

JAN 23 2009

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# A BILL FOR AN ACT

RELATING TO AFFORDABLE HOUSING.

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

1           SECTION 1. In August 2007, Hawaii accepted an invitation  
2 by the United States Department of Housing and Urban Development  
3 to join the National Call to Action for Affordable Housing  
4 Through Regulatory Reform. The Call to Action presented an  
5 opportunity for Hawaii to receive technical assistance from the  
6 federal government and collaborate with other states, counties,  
7 municipalities, and organizations to knock down the barriers  
8 imposed by governments in hopes of building more affordable  
9 housing. Governor Lingle convened a statewide task force  
10 comprised of representatives from the counties, business, labor,  
11 developers, architects, non-profit providers of services, the  
12 State, and the legislature to carry out the mission of the Call  
13 to Action and recommend solutions to address barriers to  
14 affordable housing.

15           The State recognizes that the need for more affordable  
16 housing in Hawaii remains a significant problem affecting all  
17 segments of society. Although there is a process in place that



1 provides an opportunity to approve affordable housing project  
2 proposals in an expedited manner at the state and county levels,  
3 the ministerial permits that are issued subsequent to project  
4 approval may take a significant amount of time to issue. This  
5 delay adds costs to the affordable housing project, ultimately  
6 affecting the buyer or renter, and lengthens the time it takes  
7 for the unit to be constructed and occupied.

8 The purpose of this Act is to implement the legislative  
9 recommendations of the task force by establishing a forty-five  
10 day time limit on agency issuance of ministerial permits for  
11 approved affordable housing projects.

12 SECTION 2. Section 46-15.1, Hawaii Revised Statutes, is  
13 amended to read as follows:

14 **"§46-15.1 Housing; county powers.** (a) Any law to the  
15 contrary notwithstanding, any county shall have and may exercise  
16 the same powers, subject to applicable limitations, as those  
17 granted the Hawaii housing finance and development corporation  
18 pursuant to chapter 201H insofar as those powers may be  
19 reasonably construed to be exercisable by a county for the  
20 purpose of developing, constructing, and providing low- and  
21 moderate-income housing; provided that no county shall be  
22 empowered to cause the State to issue general obligation bonds



1 to finance a project pursuant to this section; provided further  
2 that county projects shall be granted an exemption from general  
3 excise or receipts taxes in the same manner as projects of the  
4 Hawaii housing finance and development corporation pursuant to  
5 section 201H-36; and provided further that section 201H-16 shall  
6 not apply to this section unless federal guidelines specifically  
7 provide local governments with that authorization and the  
8 authorization does not conflict with any state laws. The powers  
9 shall include the power, subject to applicable limitations, to:

- 10 (1) Develop and construct dwelling units, alone or in  
11 partnership with developers;
- 12 (2) Acquire necessary land by lease, purchase, exchange,  
13 or eminent domain;
- 14 (3) Provide assistance and aid to a public agency or other  
15 person in developing and constructing new housing and  
16 rehabilitating existing housing for elders of low- and  
17 moderate-income, other persons of low- and moderate-  
18 income, and persons displaced by any governmental  
19 action, by making long-term mortgage or interim  
20 construction loans available;



- 1           (4) Contract with any eligible bidders to provide for  
2           construction of urgently needed housing for persons of  
3           low- and moderate-income;
- 4           (5) Guarantee the top twenty-five per cent of the  
5           principal balance of real property mortgage loans,  
6           plus interest thereon, made to qualified borrowers by  
7           qualified lenders;
- 8           (6) Enter into mortgage guarantee agreements with  
9           appropriate officials of any agency or instrumentality  
10          of the United States to induce those officials to  
11          commit to insure or to insure mortgages under the  
12          National Housing Act, as amended;
- 13          (7) Make a direct loan to any qualified buyer for the  
14          downpayment required by a private lender to be made by  
15          the borrower as a condition of obtaining a loan from  
16          the private lender in the purchase of residential  
17          property;
- 18          (8) Provide funds for a share, not to exceed fifty per  
19          cent, of the principal amount of a loan made to a  
20          qualified borrower by a private lender who is unable  
21          otherwise to lend the borrower sufficient funds at



1 reasonable rates in the purchase of residential  
2 property; and

3 (9) Sell or lease completed dwelling units.

4 For purposes of this section, a limitation is applicable to  
5 the extent that it may reasonably be construed to apply to a  
6 county.

7 (b) Any law to the contrary notwithstanding, any county  
8 may:

9 (1) Authorize and issue bonds under chapter 47 and chapter  
10 49 to provide moneys to carry out the purposes of this  
11 section or section 46-15.2, including the satisfaction  
12 of any guarantees made by the county pursuant to this  
13 section;

14 (2) Appropriate moneys of the county to carry out the  
15 purposes of this section;

16 (3) Obtain insurance and guarantees from the State or the  
17 United States, or subsidies from either;

18 (4) Designate, after holding a public hearing on the  
19 matter and with the approval of the respective  
20 council, any lands owned by it for the purposes of  
21 this section;



1 (5) Provide interim construction loans to partnerships of  
2 which it is a partner and to developers whose projects  
3 qualify for federally assisted project mortgage  
4 insurance, or other similar programs of federal  
5 assistance for persons of low and moderate income; and

6 (6) Adopt rules pursuant to chapter 91 as are necessary to  
7 carry out the purposes of this section.

8 (c) The provisions of this section shall be construed  
9 liberally so as to effectuate the purpose of this section in  
10 facilitating the development, construction, and provision of  
11 low- and moderate-income housing by the various counties.

12 (d) State and county agencies shall issue any ministerial  
13 permits associated with a project within forty-five days from  
14 the date of approval of the project pursuant to this section or  
15 subsection 201H-38(a); provided that the review procedure for  
16 ministerial permits performed by any state or county agency is  
17 limited to not more than two comprehensive reviews.

18 [~~(d)~~] (e) For purposes of this section [~~,"low]~~]:

19 "Low and moderate income housing" means any housing project  
20 that meets the definition of "low- and moderate-income housing  
21 project" in section 39A-281.



1       "Ministerial permit" means any nondiscretionary permit for  
2 which the permit administrator needs to determine only  
3 conformity with applicable ordinances before approving the  
4 project."

5       SECTION 3. Section 201H-38, Hawaii Revised Statutes, is  
6 amended to read as follows:

7       "**§201H-38 Housing development; exemption from statutes,**  
8 **ordinances, charter provisions, and rules.** (a) The corporation  
9 may develop on behalf of the State or with an eligible  
10 developer, or may assist under a government assistance program  
11 in the development of, housing projects that shall be exempt  
12 from all statutes, ordinances, charter provisions, and rules of  
13 any government agency relating to planning, zoning, construction  
14 standards for subdivisions, development and improvement of land,  
15 and the construction of dwelling units thereon; provided that:

16       (1) The corporation finds the housing project is  
17 consistent with the purpose and intent of this  
18 chapter, and meets minimum requirements of health and  
19 safety;

20       (2) The development of the proposed housing project does  
21 not contravene any safety standards, tariffs, or rates  
22 and fees approved by the public utilities commission



1 for public utilities or of the various boards of water  
2 supply authorized under chapter 54;

3 (3) The legislative body of the county in which the  
4 housing project is to be situated shall have approved  
5 the project with or without modifications:

6 (A) The legislative body shall approve, approve with  
7 modification, or disapprove the project by  
8 resolution within forty-five days after the  
9 corporation has submitted the preliminary plans  
10 and specifications for the project to the  
11 legislative body. If on the forty-sixth day a  
12 project is not disapproved, it shall be deemed  
13 approved by the legislative body;

14 (B) No action shall be prosecuted or maintained  
15 against any county, its officials, or employees  
16 on account of actions taken by them in reviewing,  
17 approving, modifying, or disapproving the plans  
18 and specifications; and

19 (C) The final plans and specifications for the  
20 project shall be deemed approved by the  
21 legislative body if the final plans and  
22 specifications do not substantially deviate from





1           the preliminary plans and specifications. The  
2           final plans and specifications for the project  
3           shall constitute the zoning, building,  
4           construction, and subdivision standards for that  
5           project. For purposes of sections 501-85 and  
6           502-17, the executive director of the corporation  
7           or the responsible county official may certify  
8           maps and plans of lands connected with the  
9           project as having complied with applicable laws  
10          and ordinances relating to consolidation and  
11          subdivision of lands, and the maps and plans  
12          shall be accepted for registration or recordation  
13          by the land court and registrar; and

14        (4) The land use commission shall approve, approve with  
15          modification, or disapprove a boundary change within  
16          forty-five days after the corporation has submitted a  
17          petition to the commission as provided in section  
18          205-4. If, on the forty-sixth day, the petition is  
19          not disapproved, it shall be deemed approved by the  
20          commission.

21        (b) State and county agencies shall issue any ministerial  
22 permits associated with a project within forty-five days from



1 the date of approval of the project pursuant to subsection (a)  
 2 or section 46-15.1; provided that the review procedure for  
 3 ministerial permits performed by any state or county agency is  
 4 limited to not more than two comprehensive reviews.

5 ~~[(b)]~~ (c) For the purposes of this section~~[, "government"]~~:

6 "Government assistance program" means a housing program  
 7 qualified by the corporation and administered or operated by the  
 8 corporation or the United States or any of their political  
 9 subdivisions, agencies, or instrumentalities, corporate or  
 10 otherwise.

11 "Ministerial permit" means any nondiscretionary permit for  
 12 which the permit administrator needs to determine only  
 13 conformity with applicable ordinances before approving the  
 14 project."

15 SECTION 4. Statutory material to be repealed is bracketed  
 16 and stricken. New statutory material is underscored.

17 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY: Norman Sokemph  
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**Report Title:**

Affordable Housing; Ministerial Permit; 45-Day Limit

**Description:**

Requires state and county agencies to issue any ministerial permits for affordable housing projects within forty-five days of a county legislative body's approval of the project.

