
A BILL FOR AN ACT

RELATING TO HOUSING.

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

1 **PART I**

2 SECTION 1. Section 46-4, Hawaii Revised Statutes, is
3 amended to read as follows:

4 "§46-4 County zoning. (a) This section and any
5 ordinance, rule, or regulation adopted in accordance with this
6 section shall apply to lands not contained within the forest
7 reserve boundaries as established on January 31, 1957, or as
8 subsequently amended.

9 Zoning in all counties shall be accomplished within the
10 framework of a long-range, comprehensive general plan prepared
11 or being prepared to guide the overall future development of the
12 county. Zoning shall be one of the tools available to the
13 county to put the general plan into effect in an orderly manner.
14 Zoning in the counties of Hawaii, Maui, and Kauai means the
15 establishment of districts of such number, shape, and area, and
16 the adoption of regulations for each district to carry out the
17 purposes of this section. In establishing or regulating the



1 districts, full consideration shall be given to all available
2 data as to soil classification and physical use capabilities of
3 the land to allow and encourage the most beneficial use of the
4 land consonant with good zoning practices. The zoning power
5 granted herein shall be exercised by ordinance which may relate
6 to:

- 7 (1) The areas within which agriculture, forestry,
8 industry, trade, and business may be conducted;
- 9 (2) The areas in which residential uses may be regulated
10 or prohibited;
- 11 (3) The areas bordering natural watercourses, channels,
12 and streams, in which trades or industries, filling or
13 dumping, erection of structures, and the location of
14 buildings may be prohibited or restricted;
- 15 (4) The areas in which particular uses may be subjected to
16 special restrictions;
- 17 (5) The location of buildings and structures designed for
18 specific uses and designation of uses for which
19 buildings and structures may not be used or altered;
- 20 (6) The location, height, bulk, number of stories, and
21 size of buildings and other structures;



- 1 (7) The location of roads, schools, and recreation areas;
- 2 (8) Building setback lines and future street lines;
- 3 (9) The density and distribution of population;
- 4 (10) The percentage of a lot that may be occupied, size of
- 5 yards, courts, and other open spaces;
- 6 (11) Minimum and maximum lot sizes; and
- 7 (12) Other regulations the boards or city council find
- 8 necessary and proper to permit and encourage the
- 9 orderly development of land resources within their
- 10 jurisdictions.

11 The council of any county shall prescribe rules,
 12 regulations, and administrative procedures and provide personnel
 13 it finds necessary to enforce this section and any ordinance
 14 enacted in accordance with this section. The ordinances may be
 15 enforced by appropriate fines and penalties, civil or criminal,
 16 or by court order at the suit of the county or the owner or
 17 owners of real estate directly affected by the ordinances.

18 Any civil fine or penalty provided by ordinance under this
 19 section may be imposed by the district court, or by the zoning
 20 agency after an opportunity for a hearing pursuant to chapter



1 91. The proceeding shall not be a prerequisite for any
2 injunctive relief ordered by the circuit court.

3 Nothing in this section shall invalidate any zoning
4 ordinance or regulation adopted by any county or other agency of
5 government pursuant to the statutes in effect prior to July 1,
6 1957.

7 The powers granted herein shall be liberally construed in
8 favor of the county exercising them, and in such a manner as to
9 promote the orderly development of each county or city and
10 county in accordance with a long-range, comprehensive general
11 plan to ensure the greatest benefit for the State as a whole.
12 This section shall not be construed to limit or repeal any
13 powers of any county to achieve these ends through zoning and
14 building regulations, except insofar as forest and water reserve
15 zones are concerned and as provided in subsections (c) and (d).

16 Neither this section nor any ordinance enacted pursuant to
17 this section shall prohibit the continued lawful use of any
18 building or premises for any trade, industrial, residential,
19 agricultural, or other purpose for which the building or
20 premises is used at the time this section or the ordinance takes
21 effect; provided that a zoning ordinance may provide for



1 elimination of nonconforming uses as the uses are discontinued,
2 or for the amortization or phasing out of nonconforming uses or
3 signs over a reasonable period of time in commercial,
4 industrial, resort, and apartment zoned areas only. In no event
5 shall such amortization or phasing out of nonconforming uses
6 apply to any existing building or premises used for residential
7 (single-family or duplex) or agricultural uses. Nothing in this
8 section shall affect or impair the powers and duties of the
9 director of transportation as set forth in chapter 262.

10 (b) Any final order of a zoning agency established under
11 this section may be appealed to the circuit court of the circuit
12 in which the land in question is found. The appeal shall be in
13 accordance with the Hawaii rules of civil procedure.

14 (c) Each county may adopt reasonable standards to allow
15 the construction of two single-family dwelling units on any lot
16 where a residential dwelling unit is permitted.

17 (d) Neither this section nor any other law, county
18 ordinance, or rule shall prohibit group living in facilities
19 with eight or fewer residents for purposes or functions that are
20 licensed, certified, registered, or monitored by the State;
21 provided that a resident manager or a resident supervisor and



1 the resident manager's or resident supervisor's family shall not
2 be included in this resident count. These group living
3 facilities shall meet all applicable county requirements not
4 inconsistent with the intent of this subsection, including but
5 not limited to building height, setback, maximum lot coverage,
6 parking, and floor area requirements.

7 (e) Neither this section nor any other law, county
8 ordinance, or rule shall prohibit the use of land for employee
9 housing and community buildings in plantation community
10 subdivisions as defined in section 205-4.5(a)(12); in addition,
11 no zoning ordinance shall provide for the elimination,
12 amortization, or phasing out of plantation community
13 subdivisions as a nonconforming use.

14 (f) Neither this section nor any other law, county
15 ordinance, or rule shall prohibit the use of land for medical
16 cannabis production centers or medical cannabis dispensaries
17 established and licensed pursuant to chapter 329D; provided that
18 the land is otherwise zoned for agriculture, manufacturing, or
19 retail purposes.

20 (g) Neither this section nor any other law, county
21 ordinance, or rule shall impose an inclusionary zoning



1 requirement on housing offered exclusively for sale in
2 perpetuity to buyers who:

3 (1) Are residents of the State;

4 (2) Are owner-occupants; and

5 (3) Do not own any other real property.

6 (h) As used in this section, "inclusionary zoning
7 requirement" means any requirement to set aside a fraction of a
8 housing development to be sold at below market prices."

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

12 PART II

13 SECTION 3. The legislature finds that the cost and
14 availability of housing in the State are significant challenges
15 facing Hawaii residents. Although Hawaii has the tenth highest
16 median wage nationally, living expenses are two-thirds higher
17 than the rest of the nation, with the cost of housing being a
18 major contributing factor. In September 2018, the median price
19 for a single-family home on Oahu rose to \$812,500, while the
20 median price for condominiums on Oahu rose to \$428,000.
21 According to a local news report, a household would need to earn



1 almost \$160,000 annually to afford to buy a home on Oahu, making
2 homeownership out of reach for many of Hawaii's residents,
3 especially first-time buyers.

4 Because of the many barriers hindering the production of
5 new housing, such as geographic limitations, lack of major
6 infrastructure, construction costs, and government regulation,
7 the State and housing developers have not been able to produce
8 enough housing for Hawaii residents. According to a 2015 report
9 from the department of business, economic development, and
10 tourism, the projected long-run estimate of demand for total new
11 housing in Hawaii is between 64,700 to 66,000 for the 2015 to
12 2025 period. The legislature has responded through the passage
13 of various legislation. During the regular session of 2016, the
14 legislature passed a bill enacted as Act 127, Session Laws of
15 Hawaii 2016, that, among other things, establishes a goal of
16 developing or vesting the development of at least 22,500
17 affordable rental housing units ready for occupancy by the end
18 of 2026. During the regular session of 2017, the legislature
19 passed a bill enacted as Act 54, Session Laws of Hawaii 2017, to
20 expand the types of rental housing projects that can be exempt
21 from general excise tax, thereby encouraging the development of



1 rental housing projects targeted for occupancy by households at
2 or below the one hundred forty per cent and eighty per cent area
3 median income levels. During the regular session of 2018, the
4 legislature passed a bill enacted as Act 39, Session Laws of
5 Hawaii 2018, that, among other things, provides an estimated
6 total value of \$570,000,000 to address Hawaii's affordable
7 rental housing crisis and is expected to generate more than
8 25,000 affordable units by the year 2030.

9 Despite these efforts, the amount of new construction of
10 housing, especially for low- to middle-income families,
11 continues to be inadequate as the supply of housing remains
12 constrained while demand for housing increases. This lack of
13 supply leads to higher housing prices and rents for households
14 of all income levels, leaving all tenants with less disposable
15 income, increasing the personal stress on buyers and renters,
16 and exacerbating overcrowding and homelessness. Given these
17 consequences, the lack of affordable housing requires the
18 concentrated attention of state government at the highest level.

19 The legislature further finds that Singapore faced a
20 housing crisis in the 1940s through 1960s but was subsequently
21 able to provide nearly one million residential units for its



1 citizens. The housing and development board -- the government
2 entity responsible for the rapid increase in housing development
3 -- plans, develops, and constructs the housing units, including
4 commercial, recreational, and social amenities. The result is
5 that units built by the housing and development board house
6 eighty per cent of the resident population and that, overall,
7 ninety per cent of the resident population are owners of their
8 units. Through government loans, subsidies, and grants and the
9 use of money saved through a government-run mandatory savings
10 program, residents are able to purchase residential units at an
11 affordable price, including options to upgrade to a better
12 living environment in the future.

13 The legislature further finds that with Honolulu's
14 construction of an elevated rail transit system, the State has
15 an opportunity to enhance Oahu's urban environment and increase
16 the quality of life for residents by increasing the affordable
17 housing inventory and eliminating the need for personal
18 automobiles, among other public benefits. As the largest
19 landowner of properties along the transit line, with
20 approximately two thousand acres under the jurisdiction of
21 various departments, the State must be proactive in establishing



1 a unified vision and approach toward redevelopment of its
2 properties to maximize the benefits of state lands available for
3 redevelopment.

4 The purpose of this part is to:

- 5 (1) Establish the ALOHA homes program to facilitate the
6 creation of low-cost leasehold homes for sale to
7 Hawaii residents on state-owned land near public
8 transit stations; and
- 9 (2) Authorize the Hawaii housing finance and development
10 corporation to sell the leasehold interest in
11 residential condominium units located on state lands
12 for lease terms of ninety-nine years.

13 SECTION 4. Chapter 201H, Hawaii Revised Statutes, is
14 amended by adding two new subparts to part II to be
15 appropriately designated and to read as follows:

16 "B. ALOHA Homes Program

17 **§201H-A Definitions.** As used in this subpart, the
18 following terms have the following meanings, unless the context
19 indicates a different meaning or intent:

20 "ALOHA" means affordable, locally owned homes for all.



1 "ALOHA home" means a residential unit within an urban
2 redevelopment site.

3 "Commercial project" means an undertaking involving
4 commercial or light industrial development, which includes a
5 mixed-use development where commercial or light industrial
6 facilities may be built into, adjacent to, under, or above
7 residential units.

8 "High density" means a project or area that has at least
9 two hundred fifty units per acre.

10 "Multipurpose project" means a project consisting of any
11 combination of a commercial project, redevelopment project, or
12 residential project.

13 "Owner-occupied residential use" means any use currently
14 permitted in existing residential zones consistent with owner
15 occupancy, but shall not mean renting or leasing to any tenant
16 or lessee of any kind.

17 "Project" means a specific work or improvement, including
18 real and personal properties, or any interest therein, acquired,
19 owned, constructed, reconstructed, rehabilitated, or improved by
20 the corporation, including a commercial project, redevelopment
21 project, or residential project.



1 "Public agency" means any office, department, board,
2 commission, bureau, division, public corporation agency, or
3 instrumentality of the federal, state, or county government.

4 "Public facilities" includes streets, utility and service
5 corridors, and utility lines where applicable, sufficient to
6 adequately service developable improvements in an urban
7 redevelopment site, sites for schools, parks, parking garages,
8 sidewalks, pedestrian ways, and other community facilities.

9 "Public facilities" also includes public highways, as defined in
10 section 264-1, storm drainage systems, water systems, street
11 lighting systems, off-street parking facilities, and sanitary
12 sewerage systems.

13 "Public transit station" means:

14 (1) A station connected to a locally preferred alternative
15 for a mass transit project; or

16 (2) For the city and county of Honolulu, a station of the
17 Honolulu rail transit system.

18 "Redevelopment project" means an undertaking for the
19 acquisition, clearance, replanning, reconstruction, and
20 rehabilitation, or a combination of these and other methods, of
21 an area for a residential project, for an incidental commercial



1 project, and for other facilities incidental or appurtenant
2 thereto, pursuant to and in accordance with this subpart. The
3 terms "acquisition, clearance, replanning, reconstruction, and
4 rehabilitation" shall include renewal, redevelopment,
5 conservation, restoration, or improvement, or any combination
6 thereof.

7 "Residential project" means a project or that portion of a
8 multipurpose project, including residential dwelling units,
9 designed and intended for the purpose of providing housing and
10 any facilities as may be incidental or appurtenant thereto.

11 "Small and medium vendor" means a commercial vendor that
12 employs nine hundred ninety-nine employees or less.

13 **§201H-B ALOHA homes program.** There is established the
14 ALOHA homes program for the purpose of providing low-cost, high
15 density leasehold homes for sale to Hawaii residents on state-
16 owned lands within a one-half mile radius of a public transit
17 station.

18 **§201H-C Community and public notice requirements; posting**
19 **on the corporation's website; required.** For the purposes of
20 this subpart, the corporation shall adopt community and public



1 notice procedures pursuant to chapter 91 that shall include at a
2 minimum:

3 (1) A means to effectively engage the community in which
4 the corporation is planning a development project
5 under this subpart to ensure that community concerns
6 are received and considered by the corporation;

7 (2) The posting of the corporation's proposed plans for
8 any development project under this subpart, public
9 hearing notices, and minutes of its proceedings on the
10 corporation's website;

11 (3) The posting of every application for a development
12 project on the corporation's website when the
13 application is deemed complete;

14 (4) Notification by the applicant of any application for a
15 development project valued at \$250,000 or more by
16 first class United States mail, postage prepaid to
17 owners and lessees of record of real property located
18 within a three hundred foot radius of the perimeter of
19 the proposed project identified from the most current
20 list available from the real property assessment
21 division of the department of budget and fiscal



1 services of the city and county of Honolulu when the
2 application is deemed complete; provided that notice
3 mailed pursuant to this paragraph shall include but
4 not be limited to notice of:

- 5 (A) Project specifications;
- 6 (B) Requests for exemptions from statutes,
7 ordinances, charter provisions, and rules
8 pursuant to section 201H-38; and
- 9 (C) Procedures for intervention and a contested case
10 hearing; and

11 (5) Any other information that the public may find useful
12 so that it may meaningfully participate in the
13 corporation's decision-making processes.

14 **§201H-D Urban redevelopment sites; established;**
15 **boundaries.** There shall be established urban redevelopment
16 sites that shall include all state-owned and county-owned land
17 within county-designated transit-oriented development areas or
18 within a one-half-mile radius of a public transit station in a
19 county with a population greater than five hundred thousand.

20 **§201H-E Rules; guidelines.** (a) The corporation shall
21 establish rules under chapter 91 on health, safety, building,



1 planning, zoning, and land use, which shall supersede all other
2 inconsistent ordinances and rules relating to the use, zoning,
3 planning, and development of land and construction thereon.
4 Rules adopted under this section shall follow existing law,
5 rules, ordinances, and regulations as closely as is consistent
6 with standards meeting minimum requirements of good design,
7 pleasant amenities, health, safety, and coordinated development.
8 The corporation may provide that lands within urban
9 redevelopment sites shall not be developed beyond existing uses
10 or that improvements thereon shall not be demolished or
11 substantially reconstructed, or provide other restrictions on
12 the use of the lands.

13 (b) The following shall be the principles generally
14 governing the corporation's action in urban redevelopment sites:

15 (1) The corporation shall endeavor to produce enough
16 housing supply to meet housing demand;

17 (2) Each development may include facilities to replace any
18 facilities that must be removed for the development's
19 construction;



- 1 (3) Development shall be revenue-neutral to the State, and
2 all revenues generated shall be used for the purposes
3 of this subpart;
- 4 (4) The corporation shall consider the infrastructure
5 burden of each development and the impact of the
6 development on the education system, and any
7 mitigation actions, prior to construction;
- 8 (5) The corporation may build infrastructure beyond what
9 exists in any development under this subpart and may
10 sell the infrastructure capacity to other private
11 sector developers;
- 12 (6) The corporation may build common area facilities for
13 any development undertaken pursuant to this subpart,
14 which shall be paid through the sales of ALOHA homes
15 units;
- 16 (7) Development shall result in a community that permits
17 an appropriate land mixture of residential,
18 commercial, light industrial, and other uses. In view
19 of the innovative nature of the mixed use approach,
20 urban design policies shall be established for the
21 public and private sectors in the proper development



1 of urban redevelopment sites; provided that any of the
2 corporation's proposed actions in urban redevelopment
3 sites that are subject to chapter 343 shall comply
4 with chapter 343 and federal environmental
5 requirements; provided further that the corporation
6 may engage in any studies or coordinative activities
7 permitted in this subpart that affect areas lying
8 outside urban redevelopment sites, where the
9 corporation in its discretion decides that those
10 activities are necessary to implement the intent of
11 this subpart. The studies or coordinative activities
12 shall be limited to facility systems, resident and
13 industrial relocation, and other activities with the
14 counties and appropriate state agencies. The
15 corporation may engage in construction activities
16 outside of urban redevelopment sites; provided that
17 the construction relates to infrastructure development
18 or residential or business relocation activities;
19 provided further that the construction shall comply
20 with the general plan, development plan, ordinances,



- 1 and rules of the county in which the urban
2 redevelopment site is located;
- 3 (8) Existing and future light industrial uses shall be
4 permitted and encouraged in appropriate locations
5 within an urban redevelopment site. No plan or
6 implementation strategy shall prevent continued
7 activity or redevelopment of light industrial and
8 commercial uses which meet reasonable performance
9 standards;
- 10 (9) Activities shall be located so as to provide primary
11 reliance on public transportation and pedestrian
12 facilities for internal circulation within urban
13 redevelopment sites or designated subareas;
- 14 (10) Major view planes, view corridors, and other
15 environmental elements such as natural light and
16 prevailing winds, may be preserved through appropriate
17 regulation and design review;
- 18 (11) All projects shall comply with all applicable
19 statutes, rules, and ordinances related to historic
20 and cultural resource preservation;



- 1 (12) Where compatible, land use activities within urban
2 redevelopment sites shall to the greatest possible
3 extent be mixed horizontally within blocks or other
4 land areas, and vertically as integral units of multi-
5 purpose structures;
- 6 (13) Development shall prioritize maximizing density on
7 lands that are most urbanized and most suitable for
8 high density; provided that development may require a
9 mixture of densities, building types, and
10 configurations in accordance with appropriate urban
11 design guidelines and vertical and horizontal
12 integration of residents of varying incomes, ages, and
13 family groups that reflect the diversity of Hawaii.
14 Development shall provide necessary community
15 facilities, such as parks, community meeting places,
16 child care centers, schools, educational facilities,
17 libraries, and other services, within and adjacent to
18 residential development; provided that any school that
19 is provided by the corporation as a necessary
20 community facility shall be exempt from school size



1 requirements as calculated by recent school site area
2 averages pursuant to section 302A-1602;

3 (14) Public facilities within urban redevelopment sites
4 shall be planned, located, and developed so as to
5 support the redevelopment policies for the sites
6 established by this subpart and plans and rules
7 adopted pursuant to it;

8 (15) Development shall be achieved through the efficient
9 and cost-effective use of government and private-
10 sector workforces through public-private partnerships
11 and other mechanisms to incentivize development to be
12 on time and on budget;

13 (16) Development shall be designed, to the extent possible,
14 to minimize traffic, parking, the use of private
15 automobiles, and noise;

16 (17) Development shall be subject to chapter 104; and

17 (18) Development shall incorporate universal design in
18 compliance with the Americans with Disabilities Act of
19 1990, Section 504 of the Rehabilitation Act of 1973
20 and the Fair Housing Act, to the extent required, and



1 exceed accessibility requirements under those
2 authorities when practical.

3 (c) ALOHA homes within urban redevelopment sites shall not
4 be advertised for rent, rented, or used for any purpose other
5 than owner-occupied residential use; provided that the
6 corporation, by rule, shall establish penalties for violations
7 of this subsection up to and including forced sale of an ALOHA
8 home.

9 (d) The design and development contracts for ALOHA homes
10 shall be subject to chapter 103D.

11 (e) The corporation may transfer ALOHA homes units to the
12 office of Hawaiian affairs and department of Hawaiian home lands
13 for use by their respective beneficiaries.

14 (f) The corporation shall recoup all expenses through the
15 sales of the leasehold interest of ALOHA homes and other revenue
16 sources, including the leasing of commercial projects.

17 **§201H-F Sale of the leasehold interest of ALOHA homes;**
18 **rules; guidelines.** (a) The corporation shall adopt rules,
19 pursuant to chapter 91, for the sale of the leasehold interest
20 of ALOHA homes under its control within urban redevelopment
21 sites; provided that each lease shall be for a term of ninety-



1 nine years. The rules shall include the following requirements
2 for an eligible buyer or owner of an ALOHA home within an urban
3 redevelopment site:

4 (1) The person shall be a resident of the State; provided
5 that voting in the most recent primary or general
6 election shall be an indication of residency in the
7 State; provided further that not voting in any primary
8 or general election creates a rebuttable presumption
9 of non-residency;

10 (2) The person shall not use the ALOHA home for any
11 purpose other than owner-occupied residential use; and

12 (3) The person, or the person's spouse, shall not own any
13 other real property, including any residential and
14 non-residential property, beneficial ownership of
15 trusts, and co-ownership or fractional ownership,
16 while owning an ALOHA home in a urban redevelopment
17 site; provided that an eligible buyer may own real
18 property up to six months after closing on the
19 purchase of an ALOHA home; provided further that an
20 owner of an ALOHA home in the process of selling the
21 ALOHA home may own other real property up to six



1 months prior to closing on the sale of the ALOHA home
2 to an eligible buyer;
3 provided that the rules under this subsection shall not include
4 any requirements or limitations related to an individual's
5 income or any preferences to first-time home buyers. The rules
6 shall include strict enforcement of owner-occupancy, including a
7 prohibition on the renting or leasing of an ALOHA home to any
8 tenant or lessee, and may include requirements for the use of
9 face recognition, verification of the presence of owner-
10 occupants and prevention of access of all unauthorized persons
11 through retina scan for a minimum number of days per year, or
12 fingerprint scan technology.

13 (b) ALOHA homes within urban redevelopment sites shall be
14 priced to be affordable, as determined by the United States
15 Department of Housing and Urban Development, to an individual or
16 family whose income does not exceed eighty per cent of the area
17 median income, or \$300,000, whichever is less; provided that the
18 price shall be adjusted for inflation.

19 (c) The corporation shall establish waitlists for each
20 residential development for eligible buyers to determine the
21 order in which ALOHA homes shall be sold. Waitlist priorities



1 may include school, college, or university affiliation if the
2 residential property is a redeveloped school, college, or
3 university; proximity of an eligible buyer's existing residence
4 to an ALOHA home within the urban redevelopment site; and other
5 criteria based on the impact that the development has on the
6 eligible buyer.

7 (d) ALOHA homes within urban redevelopment sites shall be
8 sold only to other eligible buyers.

9 (e) An owner of an ALOHA home may sell the ALOHA home
10 after five or more years of owner-occupancy; provided that the
11 corporation shall have the right of first refusal to purchase
12 the ALOHA home at a price that is determined by the corporation
13 using the price at which the owner purchased the ALOHA home as
14 the cost basis, adjusted for inflation, and may include a
15 percentage of the appreciation in value of the unit. If the
16 corporation does not exercise its right to purchase the ALOHA
17 home, the ALOHA home may be sold by the owner to an eligible
18 buyer; provided that the corporation shall retain seventy-five
19 per cent of all profits from the sale net of closing and
20 financing costs, using the price at which the owner purchased
21 the ALOHA home as the cost basis. Upon the death of the owner



1 of an ALOHA home, the ALOHA home may be transferred to the
2 deceased's heir by devise or as any other real property under
3 existing law; provided that if the heir is not an eligible
4 buyer, the heir shall sell the ALOHA home to the corporation at
5 a price that is determined by the corporation using the price at
6 which the owner purchased the ALOHA home as the cost basis,
7 adjusted for inflation, and may include a percentage of the
8 appreciation in value of the unit.

9 (f) If an owner of an ALOHA home sells the ALOHA home
10 before five years of owner-occupation, the corporation shall
11 purchase the ALOHA home at a price that is determined by the
12 corporation using the price at which the owner purchased the
13 ALOHA home as the cost basis, adjusted for inflation.

14 (g) Any ALOHA home developed and sold under this subpart
15 shall not be subject to sections 201H-47, 201H-49, 201H-50, and
16 201H-51.

17 **§201H-G Use of public lands; acquisition of state lands.**

18 (a) If state lands under the control and management of other
19 public agencies are required by the corporation for the purposes
20 of this subpart, the agency having the control and management of
21 those required lands, upon request by the corporation and with



1 the approval of the governor, may convey or lease those lands to
2 the corporation upon terms and conditions as may be agreed to by
3 the parties.

4 (b) Notwithstanding the foregoing, no public lands shall
5 be conveyed or leased to the corporation pursuant to this
6 section if the conveyance or lease would impair any covenant
7 between the State or any county or any department or board
8 thereof and the holders of bonds issued by the State or that
9 county, department, or board.

10 **§201H-H Acquisition of real property from a county.**

11 Notwithstanding the provision of any law or charter, any county,
12 by resolution of its local governing body, may, without public
13 auction, sealed bids, or public notice, sell, lease, grant, or
14 convey to the corporation any real property owned by it that the
15 corporation certifies to be necessary for the purposes of this
16 subpart. The sale, lease, grant, or conveyance shall be made
17 with or without consideration and upon terms and conditions as
18 may be agreed upon by the county and the corporation.

19 Certification shall be evidenced by a formal request from the
20 corporation. Before the sale, lease, grant, or conveyance may
21 be made to the corporation, a public hearing shall be held by



1 the local governing body to consider the same. Notice of the
2 hearing shall be published at least six days before the date set
3 for the hearing in the publication and in the manner as may be
4 designated by the local governing body.

5 **§201H-I Condemnation of real property.** The corporation,
6 upon making a finding that it is necessary to acquire any real
7 property for its immediate or future use for the purposes of
8 this subpart, may acquire the property, including property
9 already devoted to a public use, by condemnation pursuant to
10 chapter 101. The property shall not thereafter be taken for any
11 other public use without the consent of the corporation. No
12 award of compensation shall be increased by reason of any
13 increase in the value of real property caused by the designation
14 of the urban redevelopment site or plan adopted pursuant to a
15 designation, or the actual or proposed acquisition, use, or
16 disposition of any other real property by the corporation.

17 **§201H-J Relocation.** The corporation shall adopt rules
18 pursuant to chapter 91 in compliance with the Uniform Relocation
19 Assistance and Real Property Acquisition Act of 1970 and chapter
20 111 to ensure the appropriate relocation within or outside urban
21 redevelopment sites of persons, families, businesses, or



1 services displaced by governmental action within urban
2 redevelopment sites.

3 **§201H-K Construction contracts.** (a) The construction
4 contracts for ALOHA homes shall be subject to chapter 103D.

5 **§201H-L Lease of projects.** Notwithstanding any law to the
6 contrary, the corporation, without recourse to public auction or
7 public notice for sealed bids, may lease for a term not
8 exceeding sixty-five years all or any portion of the real or
9 personal property constituting a commercial project to any
10 person, upon terms and conditions as may be approved by the
11 corporation; provided that all revenues generated from the lease
12 shall be used to support the purpose of this subpart pursuant to
13 section 201H-B.

14 **§201H-M Dedication for public facilities as condition to**
15 **development.** The corporation shall establish rules requiring
16 dedication for public facilities of land or facilities by
17 developers as a condition of developing real property within
18 urban redevelopment sites. Where state and county public
19 facilities dedication laws, ordinances, or rules differ, the
20 provision for greater dedication shall prevail.



1 **§201H-N ALOHA homes revolving fund.** There is established
2 the ALOHA homes revolving fund into which all receipts and
3 revenues of the corporation pursuant to this subpart shall be
4 deposited. Proceeds from the fund shall be used for the
5 purposes of this subpart.

6 **§201H-O Expenditures of ALOHA homes revolving fund under**
7 **the corporation exempt from appropriation and allotment.** Except
8 as to administrative expenditures, and except as otherwise
9 provided by law, expenditures from the ALOHA homes revolving
10 fund administered by the corporation may be made by the
11 corporation without appropriation or allotment of the
12 legislature; provided that no expenditure shall be made from and
13 no obligation shall be incurred against the ALOHA homes
14 revolving fund in excess of the amount standing to the credit of
15 the fund or for any purpose for which the fund may not lawfully
16 be expended. Nothing in sections 37-31 to 37-41 shall require
17 the proceeds of the ALOHA homes revolving fund administered by
18 the corporation to be reappropriated annually.

19 **§201H-P Assistance by state and county agencies.** Any
20 state or county agency may render services for the purposes of
21 this subpart upon request of the corporation.



1 **§201H-Q Court proceedings; preferences; venue.** (a) Any
2 action or proceeding to which the corporation, the State, or the
3 county may be a party, in which any question arises as to the
4 validity of this subpart, shall be brought in the circuit court
5 of the circuit where the case or controversy arises, and shall
6 be heard and determined in preference to all other civil cases
7 pending therein except election cases, irrespective of position
8 on the calendar.

9 (b) Upon application of counsel to the corporation, the
10 same preference shall be granted in any action or proceeding
11 questioning the validity of this subpart in which the
12 corporation may be allowed to intervene.

13 (c) Notwithstanding any provision of law to the contrary,
14 declaratory relief may be obtained for the action.

15 (d) Any party aggrieved by the decision of the circuit
16 court may appeal in accordance with part I of chapter 641 and
17 the appeal shall be given priority.

18 **§201H-R Issuance of bonds.** The director of finance, from
19 time to time, may issue general obligation bonds pursuant to
20 chapter 39 in amounts as may be authorized by the legislature,
21 for the purposes of this subpart.



1 **§201H-S Violations and penalty.** (a) The corporation may
2 set, charge, and collect reasonable fines for violation of this
3 subpart or any rule adopted pursuant to chapter 91.
4 Notwithstanding section 201H-E(c), any person violating any rule
5 adopted pursuant to chapter 91, for which violation a penalty is
6 not otherwise provided, shall be fined not more than \$500 a day
7 and shall be liable for administrative costs incurred by the
8 corporation.

9 (b) The corporation may maintain an action for an
10 injunction to restrain any violation of this subpart and may
11 take any other lawful action to prevent or remedy any violation.

12 (c) Notwithstanding section 201H-E(c), any person
13 violating this subpart shall, upon conviction, be punished by a
14 fine not exceeding \$1,000 or by imprisonment not exceeding
15 thirty days, or both. The continuance of a violation after
16 conviction shall be deemed a new offense for each day of the
17 continuance.

18 **§201H-T Additional powers.** The powers conferred upon the
19 corporation by this subpart shall be in addition and
20 supplemental to the powers conferred by any other law, and



1 nothing in this subpart shall be construed as limiting any
2 powers, rights, privileges, or immunities so conferred.

3 **§201H-U State lands no longer needed.** State lands that
4 are no longer needed for affordable residential leasehold units
5 by the Hawaii housing finance and development corporation shall
6 be returned to the previous owner of those lands.

7 **§201H-V Rules.** The corporation may adopt rules, pursuant
8 to chapter 91, necessary for the purposes of this subpart.

9 C. Leasehold Condominiums on State Lands

10 **§201H-W Leasehold condominiums on state lands.** (a) The
11 corporation may sell leasehold units in condominiums organized
12 pursuant to chapter 514B and developed under this subpart on
13 state land to a "qualified resident" as defined in section
14 201H-32.

15 (b) The term of the lease may be for ninety-nine years,
16 and the corporation may extend or modify the fixed rental period
17 of the lease or extend the term of the lease.

18 (c) The sale of leasehold units shall be subject to
19 sections 201H-47, 201H-49, and 201H-50, except for units sold at
20 fair market value.



1 (d) State land set aside by the governor to the
2 corporation and lands leased to the corporation by any
3 department or agency of the State for a condominium described in
4 this section shall be exempt from the definition of "public
5 land" under section 171-2, except for the provision in section
6 171-2(6) that subjects corporation lands to the accounting for
7 all receipts for lands subject to section 5(f) of the Admission
8 Act.

9 (e) The powers conferred upon the corporation by this
10 section shall be in addition and supplemental to the powers
11 conferred by any other law, and nothing in this section shall be
12 construed as limiting any powers, rights, privileges, or
13 immunities so conferred."

14 SECTION 5. Chapter 237, Hawaii Revised Statutes, is
15 amended by adding a new section to be appropriately designated
16 and to read as follows:

17 "§237- Exemption of sale of leasehold interest for ALOHA
18 home units. In addition to the amounts exempt under section
19 237-24, this chapter shall not apply to amounts received from
20 the sale of a leasehold interest in an ALOHA homes unit under
21 chapter 201H, subpart B."



1 SECTION 6. Section 171-2, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§171-2 Definition of public lands. "Public lands" means
4 all lands or interest therein in the State classed as government
5 or crown lands previous to August 15, 1895, or acquired or
6 reserved by the government upon or subsequent to that date by
7 purchase, exchange, escheat, or the exercise of the right of
8 eminent domain, or in any other manner; including lands accreted
9 after May 20, 2003, and not otherwise awarded, submerged lands,
10 and lands beneath tidal waters that are suitable for
11 reclamation, together with reclaimed lands that have been given
12 the status of public lands under this chapter, except:

- 13 (1) Lands designated in section 203 of the Hawaiian Homes
14 Commission Act, 1920, as amended;
- 15 (2) Lands set aside pursuant to law for the use of the
16 United States;
- 17 (3) Lands being used for roads and streets;
- 18 (4) Lands to which the United States relinquished the
19 absolute fee and ownership under section 91 of the
20 Hawaiian Organic Act prior to the admission of Hawaii
21 as a state of the United States unless subsequently



1 placed under the control of the board of land and
2 natural resources and given the status of public lands
3 in accordance with the state constitution, the
4 Hawaiian Homes Commission Act, 1920, as amended, or
5 other laws;

6 (5) Lands to which the University of Hawaii holds title;

7 (6) Lands that are set aside by the governor to the Hawaii
8 housing finance and development corporation; lands
9 leased to the Hawaii housing finance and development
10 corporation by any department or agency of the State;
11 or lands to which the Hawaii housing finance and
12 development corporation in its corporate capacity
13 holds title; provided that lands described in this
14 paragraph shall be considered "public lands" for the
15 purpose of accounting for all receipts from lands
16 described in section 5(f) of the Admission Act for the
17 prior fiscal year, pursuant to section 5 of Act 178,
18 Session Laws of Hawaii 2006; provided further that
19 payment of receipts pursuant to this paragraph may be
20 made in a form of remuneration or consideration other
21 than cash;



- 1 (7) Lands to which the Hawaii community development
2 authority in its corporate capacity holds title;
- 3 (8) Lands to which the department of agriculture holds
4 title by way of foreclosure, voluntary surrender, or
5 otherwise, to recover moneys loaned or to recover
6 debts otherwise owed the department under chapter 167;
- 7 (9) Lands that are set aside by the governor to the Aloha
8 Tower development corporation; lands leased to the
9 Aloha Tower development corporation by any department
10 or agency of the State; or lands to which the Aloha
11 Tower development corporation holds title in its
12 corporate capacity;
- 13 (10) Lands that are set aside by the governor to the
14 agribusiness development corporation; lands leased to
15 the agribusiness development corporation by any
16 department or agency of the State; or lands to which
17 the agribusiness development corporation in its
18 corporate capacity holds title;
- 19 (11) Lands to which the Hawaii technology development
20 corporation in its corporate capacity holds title; and



1 (12) Lands to which the department of education holds
2 title;
3 provided that, except as otherwise limited under federal law and
4 except for state land used as an airport as defined in section
5 262-1, public lands shall include the air rights over any
6 portion of state land upon which a county mass transit project
7 is developed after July 11, 2005."

8 SECTION 7. Chapter 201H, Hawaii Revised Statutes, part II
9 is amended by designating sections 201H-31 to 201H-70 as subpart
10 A and inserting a title before section 201H-31 to read as
11 follows:

12 "A. General Provisions"

13 SECTION 8. Section 302A-1603, Hawaii Revised Statutes, is
14 amended by amending subsection (b) to read as follows:

15 "(b) The following shall be exempt from this section:

- 16 (1) Any form of housing permanently excluding school-aged
17 children, with the necessary covenants or declarations
18 of restrictions recorded on the property;
- 19 (2) Any form of housing that is or will be paying the
20 transient accommodations tax under chapter 237D;
- 21 (3) All nonresidential development; [and]



- 1 (4) Any development with an executed education
- 2 contribution agreement or other like document with the
- 3 department for the contribution of school sites or
- 4 payment of fees for school land or school
- 5 construction[-]; and
- 6 (5) Any form of development by the Hawaii housing finance
- 7 and development corporation pursuant to chapter 201H,
- 8 part II, subpart B."

9 SECTION 9. There is appropriated out of the general
10 revenues of the State of Hawaii the sum of \$ or so
11 much thereof as may be necessary for fiscal year 2019-2020 to be
12 deposited into the ALOHA homes revolving fund established
13 pursuant to section 201H-N, Hawaii Revised Statutes.

14 SECTION 10. There is appropriated out of the ALOHA homes
15 revolving fund established pursuant to section 201H-N, Hawaii
16 Revised Statutes, the sum of \$ or so much thereof as
17 may be necessary for fiscal year 2019-2020 for the purposes for
18 which the revolving fund is established.

19 The sum appropriated shall be expended by the Hawaii
20 housing finance and development corporation for the purposes of
21 this part.



1 SECTION 11. In codifying the new sections added by section
2 4 of this Act, the revisor of statutes shall substitute
3 appropriate section numbers for the letters used in designating
4 the new sections in this Act.

5 PART III

6 SECTION 12. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 13. This Act shall take effect on July 1, 2050.



Report Title:

Housing; Development; Counties; Inclusionary Zoning;
Prohibition; ALOHA Homes; HHFDC; Urban Redevelopment Site;
Appropriation

Description:

Part I: Prohibits any law, ordinance, or rule from imposing an inclusionary zoning requirement on housing offered exclusively for sale in perpetuity to buyers who are residents of the State, are owner-occupants, and do not own any other real property.
Part II: Establishes the ALOHA homes program to develop low-cost homes on state-owned and county-owned land in urban redevelopment sites to be leased by HHFDC to qualified residents. Exempts certain land from the definition of public lands. Effective 7/1/2050. (Proposed SD1)

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