

SB 1244

Measure Title: RELATING TO AFFORDABLE HOUSING.
Report Title: Affordable Housing Units; Transfer
Description: Authorizes qualified nonprofit housing trusts to repurchase affordable units developed with government assistance when a government entity waives its first right of refusal to repurchase the unit.
Companion:
Package: None
Current Referral: HOU/GVO, WAM
Introducer(s): ESPERO, HARIMOTO, K. Kahele, Keith-Agaran, Nishihara

DAVID Y. IGE
GOVERNOR



CRAIG K. HIRAI
EXECUTIVE DIRECTOR

STATE OF HAWAII

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND TOURISM
HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION
677 QUEEN STREET, SUITE 300
Honolulu, Hawaii 96813
FAX: (808) 587-0600

IN REPLY REFER TO:

Statement of
Craig K. Hirai
Hawaii Housing Finance and Development Corporation
Before the

SENATE COMMITTEE ON HOUSING
SENATE COMMITTEE ON GOVERNMENT OPERATIONS

February 14, 2017 at 2:45 p.m.

State Capitol, Room 225

In consideration of
S.B. 1244
RELATING TO AFFORDABLE HOUSING.

The HHFDC *supports the intent* of sections 3 and 4 of S.B.1244, and *requests amendments* to address specific concerns. We defer to the Hawaii Community Development Authority with respect to the remainder of the bill.

Section 201H-47(a), HRS, requires the imposition of a 10 year buy back restriction on real property developed and sold under Chapter 201H, HRS. The buy back restriction gives HHFDC the first option to purchase real property sold by the initial purchaser at a price set by formula in Chapter 15-307, Hawaii Administrative Rules. HHFDC may then sell the real property to another first time homebuyer. However, if HHFDC does not have the funds available, allowing a nonprofit housing entity committed to providing housing opportunities for first-time homebuyers to exercise this option instead may be worthwhile.

We have attached requested amendments in the form of a proposed S.D. 1 for your consideration, including an amendment to the definition of "qualified nonprofit housing trust" to limit its provisions to only capable and trustworthy entities. We also have proposed a technical amendment to ensure that the qualified nonprofit housing trust properly accounts for HHFDC's Shared Appreciation Equity restriction in calculating the buy back price.

We also note for the record, that if adopted, S.B. 1244 would require the approval of the Federal Housing Administration (FHA), Federal National Mortgage Association (Fannie Mae), and the Federal Home Loan Mortgage Corporation (Freddie Mac). Their approval is needed to ensure that they are willing to purchase mortgages on homes that are subject to this material change to the existing buy back restriction. Without these assurances, lenders might not be willing to write mortgage loans on HHFDC-assisted for-sale developments.

Thank you for the opportunity to testify.

A BILL FOR AN ACT

RELATING TO AFFORDABLE HOUSING.

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

1 SECTION 1. The legislature finds that the shortage of
2 safe, decent, and sanitary housing has been a persistent problem
3 in Hawaii for decades. Almost 50 years ago, in 1970, the Hawaii
4 state legislature recognized the need to address the severe
5 shortfall of affordable housing and passed H.B. No. 397, as
6 amended, which was enacted into law as Act 105, Session Laws of
7 Hawaii 1970, and codified as chapter 359A, Hawaii Revised
8 Statutes. This enabling legislation expanded the powers of the
9 then Hawaii Housing Authority to provide for-sale affordable
10 housing units to the general public, in addition to providing
11 affordable rental housing units. This legislation was the
12 predecessor to what is today known as the Hawaii housing finance
13 and development corporation.

14 In Act 105, the legislature noted "a critical shortage of
15 housing units for lower and middle income residents" and
16 emphasized the importance of affordable housing to the fabric of
17 society. Act 105 also cited studies indicating that the high
18 cost of housing is the result of multiple factors, including

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1 "the cost and availability of land, the cost of development, the
2 cost and availability of financing, the cost added by government
3 regulation, the cost and availability of labor and materials,
4 the inflationary state of the economy", and "conflicting
5 priorities in our pluralistic society".

6 The legislature further finds that, almost a half century
7 after Act 105, the shortage of affordable housing still exists
8 and has grown to crisis proportions. With the limited amount of
9 developable land and the lack of needed infrastructure, we find
10 median prices for single family homes on Oahu hovering at around
11 \$750,000. Recent studies show a need for 60,000 housing units
12 by the year 2020. It is necessary, therefore, for the
13 legislature to take steps to preserve existing affordable
14 housing units for as long as possible. This has not been the
15 case in recent years relative to government-assisted or mandated
16 affordable housing units. Because of the lack of financial or
17 other resources, government agencies have often opted to waive
18 their right of first refusal to repurchase housing units that
19 are sold within the designated restriction period.

20 The purpose of this Act is to authorize a qualified
21 nonprofit housing trust to repurchase affordable units developed
22 with government assistance when a government entity elects to

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1 waive its first right of refusal to repurchase the unit. The
2 intent is to create a pool of affordable housing units that will
3 remain permanently affordable through the purchase and
4 management of the units by the housing trust.

5 SECTION 2. Chapter 206E, Hawaii Revised Statutes, is
6 amended by adding a new section to be appropriately designated
7 and to read as follows:

8 "§206E- Reserved and workforce housing units; transfer
9 to qualified nonprofit housing trust. Any law to the contrary
10 notwithstanding, the authority may authorize a designated
11 qualified nonprofit housing trust to administer the covenants
12 and rules related to the reserved housing and workforce housing
13 programs. Additionally, the authority may waive its right to
14 repurchase a reserved or workforce housing unit during the
15 restriction period and may transfer that right of repurchase to
16 a qualified nonprofit housing trust for the purpose of
17 maintaining the reserved or workforce housing unit as an
18 affordable housing unit. If the repurchase rights are
19 transferred to a qualified nonprofit housing trust, the
20 restrictions prescribed in this chapter or in rules adopted by
21 the authority shall be automatically extinguished and shall not
22 attach in subsequent transfers of title; provided further that

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1 the qualified nonprofit housing trust shall have the right to
2 establish new restrictions in order to effectuate the long-term
3 affordability of a housing unit."

4 SECTION 3. Section 201H-1, Hawaii Revised Statutes, is
5 amended by adding a new definition to be appropriately inserted
6 and to read as follows:

7 "Qualified nonprofit housing trust" means a corporation,
8 association, or other duly chartered organization that is
9 registered and in good standing with the State; has received
10 charitable status under the Internal Revenue Code of 1986, as
11 amended; and has the capacity, resources, and mission to carry
12 out the requirements of this chapter as determined by the
13 corporation."

14 SECTION 4. Section 201H-47, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "§201H-47 Real property; restrictions on transfer; waiver
17 of restrictions. (a) The following restrictions shall apply to
18 the transfer of real property developed and sold under this
19 chapter, whether in fee simple or leasehold:

20 (1) For a period of ten years after the purchase, whether
21 by lease, assignment of lease, deed, or agreement of
22 sale, if the purchaser wishes to transfer title to the

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1 real property, the corporation shall have the first
2 option to purchase the real property at a price that
3 shall not exceed the sum of:

4 (A) The original cost to the purchaser, as defined in
5 rules adopted by the corporation;

6 (B) The cost of any improvements added by the
7 purchaser, as defined in rules adopted by the
8 corporation; ~~and~~

9 (C) Simple interest on the original cost and capital
10 improvements to the purchaser at the rate of one
11 per cent a year; and

12 (D) The corporation's share of net appreciation in
13 the real property, as determined under rules
14 adopted pursuant to chapter 91, when applicable.

15 (2) The corporation may purchase the real property either:

16 (A) By conveyance free and clear of all mortgages and
17 liens; or

18 (B) By conveyance subject to existing mortgages and
19 liens.

20 If the real property is conveyed in the manner
21 provided in subparagraph (A), it shall be conveyed to
22 the corporation only after all mortgages and liens are

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1 released. If the real property is conveyed in the
2 manner provided in subparagraph (B), the corporation
3 shall acquire the property subject to any first
4 mortgage created for the purpose of securing the
5 payment of a loan of funds expended solely for the
6 purchase of the real property by the seller; and any
7 mortgage or lien created for any other purpose
8 provided that the corporation has previously consented
9 to it in writing.

10 The corporation's interest created by this
11 section shall constitute a statutory lien on the real
12 property and shall be superior to any other mortgage
13 or lien except for:

- 14 (i) Any first mortgage created for the purpose
15 of securing the payment of a loan of funds
16 expended solely for the purchase of the real
17 property by the seller;
- 18 (ii) Any mortgage insured or held by a federal
19 housing agency; and
- 20 (iii) Any mortgage or lien created for any other
21 purpose; provided that the corporation has
22 previously consented to it in writing.

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1 The amount paid by the corporation to the seller shall
2 be the difference, if any, between the purchase price
3 determined by paragraph (1) (A) to (C), and the total
4 of the outstanding principal balances of the mortgages
5 and liens assumed by the corporation;

6 (3) A purchaser may refinance real property developed and
7 sold under this chapter; provided that the purchaser
8 shall not refinance the real property within ten years
9 from the date of purchase for an amount in excess of
10 the purchase price as determined by paragraph (1) (A)
11 to (C); provided further that the purchaser shall
12 obtain the corporation's written consent if any
13 restriction on the transfer of the real property
14 remains applicable;

15 (4) After the end of the tenth year from the date of
16 initial purchase or execution of an agreement of sale,
17 the purchaser may sell the real property and sell or
18 assign the property free from any price restrictions;
19 provided that the purchaser shall be required to pay
20 to the corporation the sum of:

21 (A) The balance of any mortgage note, agreement of
22 sale, or other amount owing to the corporation;

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1 (B) Any subsidy or deferred sales price made by the
2 corporation in the acquisition, development,
3 construction, and sale of the real property, and
4 any other amount expended by the corporation not
5 counted as costs under section 201H-45 but
6 charged to the real property by good accounting
7 practice as determined by the corporation whose
8 books shall be prima facie evidence of the
9 correctness of the costs;

10 (C) Interest on the subsidy or deferred sales price,
11 if applicable, and any other amount expended at
12 the rate of seven per cent a year computed as to
13 the subsidy or deferred sales price, if
14 applicable, from the date of purchase or
15 execution of the agreement of sale, and as to any
16 amount expended, from the date of expenditure;
17 provided that the computed interest shall not
18 extend beyond thirty years from the date of
19 purchase or execution of the agreement of sale of
20 the real property. If any proposed sale or
21 transfer will not generate an amount sufficient
22 to pay the corporation the sum as computed under

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1 this paragraph, the corporation shall have the
2 first option to purchase the real property at a
3 price that shall not exceed the sum as computed
4 under paragraphs (1) and (2); and

5 (D) The corporation's share of appreciation in the
6 real property as determined under rules adopted
7 pursuant to chapter 91, when applicable;

8 (5) Notwithstanding any provision in this section to the
9 contrary, pursuant to rules adopted by the
10 corporation, the subsidy or deferred sales price
11 described in paragraph (4) (B) and any interest accrued
12 pursuant to paragraph (4) (C) may be paid, in part or
13 in full, at any time; and

14 (6) Notwithstanding any provision in this section to the
15 contrary, the corporation's share of appreciation in
16 the real property described in paragraph (4) (D):

17 (A) Shall apply when the sales price of the real
18 property that is developed and sold under this
19 chapter is less than the then-current,
20 unencumbered, fair market value of the real
21 property as determined by a real property

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1 appraisal obtained prior to the closing of the
2 sale;

3 (B) Shall be a restriction that runs with the land
4 until it is paid in full and released by the
5 corporation, or extinguished pursuant to
6 subsection (e); and

7 (C) May be paid, in part or in full, at any time
8 after recordation of the sale.

9 (b) If the corporation waives its first option to
10 repurchase the unit as provided in subsection (a), a qualified
11 nonprofit housing trust shall have the option to purchase the
12 unit at the price and in the manner set forth in subsection (a).

13 [~~(b)~~] (c) For a period of ten years after the purchase,
14 whether by lease, assignment of lease, deed, or agreement of
15 sale, if the purchaser wishes to transfer title to the real
16 property, and if the corporation or the qualified nonprofit
17 housing trust selected by the corporation does not exercise the
18 option to purchase the real property as provided in subsection
19 (a) within a reasonable amount of time, then the corporation
20 shall require the purchaser to sell the real property to a
21 "qualified resident" as defined in section 201H-32, and upon the
22 terms that preserve the intent of this section and sections

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1 201H-49 and 201H-50, and in accordance with rules adopted by the
2 corporation.

3 ~~[(e)]~~ (d) The corporation may waive the restrictions
4 prescribed in subsection (a) or (b) if:

5 (1) The purchaser wishes to transfer title to the real
6 property by devise or through the laws of descent to a
7 family member who would otherwise qualify under rules
8 established by the corporation;

9 (2) The sale or transfer of the real property would be at
10 a price and upon terms that preserve the intent of
11 this section without the necessity of the State
12 repurchasing the real property; provided that, in this
13 case, the purchaser shall sell the real property and
14 sell or assign the real property to a person who is a
15 "qualified resident" as defined in section 201H-32;
16 and provided further that the purchaser shall pay to
17 the corporation its share of appreciation in the real
18 property as determined in rules adopted pursuant to
19 chapter 91, when applicable; or

20 (3) The sale or transfer is of real property subject to a
21 sustainable affordable lease as defined in section
22 516-1.

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2 ~~[(d)]~~ (e) The corporation may release the restrictions
3 prescribed in subsection (a) or (b) if the real property is
4 financed under a federally subsidized mortgage program and the
5 restrictions would jeopardize the federal government's ability
6 to recapture any interest credit subsidies provided to the
7 homeowner.

8 ~~[(e)]~~ (f) The restrictions prescribed in this section and
9 sections 201H-49 to 201H-51 shall be automatically extinguished
10 and shall not attach in subsequent transfers of title when a
11 qualified nonprofit housing trust becomes the owner of the real
12 property pursuant to subsection (b); or a mortgage holder or
13 other party becomes the owner of the real property pursuant to a
14 mortgage foreclosure, foreclosure under power of sale, or a
15 conveyance in lieu of foreclosure after a foreclosure action is
16 commenced; provided that the mortgage is the initial purchase
17 money mortgage, or that the corporation consented to and agreed
18 to subordinate the restrictions to the mortgage when originated,
19 if the mortgage is not the initial purchase money mortgage; or
20 when a mortgage is assigned to a federal housing agency. Any
21 law to the contrary notwithstanding, a mortgagee under a
22 mortgage covering real property or leasehold interest encumbered

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1 by the first option to purchase in favor of the corporation,
2 prior to commencing mortgage foreclosure proceedings, shall
3 notify the corporation in writing of:

4 (1) Any default of the mortgagor under the mortgage within
5 ninety days after the occurrence of the default; and

6 (2) Any intention of the mortgagee to foreclose the
7 mortgage under chapter 667 forty-five days prior to
8 commencing mortgage foreclosure proceedings;

9 provided that the mortgagee's failure to provide written notice
10 to the corporation shall not affect the mortgage holder's rights
11 under the mortgage. The corporation shall be a party to any
12 foreclosure action, and shall be entitled to its share of
13 appreciation in the real property as determined under this
14 chapter in lien priority when the payment is applicable, and if
15 foreclosure occurs within the ten-year period after the
16 purchase, the corporation shall also be entitled to all proceeds
17 remaining in excess of all customary and actual costs and
18 expenses of transfer pursuant to default, including liens and
19 encumbrances of record; provided that the person in default
20 shall be entitled to an amount that shall not exceed the sum of
21 amounts determined pursuant to subsection (a) (1) (B) and (C).

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1 ~~[(f)]~~ (g) The provisions of this section shall be
2 incorporated in any deed, lease, agreement of sale, or any other
3 instrument of conveyance issued by the corporation. In any sale
4 by the corporation of real property for which a subsidy or
5 deferred sales price was made by the corporation, the amount of
6 the subsidy or deferred sales price described in subsection
7 (a) (4) (B), a description of the cost items that constitute the
8 subsidy or deferred sales price, and the conditions of the
9 subsidy or deferred sales price shall be clearly stated at the
10 beginning of the contract document issued by the corporation.
11 In any sale in which the corporation's share of appreciation in
12 real property is a restriction, the terms of the shared
13 appreciation equity program shall be clearly stated and included
14 as an exhibit in any deed, lease, agreement of sale, or any
15 other instrument of conveyance.

16 ~~[(g)]~~ (h) This section need not apply to market-priced
17 units in an economically integrated housing project, except as
18 otherwise determined by the developer of the units; provided
19 that preference shall be given to qualified residents in the
20 initial sale of market-priced units.

21 ~~[(h)]~~ (i) The corporation is authorized to waive any of
22 the restrictions set forth in this section in order to comply

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1 with or conform to requirements set forth in federal law or
2 regulations governing mortgage insurance or guarantee programs
3 or requirements set forth by federally chartered secondary
4 mortgage market participants.

5 (j) Any law to the contrary notwithstanding, if a housing
6 unit is purchased by a qualified nonprofit housing trust, the
7 housing trust shall have the right to establish new restrictions
8 in order to effectuate the long-term affordability of a housing
9 unit."

10 SECTION 5. Section 206E-2, Hawaii Revised Statutes, is
11 amended by adding three new definitions to be appropriately
12 inserted and to read as follows:

13 "Qualified nonprofit housing trust" means a corporation,
14 association, or other duly chartered organization that is
15 registered and in good standing with the State; has received
16 charitable status under the Internal Revenue Code of 1986, as
17 amended; and has the capacity and resources as determined by the
18 authority to carry out the requirements of the reserved housing
19 and workforce housing programs.

20 "Reserved housing" means housing designated for residents
21 in the low-income or moderate-income ranges who meet such
22 eligibility requirements as the authority may adopt by rule.

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1 "Workforce housing" means new residential projects where at
2 least seventy-five per cent of the residential units are set
3 aside for purchase or rent by households earning no more than
4 one hundred forty per cent of the area median income and which
5 do not require financial assistance for design and construction
6 from federal, state or county government agencies."

7 SECTION 6. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9 SECTION 7. This Act does not affect rights and duties that
10 matured, penalties that were incurred, and proceedings that were
11 begun before its effective date.

12 SECTION 8. This Act shall take effect upon its approval.

13



DAVID Y. IGE
GOVERNOR
SHAN S. TSUTSUI
LT. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
335 MERCHANT STREET, ROOM 310
P.O. Box 541
HONOLULU, HAWAII 96809
Phone Number: 586-2850
Fax Number: 586-2856
cca.hawaii.gov

CATHERINE P. AWAKUNI COLÓN
DIRECTOR
JO ANN M. UCHIDA TAKEUCHI
DEPUTY DIRECTOR

TO THE SENATE COMMITTEES ON
HOUSING
AND
GOVERNMENT OPERATIONS

TWENTY-NINTH STATE LEGISLATURE
REGULAR SESSION OF 2017

Tuesday, February 14, 2017
2:45 p.m.
Conference Room: 225

WRITTEN ONLY

TESTIMONY ON SENATE BILL NO. 1244, RELATING TO AFFORDABLE HOUSING

TO THE HONORABLE WILL ESPERO, CHAIR,
AND TO THE HONORABLE DONNA MERCADO KIM, CHAIR,
AND MEMBERS OF THE COMMITTEES:

Thank you for the opportunity to testify. My name is Henry Tanji, Acting Commissioner of Securities of the Department of Commerce and Consumer Affairs (Department). The purpose of this bill is to allow "qualified nonprofit trusts" to create a pool of affordable housing units by repurchasing affordable units developed with government assistance after the government entity elects not to repurchase the unit. While we take no position on this bill, we would like to offer comments for your consideration.

In its current form, this bill defines "Qualified nonprofit housing trusts" as a:

corporation, association, or other duly chartered organization that is registered and in good standing with the State; has received charitable status under the Internal Revenue Code of 1986, as amended; and has been established to maintain the affordability of rental or for-sale units for as long as practicable.” (Emphasis added.)

With respect to associations, the law does not require a registration with the Department’s Business Registration Division (BREG), therefore, we do not have a registration solely for associations. However, an association may register its name as a Trade Name. Please note that BREG does not issue a Certificate of Good Standing for Trade Names. Instead, the name expires automatically 5 years after registration unless renewed. Only corporations, partnerships, and limited liability companies are issued a Certificate of Good Standing if they comply with all business registration filing requirements.

In addition, we wish to inform this Committee that our business registration rules prohibit the registration of an entity and/or trade names that contain the word “trust” unless the entity is a financial institution authorized to do business under HRS chapter 412. Hawaii Administrative Rules 16-36-15(d)(1) states:

The terms “financial institution”, “bank”, “banker”, “banking”, “banc”, “savings bank”, “savings and loan”, “savings association”, “financial services loan company”, “credit union”, “trust company”, “intrapacific bank”, “international banking corporation”, or “trust” shall not be used unless authorized to engage in business as a financial institution in this

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State or is otherwise approved by the commissioner of financial
institutions pursuant to chapter 412, HRS. (Emphasis added.)

Thank you for the opportunity to provide comments on this bill. If you have any
questions, please feel free to contact the Department.



**Hawai'i
HomeOwnership
Center**

NeighborWorks® HomeOwnership Center

1259 Aala Street, Suite 201
Honolulu, Hawaii 96817
Phone: (808) 523-9500
Fax: (808) 523-9502
www.hihomeownership.org

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February 10, 2017

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The Honorable Will Espero, Chair
Senate Committee on Housing
The Honorable Donna Mercado Kim, Chair
Senate Committee on Government Operations
State Capitol
Honolulu, Hawaii

Re: Testimony in Support of SB 1244 Relating to Affordable Housing

Hearing: Tuesday, February 14, 2017 at 2:45 pm
State Capitol, Conference Room 225

Dear Chair Espero, Chair Kim and Members of the Joint Senate Committee on Housing and Government Operations:

I am Dennis Oshiro, Executive Director of the Hawaii HomeOwnership Center, testifying in **strong support** of S.B. 1244, Relating to Affordable Housing. This bill would enable a qualified nonprofit housing trust to repurchase affordable units developed with government assistance when a government entity elects to waive its right to repurchase those units. The purpose of this bill is to ensure that affordable units remain permanently affordable for Hawaii residents.

As the bill's findings point out, the shortage of safe, decent and sanitary housing has been a persistent problem in Hawaii for decades. Back in 1970, the Hawaii State Legislature noted a critical shortage of housing units for lower and middle income residents and emphasized the importance of affordable housing to the fabric of society. In response, the Legislature passed a bill (Act 105, SLH 1970) giving the State (and counties) broad powers to address the affordable housing shortfall. Included in the bill were restrictions, such as a 10-year owner-occupancy requirement and a 10-year buyback restriction, to ensure that the below-market units were not to be used for speculative purposes. The buyback provision gave the State/county the first right of refusal to repurchase the unit based on a set formula.

Almost 50 years later, the shortage of affordable housing still exists and has grown to crisis proportions. With median prices for single family homes on Oahu hovering at around \$750,000, and the need for an estimated 60,000 housing units by the year 2020, it is incumbent for the Legislature to take steps to preserve as many existing affordable housing units for as long as possible. One way to preserve affordable units is to ensure that units built with government assistance or built pursuant to developer exactions remain affordable for as long as possible. We have found that affordable units are often lost to the open market when government waives the right to repurchase units that are subject to buyback restrictions. To prevent this from happening, this bill seeks to enable a qualified nonprofit housing trust to purchase government-assisted affordable housing units when a government entity waives its right to do so. The unit would then be kept in the housing trust's affordable housing inventory, thereby preserving the affordability of those units for as long as possible.



The Hawaii HomeOwnership Center (HHOC) is a HUD-approved home buyer counseling agency that has been instrumental in assisting 1,550 families become successful and sustainable new home buyers since 2003. Almost one half of them were in the low income group according to HUD, earning less than 80% of the area median income when they first joined the program. Since inception, HHOC has proven to be flexible in its services provided to meet the current community needs. Aside from home buyer education we have offered foreclosure prevention counseling (now discontinued) to more than 1,000 families in need. In 2009, we established a down payment assistance loan program and have experienced 100% on-time payments to date. In 2016, sensing a need to preserve affordable homes for present and future home buyers, HHOC Housing and Land Trust was formed by HHOC. SB1244 is its first step towards forming partnerships with government to achieve this mutual goal.

We have had discussions on this bill with various government and trade organizations and, based on those discussions, we would like to propose a few amendments which are attached hereto.

I urge your support of this measure, as amended, and will be happy to work with your committees in making any further amendments that are deemed necessary. Thank you for your consideration.

Sincerely,



Dennis Oshiro
Executive Director

PROPOSED AMENDMENTS TO S.B. 1244

1) Page 4, lines 4-6 – Change the proviso to read as follows:

“...provided, further that the qualified nonprofit housing trust shall [have the right to] establish new **perpetual buyback** restrictions in order to effectuate the long-term affordability of a housing unit.”

Rationale for amendment: This clarifying language would prevent the possibility of the following scenario. A new nonprofit is formed as a result of the law being passed. The nonprofit acquires deed-restricted units, sits on them until the buyback period expires, then turns around and sells them on the open market when the buyback period has expired.

2) Page 15, lines 16-20. Amend subsection (j) to read as follows:

“(j) Any law to the contrary notwithstanding, if a housing unit is purchased by a qualified nonprofit housing trust, the housing trust shall [have the right to] establish new **perpetual buyback** restrictions in order to effectuate the long-term affordability of a housing unit.”

Rationale for amendment: Same as (1) above.

3) Page 4, lines 11 – 16 – Change the definition of “Qualified nonprofit housing trust” to read as follows:

“‘Qualified nonprofit housing trust’ means a corporation, association, or other duly chartered organization which is registered and in good standing with the State; which has received charitable status under the Internal Revenue Code of 1986, as amended; and has been established to maintain the affordability of rental and/or for-sale units for as long as practicable. **the capacity, resources and mission to carry out the purposes of this chapter as determined by the corporation.**”

Rationale for amendment: The amended definition would help to ensure that in order to be eligible to purchase restricted units under the State or county’s affordable housing program, the nonprofit would have to have the wherewithal to purchase and maintain the units in its affordable housing inventory for as long as practicable. The nonprofit housing trusts’ mission would also have to be aligned with the purposes of Chapter 201E, HRS (and Chapter 46-15.1, HRS).

4) **Pages 15-16 – Add a new SECTION to the bill which would read as follows:**

SECTION 5. Chapter 46, Hawaii Revised Statutes is amended by amending subsection 46-15.1 to read as follows:

(d) Any law to the contrary notwithstanding, a county may waive its right to repurchase a privately-developed affordable housing unit built pursuant to a unilateral agreement or similar instrument, and may transfer that right of repurchase to a qualified nonprofit housing trust for the purpose of maintaining the unit as affordable for as long as practicable. For the purposes of this subsection, the term 'qualified nonprofit housing trust' means a corporation, association, or other duly chartered organization which is registered and in good standing with the State; which has received charitable status under the Internal Revenue Code of 1986, as amended; and which has the capacity, resources and mission to carry out the purposes of this chapter as determined by the county in which the housing unit is located.

[(d)] (e) The provisions of this section shall be construed liberally so as to effectuate the purpose of this section in facilitating the development, construction, and provision of low- and moderate-income housing by the various counties.

[(e)] (f) For purposes of this section, "low and moderate income housing" means any housing project that meets the definition of "low- and moderate-income housing project" in section 39A-281."

Rationale for amendment: Section 46-15.1, HRS, pertains to the counties' housing programs and would allow the counties to transfer their right of first refusal to repurchase affordable housing units that are developed pursuant to unilateral agreements or similar instruments to a qualified nonprofit housing trust.


5) Page 16 – Amend the definition of “Workforce housing” to read as follows:


“‘Workforce housing’ means new residential project(s) where at least seventy-five percent of the residential units are set aside for purchase or rent [by households earning no more than one hundred forty per cent of the AMI] **for residents in the low-income or moderate-income ranges who meet such eligibility requirements as the authority may adopt by rule** and which does not require financial assistance for design and construction from Federal, State or county government bodies.”

Rationale for amendment: HCDA is currently undergoing rule changes for its affordable housing program. The proposed language change would ensure that the statutory language is consistent with rules adopted by HCDA.



**Hawai'i
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 | 808-733-7060

 | 808-737-4977

 | 1259 A'ala Street, Suite 300
Honolulu, HI 96817

February 14, 2017

The Honorable Will Espero, Chair
Senate Committee on Housing

The Honorable Donna Mercado Kim, Chair
Senate Committee on Government Operations
State Capitol, Room 225
Honolulu, Hawaii 96813

RE: S.B. 1244, Relating to Affordable Housing

HEARING: Tuesday, February 14, 2017, at 2:45 p.m.

Aloha Chair Espero, Chair Kim, and Members of the Committees.

I am Myoung Oh, Director of Government Affairs, here to testify on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i, and its 9,000 members. HAR **supports** S.B. 1244 which authorizes qualified nonprofit housing trusts to repurchase affordable units developed with government assistance when a government entity waives its first right of refusal to repurchase the unit.

According to the Department of Business, Economic Development and Tourism, nearly 66,000 housing units are needed to meet long-term demand over the next ten years. Hawai'i needs more homes and rentals, especially affordable ones, to meet today's needs of our working individuals and families.

This measure would enable qualified nonprofit housing trusts to repurchase affordable units to ensure that the affordable units will permanently remain in the affordable housing pool.

With the limited amount of developable land, lack of needed infrastructure, and high rent and housing costs, it makes sense to preserve the affordability of those units for as long as possible.

Mahalo for the opportunity to testify in support of this measure.



THE GENTRY COMPANIES



The Honorable Will Espero, Chair
Senate Committee on Housing
The Honorable Donna Mercado Kim, Chair
Senate Committee on Government Operations
State Capitol
Honolulu, Hawaii

Dear Chair Espero, Chair Kim and Members of the Joint Senate Committee on Housing and Government Operations:

Re: Testimony in Support of SB 1244 Relating to Affordable Housing

Hearing: Tuesday, February 14, 2017 at 2:45 pm; Conference Room 225

My name is Debbie Luning, Director of Government Affairs and Community Relations for Gentry Homes and a member of the Board of Directors of both the Hawaii HomeOwnership Center and the new HHOC Housing and Land Trust. I am testifying in **strong support** of S.B. 1244 which seeks to preserve government-assisted or government-mandated affordable housing for as long as possible. This bill seeks to do that by enabling a qualified nonprofit housing trust to repurchase affordable units developed with government involvement when a government entity elects to waive its right to repurchase those units.

I've been involved with affordable housing for over 40 years, and I have witnessed our State's shortage of decent, affordable homes grow to crisis proportions. For a variety of reasons, homes are not being built quickly enough to keep up with the pent-up demand. It is therefore incumbent that we preserve Hawaii's existing affordable housing inventory, particularly those that have been built with government involvement – for as long as possible. Please support this bill which is intended do just that.

Thank you for your consideration.

Sincerely,

GENTRY HOMES, LTD.

A handwritten signature in black ink, appearing to read 'Debra M. A. Luning'. The signature is fluid and cursive, with a prominent initial 'D'.

Debra M. A. Luning



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Suzanne Young, Chief Executive Officer
Honolulu Board of Realtors

Testimony in Strong Support of SB 1244 – Relating to Housing
Hawaii Senate Committees on Housing and Government Operations
Tuesday, February 14, 2:45 pm, Room 225

Aloha Chairs Espero and Mercado-Kim and committee members,

The Honolulu Board of Realtors (HBR) represents more than 5,500 real estate professionals on the island of Oahu who share a commitment to helping kama’aina realize their dream of home ownership. We are in strong support of SB 1244.

As Realtors, we experience first-hand the struggle to find affordable housing for our workforce, especially our teachers, police, fire fighters, and other service providers. Between foreclosures, a tight credit market, and limited rental inventory, we need to fight for the labor force who is critical to our communities. And to do that, we need to ensure a healthy housing mix that supports our island’s unique diversity.

Preserving affordable housing is the obvious first step to meeting the needs of our families in Hawaii who are most often priced out of the market and left with no other option but to seek housing that includes a west Oahu commute. It is more cost effective and easier than new construction because replacing these lost affordable properties is unrealistic. And preserving affordable housing is key to creating sustainable communities in healthy neighborhoods with reliable transportation alternatives where families can thrive. Many of these opportunities will be lost without your support for SB 1244.

Mahalo for your consideration.

The Honorable Will Espero, Chair
Senate Committee on Housing
The Honorable Donna Mercado Kim, Chair
Senate Committee on Government Operations
State Capitol
Honolulu, Hawaii

Hearing: Tuesday, February 14, 2017 at 2:45 pm; Conference Room 225

Re: Testimony in Support of SB 1244 Relating to Affordable Housing

Aloha Chair Espero, Chair Kim and Members of the Joint Senate Committee on Housing and Government Operations:

I am Patrick Bullard, a citizen and board member testifying on behalf of the Hawaii Home Ownership Center, in **support** of S.B. 1244, Relating to Affordable Housing. This bill would enable a qualified nonprofit housing trust to repurchase affordable units developed with government assistance when a government entity elects to waive its right to repurchase those units. The goal of this legislation is to ensure that affordable units will permanently remain in the affordable housing pool for Hawaii residents.

Our State's shortage of decent, affordable homes has grown to crisis proportions. There is currently an estimated shortage of 20,000 homes that are affordable to low and moderate income residents, and the shortage continues to grow. Moreover, we often lose affordable units to the open market when government waives the right to repurchase affordable units that are subject to "buyback" restrictions. To prevent this from happening, this bill seeks to enable a qualified nonprofit housing trust to purchase government-assisted affordable housing units when a government entity waives its right to do so. The unit would then be kept in the housing trust's affordable housing inventory, thereby preserving the affordability of those units for as long as possible.

I urge you to support this measure which would help to preserve Hawaii's affordable housing inventory. Thank you for your consideration.

Sincerely,

Patrick V. Bullard
H&B Marketing
1132 Bishop Street Suite 1420
Honolulu, Hawaii 96813
808 566-5272

From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 10, 2017 12:14 PM
To: HOU Testimony
Cc: dylanarm@hawaii.edu
Subject: *Submitted testimony for SB1244 on Feb 14, 2017 14:45PM*

SB1244

Submitted on: 2/10/2017

Testimony for HOU/GVO on Feb 14, 2017 14:45PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Dylan P. Armstrong	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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