
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 500,000 residents.
- 5 "County median income" means the median income in a county,
6 as determined by the United States Department of Housing and
7 Urban Development and adjusted for family size.
- 8 "Eligible project" means a rental housing project that
9 meets all of the following requirements:
- 10 (1) Makes available for its entire useful life:
- 11 (A) At least fifty per cent of its dwelling units for
12 rent to families whose incomes do not exceed
13 eighty per cent of the county median income; and
- 14 (B) The remainder of its dwelling units for rent to
15 families whose incomes do not exceed one hundred
16 forty per cent of the county median income,
17 except that a project may still be an "eligible
18 project" if one dwelling unit is occupied by a



- 1 resident manager or caretaker whose income exceeds the
2 limit of this paragraph;
- 3 (2) Charges rent for every rental unit that does not
4 exceed the maximum amount set by the corporation;
- 5 (3) Has available at least fifteen, but not more than two
6 hundred rental units;
- 7 (4) Is located on not more than fifteen acres of land
8 within the county's urban growth boundary;
- 9 (5) Is not on land classified agricultural, rural, or
10 conservation;
- 11 (6) Is not on ceded land;
- 12 (7) Is not within the geographic area covered by a habitat
13 conservation plan or safe harbor agreement approved
14 under chapter 195D, part II, Hawaii Revised Statutes;
- 15 (8) Does not include any commercial, industrial, resort,
16 or transient accommodation unit or use;
- 17 (9) Does not exceed the structure height limit of the
18 underlying county zoning;
- 19 (10) Is designed and constructed to have a useful life of
20 at least thirty years;
- 21 (11) Is pledged, after its useful life, to be renovated,
22 reconstructed, or redeveloped in perpetuity into



1 successive eligible projects that have at least the
2 same number of rental units as the first project and
3 comply with paragraphs (1) through (13);

4 (12) Is subject to a regulatory agreement with the county
5 as required by section 6; and

6 (13) Is dedicated to meeting the requirements of paragraphs
7 (1) through (12).

8 "Land under a county's zoning jurisdiction" means land
9 within the boundaries of a county, but outside the following:
10 conservation district; Kakaako community development district of
11 section 206E-32; Kalaeloa community development district of
12 section 206E-193; and Aloha Tower complex of section 206J-3.

13 "Rental unit" means a dwelling unit in an eligible project
14 that is rented to a family. The term does not include the one
15 dwelling unit in an eligible project that may be occupied by a
16 resident manager or caretaker.

17 "Urban growth boundary" means the land designated under the
18 county's general, development, or sustainable community plan as
19 an urban growth, urban expansion, urban community, or urban
20 fringe area.

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 500,000**
5 **residents.** This Act shall only apply in a county with at least
6 500,000 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) If the developer of a proposed eligible project on
16 land under a county's zoning jurisdiction desires to have the
17 proposed project exempted from any county ordinance or rule
18 relating to planning, zoning, or construction standards for
19 subdivisions, development and improvement of land, or
20 construction of dwelling units thereon, the developer may submit
21 to the county an application for review and approval of the
22 proposed project in accordance with this section.



1 This section shall not exempt a proposed eligible project
2 from complying with:

3 (1) The county's building code, fire code, or other
4 ordinance or rule establishing minimum health and
5 safety requirements; or

6 (2) Structure height limit of the underlying county
7 zoning.

8 (c) The developer shall submit with the application the
9 preliminary plans and specifications for the proposed project,
10 including a list of requested exemptions.

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

20 No later than forty-five days from receipt of the
21 application, the county department shall submit to the county
22 council the preliminary plans and specifications, along with a



1 recommendation of approval or disapproval of the proposed
2 project. If the developer has agreed to a revision of the
3 preliminary plans and specifications, the county department
4 shall submit the revised preliminary plans and specifications.
5 If the developer has not agreed to any revision, the county
6 department shall submit the preliminary plans and specifications
7 in the form submitted with the application.

8 (d) The county council shall have forty-five days from
9 receipt of the preliminary plans and specifications from the
10 county department to act on the proposed eligible project.

11 (e) The county council may approve the preliminary plans
12 and specifications with or without modification.

13 Upon approval by the county council of the eligible
14 project, the preliminary plans and specifications, with the
15 requested exemptions, shall be deemed the final plans and
16 specifications. The final plans and specifications shall
17 constitute the planning, zoning, construction, and subdivision
18 standards for the project.

19 If the county council does not express its approval or
20 disapproval within the forty-five day period, the proposed
21 eligible project and submitted preliminary plans and



1 specifications shall be deemed approved by the county council on
2 the forty-sixth day.

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

10 (g) Once an eligible project is approved under this
11 section, the county shall expedite the review of the grading
12 permit, building permit, and other county ministerial permits
13 for the project and shall not:

- 14 (1) Unreasonably delay or deny the issuance of any
15 permits;
- 16 (2) Unreasonably delay or deny the issuance of a
17 certificate of occupancy for the project; or
- 18 (3) Charge an unreasonable fee for review of an
19 application for a grading permit, building permit,
20 other county ministerial permit, or certificate of
21 occupancy.



1 SECTION 4. Required connection of approved eligible
2 project to county infrastructure; required acceptance of offsite
3 infrastructure constructed to county standards. (a) If an
4 eligible project is approved by the county under section 3, the
5 county shall allow the project to connect to county-owned
6 infrastructure, including water, wastewater, drainage, and
7 highway systems, upon the payment of any applicable connection
8 fee that may be charged by the county.

9 (b) The county shall accept any offsite infrastructure
10 constructed and dedicated by the developer of the eligible
11 project if the infrastructure meets county standards set by
12 ordinance or rule.

13 SECTION 5. 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 is a "proposed action" subject to section
17 343-5, Hawaii Revised 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.



1 SECTION 6. **Regulatory agreement with developer of eligible**
2 **project.** The developer of an eligible project approved by the
3 county council under section 3 shall enter into a regulatory
4 agreement with the county before the developer commences any
5 work at the site of the project. The regulatory agreement shall
6 set forth the obligations and responsibilities of the developer
7 with respect to the project and shall be consistent with this
8 Act. The regulatory agreement shall include penalties that may
9 be imposed on the developer of the eligible project for failure
10 to comply with the regulatory agreement. The regulatory
11 agreement shall run with the land on which the eligible project
12 is situated and shall be binding upon the developer and any
13 subsequent owner.

14 The county shall monitor and enforce the terms and
15 conditions of the regulatory agreement.

16 SECTION 7. **Act superior to conflicting law.** This Act
17 shall be superior to any conflicting law, except any collective
18 bargaining or labor protection law or any law that protects
19 against adverse effects to health, safety, and the environment.

20 SECTION 8. **Effective date.** This Act shall take effect on
21 January 1, 2010.

22



H.B. NO. 1222

INTRODUCED BY:

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Report Title:

Housing; Affordable Rentals; 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.

