

# SB 3025, SD1

## **RELATING TO AFFORDABLE HOUSING CREDITS**

### *Description:*

Amends section 46-15.1(b), HRS, to clarify that certain county affordable housing requirements shall not impair, restrict, or condition a county's obligation to issue affordable housing credits to the department of Hawaiian home lands or apply credits in satisfaction of all county requirements.

Effective 7/1/2050. (SD1)



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
TWENTY-SIXTH LEGISLATURE, 2012**

---

**ON THE FOLLOWING MEASURE:**

**S.B. NO. 3025, S.D. 1, RELATING TO AFFORDABLE HOUSING CREDITS.**

**BEFORE THE:**

**SENATE COMMITTEE ON  
PUBLIC SAFETY, GOVERNMENT OPERATIONS, AND MILITARY**

**DATE:** Tuesday, February 21, 2012 **TIME:** 2:45 p.m.

**LOCATION:** State Capitol, Room 224

**TESTIFIER(S):** David M. Louie, Attorney General, or  
Diane K. Taira, Deputy Attorney General, or  
Craig Y. Iha, Deputy Attorney General

---

Chair Espero and Members of the Committee:

The Department of the Attorney General (the "Department") offers the following comments on this bill.

We understand that this bill is intended to clarify that county requirements regarding affordable housing units shall not impair the application of affordable housing credits issued to the Department of Hawaiian Home Lands (DHHL) under section 46-15.1, Hawaii Revised Statutes (HRS).

To further the intent of this bill, the Department suggests two revisions: (1) clarify the term "one-unit for one-unit basis" found in section 46-15.1, HRS; and (2) define the term "affordable housing obligations."

First, the term, "one-unit for one-unit basis" is ambiguous and therefore subject to differing interpretations. If the intent is for all units in Hawaiian home lands to qualify for credits, the section should be amended to clearly provide this. Likewise, if the scope is intended to be more narrowly defined, the definition should be written accordingly.

Second, we suggest defining the term “affordable housing obligations,” because affordable housing requirements may vary from county to county.

We respectfully recommend that the Committees make these suggested amendments.

Council Chair  
Danny A. Mateo

Vice-Chair  
Joseph Pontanilla

Council Members  
Gladys C. Baisa  
Robert Carroll  
Elle Cochran  
Donald G. Couch, Jr.  
G. Riki Hokama  
Michael P. Victorino  
Mike White



Director of Council Services  
Ken Fukuoka

**COUNTY COUNCIL**  
COUNTY OF MAUI  
200 S. HIGH STREET  
WAILUKU, MAUI, HAWAII 96793  
[www.maui-county.gov/council](http://www.maui-county.gov/council)

February 18, 2012

TO: The Honorable Will Espero, Chair  
Senate Committee on Public Safety, Government Operations, and Military Affairs

FROM: Danny A. Mateo  
Council Chair

SUBJECT: **HEARING OF FEBRUARY 21, 2012; TESTIMONY IN OPPOSITION TO SB 3025, SD 1, RELATING TO AFFORDABLE HOUSING CREDITS**

A handwritten signature in cursive script that reads "Danny A. Mateo".

Thank you for the opportunity to testify in opposition to this important measure. The purpose of this measure is to amend Section 46-15.1(b), Hawaii Revised Statutes, to clarify that certain county affordable housing requirements shall not impair, restrict, or condition a county's obligation to apply affordable housing credits issued to the Department of Hawaiian Home Lands ("DHHL") in satisfaction of all county requirements.

The Maui County Council has not had the opportunity to take a formal position on this measure. Therefore, I am providing this testimony in my capacity as an individual member of the Maui County Council.

I oppose this measure for the following reasons:

1. This measure strips the counties' authority to effectively restrict or condition affordable housing credits. It creates a mechanism that would enable DHHL to transfer or assign affordable housing credits to developers of luxury homes without restriction.
2. The transfer of DHHL credits to a private developer in satisfaction of the developer's affordable housing obligations imposed by the county would circumvent Maui County's residential workforce housing policy. The measure would also undo any control the county might hope to exert through its conditional zoning or subdivision process in dictating how affordable units are to be provided, in violation of home rule principles. None of the conditions that a county may impose with respect to timing for construction of affordable housing, types of affordable units, or even the community plan area in which the housing is to be constructed would be enforceable.
3. The measure does nothing to clarify current uncertainty as to how such credits are to be issued. It handicaps rather than clarifies the counties' role in determining where and when such affordable housing credits will be used and how the credits will be calculated.

For the foregoing reasons, I oppose this measure.