer
6 of a residential community in Hawaii for which the general
7 planning, development, and construction has commenced after
8 December 31, 2007, shall cooperate and coordinate with the
9 Hawaii housing finance and development corporation, as
10 necessary, to develop and implement a residential housing plan
11 that will designate and reserve at least forty per cent of all
12 of its residential units within the planned community for
13 affordable housing units.

14 (b) The Hawaii housing and finance development corporation
15 shall coordinate with any state department or agency to expedite
16 the application process for any permit application of a
17 residential community that is subject to this chapter and
18 relating to affordable residential unit development to allow any
19 department or agency subject to the three hundred sixty-day
20 permit processing time period imposed under this chapter to
21 review and decide on a permit application.



1 (c) The Hawaii housing and finance development corporation
2 shall adopt rules in accordance with chapter 91 to carry out the
3 purposes of this chapter.

4 **§ -9 Energy resource coordinator; ad hoc development**

5 **advisory committee convenor.** (a) The energy resource
6 coordinator shall convene ad hoc development advisory committees
7 to determine the feasibility of developing an integrated plan
8 for a sustainable residential community on any proposed tract of
9 land that fulfills the requirements under this chapter. The
10 advisory committees shall convene only when the residential
11 community plan proposes to develop fifty or more residential
12 units within the proposed community, and the general planning,
13 development, and construction has commenced after December 31,
14 2007.

15 (b) The members of the advisory committee shall consist
16 of:

- 17 (1) The residential community developer;
- 18 (2) The energy resources coordinator;
- 19 (3) The director of planning from the county in which the
20 development is planned for or the director's designee;
- 21 (4) The director of the office of planning or the
22 director's designee;



- 1 (5) The director of health or the director's designee; and
- 2 (6) The executive director of the Hawaii housing finance
- 3 and development corporation or the executive
- 4 director's designee.

5 The energy resources coordinator shall be the chairperson of the
6 advisory committee.

7 (c) Any development requirements established and agreed
8 upon between the energy resources coordinator, on behalf of an
9 ad hoc development advisory committee and the developer shall be
10 reduced in writing and shall be included in any executed
11 development agreement.

12 **§ -10 Failure to comply; penalty; enforcement.** (a) The
13 energy resources coordinator shall monitor the compliance of any
14 residential community that is subject to this chapter.

15 (b) If, up until one year after the completion of
16 development of a residential community subject to this chapter,
17 or at any point prior to completion, the energy resources
18 coordinator determines that a developer is not in compliance
19 with this chapter, the energy resources coordinator may fine the
20 developer for noncompliance and may require the developer to
21 suspend development until the noncompliance has been remedied.



1 (c) If noncompliance with this chapter occurs one year
 2 after completion of the residential community that is subject to
 3 this chapter, or at any time subsequent to one year after the
 4 development of the community is completed, the energy resources
 5 coordinator may enforce the requirements of this chapter against
 6 the community's association.

7 (d) The energy resources coordinator shall establish fines
 8 and penalties for noncompliance with this chapter under rules
 9 adopted pursuant to chapter 91."

10 SECTION 3. This Act shall take effect upon its approval
 11 and shall be repealed on July 1, 2012.

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Report Title:

Sustainable Communities

Description:

Establishes sustainable communities in Hawaii with the combined effort of state departments and agencies.

