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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 46-15.1, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:  
3           "(a) Any law to the contrary notwithstanding, any county  
4 shall have and may exercise the same powers, subject to  
5 applicable limitations, as those granted the Hawaii housing  
6 finance and development corporation pursuant to chapter 201H  
7 insofar as those powers may be reasonably construed to be  
8 exercisable by a county for the purpose of developing,  
9 constructing, and providing low- and moderate-income housing;  
10 provided that no county shall be empowered to cause the State to  
11 issue general obligation bonds to finance a project pursuant to  
12 this section; [~~provided further that county projects shall be~~  
13 ~~granted an exemption from general excise or receipts taxes in~~  
14 ~~the same manner as projects of the Hawaii housing finance and~~  
15 ~~development corporation pursuant to section 201H-36; and]~~ and  
16 provided further that section 201H-16 shall not apply to this  
17 section unless federal guidelines specifically provide local  
18 governments with that authorization and the authorization does



1 not conflict with any state laws. The powers shall include the  
2 power, subject to applicable limitations, to:

- 3 (1) Develop and construct dwelling units, alone or in  
4 partnership with developers;
- 5 (2) Acquire necessary land by lease, purchase, exchange,  
6 or eminent domain;
- 7 (3) Provide assistance and aid to a public agency or other  
8 person in developing and constructing new housing and  
9 rehabilitating existing housing for elders of low- and  
10 moderate-income, other persons of low- and moderate-  
11 income, and persons displaced by any governmental  
12 action, by making long-term mortgage or interim  
13 construction loans available;
- 14 (4) Contract with any eligible bidders to provide for  
15 construction of urgently needed housing for persons of  
16 low- and moderate-income;
- 17 (5) Guarantee the top twenty-five per cent of the  
18 principal balance of real property mortgage loans,  
19 plus interest thereon, made to qualified borrowers by  
20 qualified lenders;
- 21 (6) Enter into mortgage guarantee agreements with  
22 appropriate officials of any agency or instrumentality



1 of the United States to induce those officials to  
2 commit to insure or to insure mortgages under the  
3 National Housing Act, as amended;

4 (7) Make a direct loan to any qualified buyer for the  
5 downpayment required by a private lender to be made by  
6 the borrower as a condition of obtaining a loan from  
7 the private lender in the purchase of residential  
8 property;

9 (8) Provide funds for a share, not to exceed fifty per  
10 cent, of the principal amount of a loan made to a  
11 qualified borrower by a private lender who is unable  
12 otherwise to lend the borrower sufficient funds at  
13 reasonable rates in the purchase of residential  
14 property; and

15 (9) Sell or lease completed dwelling units.

16 For purposes of this section, a limitation is applicable to  
17 the extent that it may reasonably be construed to apply to a  
18 county."

19 SECTION 2. Section 201H-36, Hawaii Revised Statutes, is  
20 amended to read as follows:

21 "[+]§201H-36[+] **Exemption from general excise taxes.** (a)

22 In accordance with section 237-29, the corporation may approve



1 and certify for exemption from general excise taxes any  
2 qualified person or firm involved with a newly constructed, or  
3 moderately or substantially rehabilitated project:

4 (1) Developed under this part;

5 (2) Developed under a government assistance program  
6 approved by the corporation, including but not limited  
7 to the United States Department of Agriculture 502  
8 program and Federal Housing Administration 235  
9 program;

10 (3) Developed under the sponsorship of a private nonprofit  
11 organization providing home rehabilitation or new  
12 homes for qualified families in need of decent, low-  
13 cost housing; or

14 (4) Developed by a qualified person or firm to provide  
15 affordable rental housing where at least fifty per  
16 cent of the available units are for households with  
17 incomes at or below eighty per cent of the area median  
18 family income as determined by the United States  
19 Department of Housing and Urban Development, of which  
20 at least twenty per cent of the available units are  
21 for households with incomes at or below sixty per cent  
22 of the area median family income as determined by the



1 United States Department of Housing and Urban  
2 Development.

3 (b) All claims for an exemption under this section shall  
4 be filed with [and certified by] the corporation and [forwarded  
5 to] reviewed by the corporation and the department of  
6 taxation[-] prior to any initial or renewal certification;  
7 provided that renewal certification shall be obtained every four  
8 years and each certification may be audited by the auditor as  
9 directed by the legislature. Any claim for exemption that is  
10 filed and approved, shall not be considered a subsidy for the  
11 purpose of this part. All funds collected from claims that do  
12 not meet the requirements for an exemption, as determined by a  
13 review by the corporation and the department of taxation, shall  
14 be deposited into the rental housing trust fund.

15 (c) The department of taxation shall maintain an annual  
16 and cumulative record of all tax exemptions claimed under this  
17 section. The corporation shall submit its annual record to the  
18 legislature no later than twenty days prior to the convening of  
19 every regular session, beginning with the 2012 regular session.

20 Notwithstanding any other law to the contrary, including  
21 chapter 92F, all records maintained by the corporation under  
22 this section shall be public records and shall be made available



1 upon request, except for proprietary information which shall not  
2 be made available; provided that the corporation may charge a  
3 reasonable reproduction fee for the requested records.

4 [~~e~~] (d) For the purposes of this section:

5 "Moderate rehabilitation" means rehabilitation to upgrade a  
6 dwelling unit to a decent, safe, and sanitary condition, or to  
7 repair or replace major building systems or components in danger  
8 of failure.

9 "Substantial rehabilitation":

10 (1) Means the improvement of a property to a decent, safe,  
11 and sanitary condition that requires more than routine  
12 or minor repairs or improvements. It may include but  
13 is not limited to the gutting and extensive  
14 reconstruction of a dwelling unit, or cosmetic  
15 improvements coupled with the curing of a substantial  
16 accumulation of deferred maintenance; and

17 (2) Includes renovation, alteration, or remodeling to  
18 convert or adapt structurally sound property to the  
19 design and condition required for a specific use, such  
20 as conversion of a hotel to housing for elders.

21 [~~d~~] (e) The corporation may establish, revise, charge, and  
22 collect a reasonable service fee, as necessary, in connection



1 with its approvals and certifications under this section. The  
2 fees shall be deposited into the [~~dwelling unit revolving fund.~~]  
3 rental housing trust fund."

4 SECTION 3. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

6 SECTION 4. This Act, upon its approval, shall apply to  
7 taxable years beginning after December 31, 2010; provided that  
8 the amendments made to section 46-15.1, Hawaii Revised Statutes,  
9 under section 1 of this Act, shall not be repealed when that  
10 section is reenacted on June 30, 2015, pursuant to section 3 of  
11 Act 141, Session Laws of Hawaii 2009.



**Report Title:**

Taxation; Public Housing Projects

**Description:**

Deletes language allowing county affordable housing projects to have the same general excise tax and receipt tax exemptions as the Hawaii Housing Finance and Development Corporation (HHFDC); requires all general excise tax exemption claims to be filed with HHFDC and reviewed by HHFDC and the Department of Taxation prior to certification; requires renewal certification every four years and an audit of each certification, and annual report to legislature. (HB1306 HD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

