
A BILL FOR AN ACT

RELATING TO THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY'S
AFFORDABLE HOUSING REQUIREMENT.

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

1 SECTION 1. The legislature finds that the Hawaii community
2 development authority was established to meet "vast, unmet
3 community needs," including "a lack of suitable affordable
4 housing." The legislature further finds that in the thirty-
5 seven years since the establishment of the authority, although
6 the need for affordable housing in Honolulu has grown to its
7 greatest extent ever, the authority has added only a limited
8 amount of affordable housing. Currently, over ninety per cent
9 of the units under consideration for approval by the authority
10 are intended for households earning the Honolulu median income
11 or higher, which is not "affordable housing."

12 Moreover, the legislature finds that the authority has
13 ignored the legislature's charge to define "reserved housing" as
14 "affordable housing" under section 206E-4(18), Hawaii Revised
15 Statutes, and as "low- or moderate-income" housing under section
16 206E-101, Hawaii Revised Statutes. Instead, the authority has
17 redefined "reserved housing" as up to one hundred forty per cent



1 of the area median income, "as determined by the United States
2 Department of Housing and Urban Development" under section 15-
3 218-32(a), Hawaii Administrative Rules, even though the
4 Department of Housing and Urban Development defines "low income"
5 as below sixty per cent of area median income and "moderate
6 income" as below eighty per cent of area median income.
7 Similarly, the authority improperly defines "workforce housing"
8 as housing available to residents earning between one hundred
9 per cent and one hundred forty per cent of area median income
10 under section 15-218-55, Hawaii Administrative Rules, which is
11 also contrary to the Department of Housing and Urban
12 Development's definitions of "low- or moderate-income" housing.

13 Furthermore, the legislature finds that in Kakaako, the
14 authority is approving development projects for an offshore
15 market that will increase congestion in Honolulu while straining
16 local infrastructure. These policies stand in contrast to the
17 objectives of the city and county of Honolulu, which currently
18 requires affordable housing units for new developments to
19 comprise at least ten per cent of units priced below eighty per
20 cent of area median income and twenty per cent of units priced
21 below one hundred twenty per cent of area median income, and
22 imposes strict prohibitions against reselling or renting homes



1 at market rates (also known as "flipping") over a fixed buyback
2 period. The authority has failed to adopt policies that
3 encourage affordable housing, in the process drawing development
4 toward Kakaako that, were it to occur elsewhere in Honolulu,
5 would be required to provide affordable housing.

6 In addition, the legislature finds that city policies work
7 to build affordable housing and, therefore, determines that
8 under the existing circumstances, the authority should be
9 required to adopt affordable housing rules at least as strict
10 and restrictive as those adopted by the city and county of
11 Honolulu.

12 The purpose of this Act is to bring the authority's policy
13 on affordable housing into greater conformity with the
14 affordable housing policies of the city and county of Honolulu.

15 SECTION 2. Section 206E-4, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "§206E-4 Powers; generally. Except as otherwise limited
18 by this chapter, the authority may:

- 19 (1) Sue and be sued;
20 (2) Have a seal and alter the same at pleasure;



- 1 (3) Make and execute contracts and all other instruments
2 necessary or convenient for the exercise of its powers
3 and functions under this chapter;
- 4 (4) Make and alter bylaws for its organization and
5 internal management;
- 6 (5) Make rules with respect to its projects, operations,
7 properties, and facilities, which rules shall be in
8 conformance with chapter 91;
- 9 (6) Through its executive director appoint officers,
10 agents, and employees, prescribe their duties and
11 qualifications, and fix their salaries, without regard
12 to chapter 76;
- 13 (7) Prepare or cause to be prepared a community
14 development plan for all designated community
15 development districts;
- 16 (8) Acquire, reacquire, or contract to acquire or
17 reacquire by grant or purchase real, personal, or
18 mixed property or any interest therein; to own, hold,
19 clear, improve, and rehabilitate, and to sell, assign,
20 exchange, transfer, convey, lease, or otherwise
21 dispose of or encumber the same;



- 1 (9) Acquire or reacquire by condemnation real, personal,
2 or mixed property or any interest therein for public
3 facilities, including but not limited to streets,
4 sidewalks, parks, schools, and other public
5 improvements;
- 6 (10) By itself, or in partnership with qualified persons,
7 acquire, reacquire, construct, reconstruct,
8 rehabilitate, improve, alter, or repair or provide for
9 the construction, reconstruction, improvement,
10 alteration, or repair of any project; own, hold, sell,
11 assign, transfer, convey, exchange, lease, or
12 otherwise dispose of or encumber any project, and in
13 the case of the sale of any project, accept a purchase
14 money mortgage in connection therewith; and repurchase
15 or otherwise acquire any project that the authority
16 has theretofore sold or otherwise conveyed,
17 transferred, or disposed of;
- 18 (11) Arrange or contract for the planning, replanning,
19 opening, grading, or closing of streets, roads,
20 roadways, alleys, or other places, or for the
21 furnishing of facilities or for the acquisition of



- 1 property or property rights or for the furnishing of
2 property or services in connection with a project;
- 3 (12) Grant options to purchase any project or to renew any
4 lease entered into by it in connection with any of its
5 projects, on terms and conditions as it deems
6 advisable;
- 7 (13) Prepare or cause to be prepared plans, specifications,
8 designs, and estimates of costs for the construction,
9 reconstruction, rehabilitation, improvement,
10 alteration, or repair of any project, and from time to
11 time to modify the plans, specifications, designs, or
12 estimates;
- 13 (14) Provide advisory, consultative, training, and
14 educational services, technical assistance, and advice
15 to any person, partnership, or corporation, either
16 public or private, to carry out the purposes of this
17 chapter, and engage the services of consultants on a
18 contractual basis for rendering professional and
19 technical assistance and advice;
- 20 (15) Procure insurance against any loss in connection with
21 its property and other assets and operations in
22 amounts and from insurers as it deems desirable;



- 1 (16) Contract for and accept gifts or grants in any form
2 from any public agency or from any other source;
- 3 (17) Do any and all things necessary to carry out its
4 purposes and exercise the powers given and granted in
5 this chapter; and
- 6 (18) Allow satisfaction of [any] affordable housing
7 requirements imposed by the authority upon any
8 proposed development project through the construction
9 of reserved housing, as defined in section 206E-101,
10 by a person on land located inside or outside the
11 geographic boundaries of the authority's jurisdiction;
12 provided that the authority shall not permit any
13 person to make cash payments in lieu of providing
14 reserved housing, except to account for any fractional
15 unit that results after calculating the percentage
16 requirement against residential floor space or total
17 number of units developed. The substituted housing
18 shall be located on the same island as the development
19 project and shall be substantially equal in value to
20 the required reserved housing units that were to be
21 developed on site. The authority shall establish the



1 following priority in the development of reserved
2 housing:

- 3 (A) Within the community development district;
- 4 (B) Within areas immediately surrounding the
5 community development district;
- 6 (C) Areas within the central urban core;
- 7 (D) In outlying areas within the same island as the
8 development project.

9 The Hawaii community development authority shall
10 adopt rules relating to the approval of reserved
11 housing that are developed outside of a community
12 development district. The rules shall include, but
13 are not limited to, the establishment of guidelines to
14 ensure compliance with the above priorities."

15 SECTION 3. Section 206E-5, Hawaii Revised Statutes, is
16 amended by amending subsection (d) to read as follows:

17 "(d) Whenever possible, planning activities of the
18 authority shall be coordinated with federal, state and county
19 plans. Consideration shall be given to state goals and
20 policies, adopted state plan or land use guidance policies,
21 county general plans, development plans, and ordinances [-];
22 provided that the authority's rules shall require reserved



1 housing for low- and moderate-income residents in a manner
2 consistent with the city and county of Honolulu's requirements
3 for affordable housing, as set forth in section 206E-101."

4 SECTION 4. Section 206E-7, Hawaii Revised Statutes, is
5 amended to read as follows:

6 " ~~[+]~~ §206E-7 ~~[+]~~ **Community development rules.** The authority
7 shall establish community development rules under chapter 91 on
8 health, safety, building, planning, zoning, and land use which,
9 upon final adoption of a community development plan, shall
10 supersede all other inconsistent ordinances and rules relating
11 to the use, zoning, planning, and development of land and
12 construction thereon~~[-]~~; provided that the authority's rules
13 shall require reserved housing for low- and moderate-income
14 residents in a manner consistent with the city and county of
15 Honolulu's requirements for affordable housing, as set forth in
16 section 206E-101. Rules adopted under this section shall follow
17 existing law, rules, ordinances, and regulations as closely as
18 is consistent with standards meeting minimum requirements of
19 good design, pleasant amenities, health, safety, and coordinated
20 development. The authority may, in the community development
21 plan or by a community development rule, provide that lands
22 within a community development district shall not be developed



1 beyond existing uses or that improvements thereon shall not be
2 demolished or substantially reconstructed, or provide other
3 restrictions on the use of the lands."

4 SECTION 5. Section 206E-15, Hawaii Revised Statutes, is
5 amended by amending subsection (a) to read as follows:

6 "(a) If the authority deems it desirable to develop a
7 residential project, it may enter into an agreement with
8 qualified persons to construct, maintain, operate, or otherwise
9 dispose of the residential project. Sale, lease, or rental of
10 dwelling units in the project shall be as provided by the rules
11 established by the authority[-]; provided that the authority's
12 rules shall require reserved housing for low- and moderate-
13 income residents in a manner consistent with the city and county
14 of Honolulu's requirements for affordable housing, as set forth
15 in section 206E-101. The authority may enter into cooperative
16 agreements with the Hawaii housing finance and development
17 corporation for the financing, development, construction, sale,
18 lease, or rental of dwelling units and projects."

19 SECTION 6. Section 206E-101, Hawaii Revised Statutes, is
20 amended by adding a new definition to be appropriately inserted
21 and to read as follows:



1 "Workforce housing" means housing designated for residents
2 in the low- or moderate-income ranges in housing developments in
3 which seventy-five per cent of residential units in each
4 separate project building are set aside for low- or moderate-
5 income households, with at least 37.5 per cent of the
6 residential units in each separate project building set aside
7 for low-income households, provided that, as used in this
8 definition:

9 (1) "Low-income" means household income no greater than
10 eighty per cent of the area median income for
11 Honolulu; and

12 (2) "Moderate-income" means household income no greater
13 than one hundred twenty per cent of the area median
14 income for Honolulu;

15 provided further that the authority's rules shall be at least as
16 strict and restrictive as the rules of the city and county of
17 Honolulu regarding affordable housing, including terms of
18 restrictions on the transfer of title, the sale of affordable-
19 housing units, and buyback provisions set forth in the city and
20 county of Honolulu's unilateral agreements."



1 SECTION 7. Section 206E-101, Hawaii Revised Statutes, is
2 amended by amending the definition of "reserved housing" to read
3 as follows:

4 "Reserved housing" means housing designated for residents
5 in the low- or moderate-income ranges who meet such eligibility
6 requirements as the authority may adopt by rule[-]; provided
7 that, as used in this definition:

8 (1) "Low-income" means household income no greater than
9 eighty per cent of the area median income for
10 Honolulu; and

11 (2) "Moderate-income" means household income no greater
12 than one hundred twenty per cent of the area median
13 income for Honolulu;

14 provided further that the authority's rules shall be at least as
15 strict and restrictive as the rules of the city and county of
16 Honolulu regarding affordable housing, including terms of
17 restrictions on the transfer of title, the sale of affordable-
18 housing units, and buyback provisions set forth in the city and
19 county of Honolulu's unilateral agreements."

20 SECTION 8. This Act does not affect rights and duties that
21 matured, penalties that were incurred, and proceedings that were
22 begun before its effective date.



1 SECTION 9. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 10. This Act shall take effect on July 1, 2014.

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Report Title:

Hawaii Community Development Authority; Affordable Housing

Description:

Requires the Hawaii Community Development Authority to implement affordable-housing policies that are in greater conformity with those of the City and County of Honolulu. Effective July 1, 2014.

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