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# 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 recognizes that Hawaii is  
2 experiencing a severe affordable housing crisis, with a lack of  
3 affordable rentals and affordable for-sale units. According to  
4 the report "Measuring Housing Demand in Hawai'i, 2015-2025",  
5 published by the department of business, economic development,  
6 and tourism, the State is projected to require 64,693 additional  
7 housing units to meet housing demand by 2025. Nearly seventy  
8 per cent, or 43,828, of those units will be needed for low-  
9 income households earning eighty per cent or less of the area  
10 median income.

11           In response to this critical problem, the legislature  
12 enacted Act 127, Session Laws of Hawaii 2016, which established  
13 a goal of creating 22,500 new affordable rental units by 2026.

14           The legislature finds that section 201H-36, Hawaii Revised  
15 Statutes, establishes an exemption from the state general excise  
16 tax for qualifying housing projects. However, the legislature



1 notes that some developers are unsure at what point in the  
2 development process this exemption begins.

3 Accordingly, the purpose of this Act is to clarify that the  
4 exemption from the general excise tax established by section  
5 201H-36, Hawaii Revised Statutes, shall be provided once the  
6 qualifying person or firm has both:

- 7 (1) Received approval for the project's funding; and
- 8 (2) Begun to spend money on the project.

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

11 "**§201H-36 Exemption from general excise taxes.** (a) In  
12 accordance with section 237-29, the corporation may approve and  
13 certify for exemption from general excise taxes any qualified  
14 person or firm involved with a newly constructed, or a  
15 moderately or substantially rehabilitated, project that is:

- 16 (1) Developed under this part;
- 17 (2) Developed under a government assistance program  
18 approved by the corporation, including but not limited  
19 to the United States Department of Agriculture's  
20 section 502 direct loan program and Federal Housing  
21 Administration's section 235 program;



- 1           (3) Developed under the sponsorship of a private nonprofit  
2           organization providing home rehabilitation or new  
3           homes for qualified families in need of decent, low-  
4           cost housing;
- 5           (4) Developed by a qualified person or firm to provide  
6           affordable rental housing where at least fifty per  
7           cent of the available units are for households with  
8           incomes at or below eighty per cent of the area median  
9           family income as determined by the United States  
10          Department of Housing and Urban Development, of which  
11          at least twenty per cent of the available units are  
12          for households with incomes at or below sixty per cent  
13          of the area median family income as determined by the  
14          United States Department of Housing and Urban  
15          Development; or
- 16          (5) Approved or certified from July 1, 2018, to June 30,  
17          2030, and developed under a contract described in  
18          section 104-2(i)(2) by a qualified person or firm to  
19          provide affordable rental housing through new  
20          construction or substantial rehabilitation; provided  
21          that:



1 (A) The allowable general excise tax and use tax  
2 costs shall apply to contracting only and shall  
3 not exceed \$30,000,000 per year in the aggregate  
4 for all projects approved and certified by the  
5 corporation[+]. For the purpose of this  
6 subparagraph, the term "contracting" shall  
7 include a third-party consultant conducting work  
8 on a project approved and certified by the  
9 corporation; and

10 (B) All available units are for households with  
11 incomes at or below one hundred forty per cent of  
12 the area median family income as determined by  
13 the United States Department of Housing and Urban  
14 Development, of which at least twenty per cent of  
15 the available units are for households with  
16 incomes at or below eighty per cent of the area  
17 median family income as determined by the United  
18 States Department of Housing and Urban  
19 Development; provided that an owner shall not  
20 refuse to lease a unit solely because the  
21 applicant holds a voucher or certificate of



1 eligibility under section 8 of the United States  
2 Housing Act of 1937, as amended.

3 (b) To obtain certification for exemption under this  
4 section, rental housing projects shall, unless exempted by the  
5 corporation, enter into a regulatory agreement with the  
6 corporation to ensure the project's continued compliance with  
7 the applicable eligibility requirements set forth in subsection  
8 (a), as follows:

- 9 (1) For moderate rehabilitation projects, a minimum term  
10 of five years as specified in a regulatory agreement;  
11 (2) For substantial rehabilitation projects, a minimum  
12 term of ten years as specified in a regulatory  
13 agreement; or  
14 (3) For new construction projects, a minimum term of  
15 thirty years from the date of issuance of the  
16 certificate of occupancy.

17 (c) All claims for exemption under this section shall be  
18 filed with and certified by the corporation and forwarded to the  
19 department of taxation. Any claim for exemption that is filed  
20 and approved, shall not be considered a subsidy for the purpose  
21 of this part.



1            (d) Notwithstanding any other law to the contrary, the  
2 exemption established by this section and certified by the  
3 corporation pursuant to subsection (c) shall commence once the  
4 qualified person or firm has both:

- 5            (1) Received approval for the project's funding; and  
6            (2) Begun to spend money on the project. For the purpose  
7            of this paragraph, a qualified person or firm who  
8            hires a third-party consultant or contractor to  
9            conduct work on a project shall be considered to have  
10           begun spending money on that project.

11           ~~(d)~~ (e) For the purposes of this section:

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

16           "Substantial rehabilitation":

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



1 improvements coupled with the curing of a substantial  
2 accumulation of deferred maintenance; and

3 (2) Includes renovation, alteration, or remodeling to  
4 convert or adapt structurally sound property to the  
5 design and condition required for a specific use, such  
6 as conversion of a hotel to housing for elders.

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

12 SECTION 3. The amendment made to section 201H-36(a)(5)(A),  
13 Hawaii Revised Statutes, by section 2 of this Act and the refund  
14 authorized pursuant to section 3 of this Act shall not be  
15 construed to increase or otherwise alter the existing aggregate  
16 cap of allowable general excise tax and use tax costs of  
17 \$30,000,000 per year established by that subparagraph.

18 SECTION 4. This Act does not affect rights and duties that  
19 matured, penalties that were incurred, and proceedings that were  
20 begun before its effective date.



1 SECTION 5. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 6. This Act shall take effect upon its approval.  
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# H.B. NO. 2448

**Report Title:**

HHFDC; Taxation; General Excise Tax; Exemption

**Description:**

Provides that an exemption from the general excise tax established by section 201H-36, Hawaii Revised Statutes, that has been approved by the Hawaii Housing Finance and Development Corporation shall be provided once the qualified person or firm has received approval for project funding and begun to spend money on the project.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*<sup>9</sup>

