

# S .B. NO. 1075

JAN 28 2015

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## A BILL FOR AN ACT

RELATING TO GENERAL EXCISE TAX EXEMPTIONS FOR CERTIFIED OR APPROVED HOUSING PROJECTS.

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

1 SECTION 1. Section 201H-36, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "[+] §201H-36 [+] Exemption from general excise taxes. (a)

4 In accordance with section 237-29, the corporation may approve  
5 and certify for exemption from general excise taxes any  
6 qualified person or firm involved with a newly constructed, or  
7 moderately or substantially rehabilitated project:

8 (1) Developed under this part;

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

14 (3) Developed under the sponsorship of a private nonprofit  
15 organization providing home rehabilitation or new  
16 homes for qualified families in need of decent, low-  
17 cost housing; or

1           (4) Developed by a qualified person or firm to provide  
2           affordable rental housing where at least fifty per  
3           cent of the available units are for households with  
4           incomes at or below eighty per cent of the area median  
5           family income as determined by the United States  
6           Department of Housing and Urban Development, of which  
7           at least twenty per cent of the available units are  
8           for households with incomes at or below sixty per cent  
9           of the area median family income as determined by the  
10          United States Department of Housing and Urban  
11          Development.

12          (b) To obtain certification for exemption under this  
13 section, rental housing projects shall, unless exempted by the  
14 corporation, enter into a regulatory agreement with the  
15 corporation to ensure the project's continued compliance with  
16 the applicable eligibility requirements set forth in subsection

17 (a), as follows:

18          (1) For moderate rehabilitation projects, a minimum term  
19          of five years as specified in a regulatory agreement;

20          (2) For substantial rehabilitation projects, a minimum  
21          term of ten years as specified in a regulatory  
22          agreement; or

1        (3) For new construction projects, a minimum term of  
2        thirty years from the date of issuance of the  
3        certificate of occupancy.

4        [~~(b)~~] (c) All claims for exemption under this section  
5 shall be filed with and certified by the corporation and  
6 forwarded to the department of taxation. Any claim for  
7 exemption that is filed and approved, shall not be considered a  
8 subsidy for the purpose of this part.

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

10       "Moderate rehabilitation" means rehabilitation to upgrade a  
11 dwelling unit to a decent, safe, and sanitary condition, or to  
12 repair or replace major building systems or components in danger  
13 of failure.

14       "Substantial rehabilitation":

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

22       (2) Includes renovation, alteration, or remodeling to  
23       convert or adapt structurally sound property to the

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1 design and condition required for a specific use, such  
2 as conversion of a hotel to housing for elders.

3 [~~d~~] (e) The corporation may establish, revise, charge,  
4 and collect a reasonable service fee, as necessary, in  
5 connection with its approvals and certifications under this  
6 section. The fees shall be deposited into the dwelling unit  
7 revolving fund."

8 SECTION 2. This Act does not affect rights and duties that  
9 matured, penalties that were incurred, and proceedings that were  
10 begun before its effective date.

11 SECTION 3. Statutory material to be repealed is bracketed  
12 and stricken. New statutory material is underscored.

13 SECTION 4. This Act, upon its approval, shall take effect  
14 on July 1, 2016, and shall apply to projects with an initial  
15 certification date after June 30, 2016.

16  
17 INTRODUCED BY: 

18 BY REQUEST

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**Report Title:**

General Excise Tax Exemptions for Certified or Approved Housing Projects

**Description:**

Ensures that certain eligible housing projects will remain affordable for certain minimum periods to be certified for exemption from general excise taxes.

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

JUSTIFICATION SHEET

DEPARTMENT: Business, Economic Development, and Tourism

TITLE: A BILL FOR AN ACT RELATING TO GENERAL EXCISE TAX EXEMPTIONS FOR CERTIFIED OR APPROVED HOUSING PROJECTS.

PURPOSE: To clarify that affordable rental projects must remain affordable for a reasonable minimum period to be eligible for an exemption from general excise taxes.

MEANS: Amend section 201H-36, Hawaii Revised Statutes.

JUSTIFICATION: The Hawaii Housing Finance and Development Corporation (HHFDC) is the certifying agency for exemptions from general excise taxes for housing projects pursuant to section 201H-36, Hawaii Revised Statutes. Presently, there is no minimum statutory affordability term required of rental projects under this section.

HHFDC is concerned that there is potential for abuse unless the intent of this exemption is clarified. For example, under current law, a rental project with an expiring affordability commitment period could request GET exemptions to construct improvements even though it is intended to convert the project to a market project in the near future.

HHFDC proposes clarifying that projects seeking certification of construction expenditures under this subsection must meet certain minimum affordability terms as specified in a regulatory agreement. This ensures that any improvements to the project will accrue to the benefit of lower income households.

Impact on the public: Ensures that general excise tax exemptions intended to provide an incentive for the development and construction of affordable housing goes to projects that will remain affordable for a significant portion of the useful life of those improvements.

Impact on the department and other agencies:  
Minimal.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM  
DESIGNATION: BED 160.

OTHER AFFECTED  
AGENCIES: Department of Taxation.

EFFECTIVE DATE: July 1, 2016, and shall apply to projects with an initial certification date after June 30, 2016.