
A BILL FOR AN ACT

RELATING TO INFRASTRUCTURE.

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

1 SECTION 1. The purpose of this Act is to establish an
2 infrastructure loan program. Under the program, the Hawaii
3 housing finance and development corporation is authorized to
4 make a loan to a developer of a for-sale affordable housing
5 project to finance the infrastructure for the project. In
6 return, the developer is required to pass-on to the housing unit
7 purchaser the savings realized from the state financed loan.

8 Loans under the program are to be made from revenue bond
9 proceeds.

10 SECTION 2. Chapter 201H, Hawaii Revised Statutes, is
11 amended by adding a new part to be appropriately designated and
12 to read as follows:

13 **"PART . INFRASTRUCTURE LOAN PROGRAM**

14 **§201H-A Infrastructure loan program; establishment,**
15 **purpose.** (a) There is established an infrastructure loan
16 program to be administered by the corporation.

17 (b) The purpose of the program shall be to make loans to
18 developers of for-sale affordable housing units to:



1 (1) Finance the construction of all or some of the
2 infrastructure necessary to serve the housing units;
3 and

4 (2) Require the savings realized from the use of state
5 financing, rather than private conventional financing,
6 be passed on to purchasers of the housing units.

7 **§201H-B Definitions.** For the purposes of this part:

8 "Eligible project" means a project that meets the
9 requirements of section 201H-C.

10 "Infrastructure" means wastewater collection, transmission,
11 or treatment facilities, drinking water distribution or storage
12 facilities, storm water drainage facilities, highways, transit
13 facilities, street lighting systems, energy utility systems, and
14 telecommunication systems.

15 "Loan" means an infrastructure loan made under this part.

16 "Relevant area median income" means the median annual
17 income, adjusted for family size, for households in the county
18 within which an eligible project is situated, as most recently
19 established by the United States Department of Housing and Urban
20 Development for the section 8 housing assistance payments
21 program.



1 **§201H-C Eligible project.** For a project to be eligible
2 for a loan under this part:

3 (1) At least seventy-five per cent of the land area
4 intended to be conveyed to private persons shall be
5 developed into lots for housing units to be sold in
6 fee simple; and

7 (2) All of the housing units to be developed shall be sold
8 by the developer at affordable prices to families
9 earning not more than one hundred forty per cent of
10 the relevant area median income.

11 An eligible project may be a subdivision, discrete phase of
12 a subdivision, or condominium property regime. The housing
13 units of an eligible project may be single-family dwelling
14 units, duplexes, multi-family dwellings, or a mixture thereof.

15 **§201H-D Loan to developer.** The corporation may enter into
16 an agreement with a developer of an eligible project to make a
17 loan to the developer for:

18 (1) Financing the construction of all or some of the
19 infrastructure necessary to serve the housing units to
20 be developed. The infrastructure financed by the loan
21 may be located:

22 (A) Within the boundaries of the eligible project; or



1 (B) Outside the boundaries of the eligible project if
2 the developer is required to construct off-site
3 infrastructure as a condition of a state or
4 county approval; or

5 (2) Paying an impact fee or monetary exaction imposed upon
6 the developer by a state or county agency to finance
7 infrastructure located outside the boundaries of the
8 eligible project.

9 **§201H-E Terms and conditions of loan.** (a) A loan
10 agreement between the corporation and developer shall include
11 the following terms and conditions:

12 (1) The loan proceeds shall be issued to the developer as
13 follows:

14 (A) If the loan is to be used by the developer to
15 construct the infrastructure, the loan proceeds
16 shall be transmitted to the developer in portions
17 as the ministerial permits are obtained for
18 constructing the infrastructure; or

19 (B) If the loan is to be used by the developer to pay
20 an impact fee or monetary exaction, the loan
21 proceeds shall be transmitted to the developer



1 before the impact fee or exaction payment to the
2 state or county agency is due;

3 (2) The loan shall bear the same interest rate as the
4 bonds, the proceeds of which are used to make the
5 loan;

6 (3) The term of the loan shall be the same as the term of
7 the bonds, the proceeds of which are used to make the
8 loan;

9 (4) Installment payments of principal and interest to
10 repay the loan shall be level amounts that are due
11 annually, but there shall be no prepayment penalty
12 imposed on the developer for early repayment of all or
13 a portion of the loan;

14 (5) The first installment payment shall be due one year
15 after the first certificate of occupancy is issued for
16 a housing unit of the eligible project;

17 (6) A penalty of ten per cent shall be imposed for each
18 month a payment of principal and interest is
19 delinquent;

20 (7) The infrastructure financed with the loan shall be
21 constructed in compliance with applicable state or
22 county standards;



1 (8) The developer shall make a lump sum repayment of a
2 portion of the loan, calculated in accordance with
3 section 201H-F, each time a housing unit is sold by
4 the developer to a purchaser; provided that the lump
5 sum repayment for a housing unit shall be secured by a
6 lien attached to the real property comprising the
7 unit;

8 (9) Installment repayments apportioned to real property
9 that is not a housing unit shall be secured by the
10 revenues from, or a lien attached to, the real
11 property; and

12 (10) The developer shall sell all housing units to low- or
13 moderate-income families at the prices agreed upon
14 between the corporation and developer pursuant to
15 section 201H-G.

16 (b) The corporation and developer may agree to any other
17 term or condition in the loan that is not inconsistent with
18 subsection (a).

19 **§201H-F Lump sum repayment when housing unit sold.** (a)
20 When a housing unit of an eligible project is sold by the
21 developer, the developer shall make a lump sum repayment of a
22 portion of the loan. The lump sum repayment amount required



1 when a particular housing unit is sold shall be a proportionate
2 share of the total debt service for the loan. The lump sum
3 repayment amount for the housing unit shall bear approximately
4 the same proportion to the total debt service that the fair
5 market value of the unit bears to the total value of all real
6 property within the eligible project that is intended to be sold
7 or leased to private persons. The corporation and developer
8 shall include provisions in the loan agreement to define the
9 method for calculating the lump sum repayment amount for each
10 housing unit.

11 (b) When the lump sum repayment for a particular housing
12 unit is made, the lien on that housing unit shall be
13 extinguished.

14 **§201H-G Pricing of housing units.** (a) As a condition of
15 a loan under this part, the developer and corporation shall
16 agree on the sales price of each housing unit in the eligible
17 project. The sales price agreed upon shall be affordable to a
18 family earning not more than one hundred forty per cent of the
19 relevant area median income, and shall reflect the savings
20 realized from the infrastructure financing loan made under this
21 part as compared to private conventional financing.



1 (b) Nothing in this chapter shall prohibit a developer
2 from selling a housing unit at a price less than the price
3 agreed upon under subsection (a); provided that the sale of a
4 housing unit at less than the price agreed upon shall not reduce
5 the lump sum repayment amount due from the developer as
6 established under section 201H-F.

7 **§201H-H Restrictions on housing units.** (a) The housing
8 units of an eligible project shall be subject to the
9 restrictions on use, sale, and transfer under sections 201H-47,
10 201H-48, and 201H-49.

11 (b) For the purposes of section 201H-47(a)(4)(B) and (C),
12 the savings on the sale price of a housing unit realized by the
13 use of a loan under this part, rather than private conventional
14 financing, shall not be deemed a "subsidy".

15 **§201H-I Financing of loan program.** (a) The loan program
16 under this part shall be financed by the proceeds of revenue
17 bonds issued pursuant to part III, subpart A.

18 The terms and conditions of the revenue bonds shall not be
19 inconsistent with any provision of this chapter, including any
20 term or condition required in a loan agreement under section
21 201H-E. If the revenue bonds cannot be issued without an



1 inconsistency, the revenue bonds shall not be issued, and no
2 loan under this part shall be made.

3 (b) The corporation may establish a sinking account for an
4 eligible project within the special fund established pursuant to
5 section 201H-80 to serve as a repository for portions of lump
6 sum repayments that are payable for future installments of debt
7 service on a loan.

8 (c) The corporation shall provide for the investment of
9 the funds in the special fund or sinking account in accordance
10 with section 201H-80. All income from any investments shall be
11 deposited into the special fund.

12 **§201H-J Credit to developer of savings in debt service**
13 **payments.** If the total debt service payments made, or to be
14 made, for a loan is less than the sum of the following:

15 (1) The lump sum repayments for a loan; and

16 (2) Any interest earned on the proceeds in the special
17 fund established for the loan,

18 the corporation shall credit the difference to the developer.

19 The corporation shall pay the credit in cash to the developer or
20 person designated by the developer in the loan agreement."

21 SECTION 3. Section 201H-72, Hawaii Revised Statutes, is
22 amended to read as follows:



1 "~~+~~§201H-72~~+~~ Issuance of bonds for the development of
2 **infrastructure.** Without limiting section 201H-71, the
3 corporation, pursuant to and in accordance with this subpart, is
4 ~~hereby~~ authorized to issue bonds for the purpose of financing
5 the development of infrastructure on land owned by the
6 corporation~~-~~ or making infrastructure loans pursuant to part
7 _____."

8 SECTION 4. The director of finance is authorized to issue
9 revenue bonds in the sum of \$ _____, or so much thereof as
10 may be necessary, and the same sum, or so much thereof as may be
11 necessary, is appropriated for fiscal year 2009-2010 for the
12 purpose of financing the infrastructure loan program under
13 chapter 201H, part _____, Hawaii Revised Statutes.

14 The sum appropriated shall be expended by the Hawaii
15 housing finance and development corporation for the purposes of
16 this Act.

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 on July 1, 2009.

20

INTRODUCED BY:

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Report Title:

Housing; Hawaii Housing and Finance Development Corporation;
Infrastructure

Description:

Establishes an infrastructure financing loan program to finance affordable housing infrastructure costs to lower the price of housing units.

