

JAN 17 2020

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# A BILL FOR AN ACT

RELATING TO HOUSING.

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

1           SECTION 1. Chapter 201H, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4           "§201H-    High-density housing development project  
5 approval process; ministerial permit. (a) State and county  
6 agencies shall issue every ministerial permit associated with  
7 any high-density housing development project approved pursuant  
8 to this section within sixty days from the date of receipt of a  
9 permit application deemed to be completed by the receiving state  
10 or county agency.

11           (b) A development proponent may submit an application for  
12 a ministerial permit for a high-density housing development  
13 project and shall not be required to obtain a conditional use  
14 permit if the development project satisfies all of the following  
15 planning standards:

16           (1) The housing development project is a high density  
17           project;



- 1       (2) The development project is located within a county-  
2       designated transit-oriented development zone;
- 3       (3) The dwelling units in the development project are  
4       priced to be affordable for households with incomes at  
5       one hundred per cent of the area median income as  
6       determined by the United States Department of Housing  
7       and Urban Development;
- 8       (4) The sales of dwelling units may include requirements  
9       or limitations related to an individual's income; and
- 10       (5) The state or county permitting agency may review the  
11       proposed development project for compliance with codes  
12       and ordinances and for consistency with surrounding  
13       existing projects; provided that the state or county  
14       permitting agency is prohibited from imposing any non-  
15       code related condition or exaction on projects  
16       processed pursuant to this section.
- 17       (c) If the state or county permitting agency determines  
18       that an application submitted by a development proponent  
19       pursuant to this section is in conflict with any of the planning  
20       standards specified in subsection (b), it shall provide the  
21       development proponent written documentation of any standard in



1 conflict with the development and an explanation for any reason  
2 the development conflicts with that standard within thirty days  
3 of submittal of the application. If the state or county  
4 permitting agency fails to provide the required documentation  
5 pursuant to this subsection, the development shall be deemed to  
6 satisfy the planning standards specified in subsection (b).

7 (d) For the purposes of this section:

8 "High density" means accommodating at least two hundred  
9 fifty dwelling units per acre.

10 "Ministerial permit" means any nondiscretionary permit for  
11 which the permit administrator needs to determine conformity  
12 with applicable ordinances before issuance."

13 SECTION 2. Section 46-15.1, Hawaii Revised Statutes, is  
14 amended to read as follows:

15 **"§46-15.1 Housing; county powers.** (a) Notwithstanding  
16 any law to the contrary, any county shall have and may exercise  
17 the same powers, subject to applicable limitations, as those  
18 granted the Hawaii housing finance and development corporation  
19 pursuant to chapter 201H insofar as those powers may be  
20 reasonably construed to be exercisable by a county for the  
21 purpose of developing, constructing, and providing low- and



1 moderate-income housing; provided that no county shall be  
2 empowered to cause the State to issue general obligation bonds  
3 to finance a project pursuant to this section; provided further  
4 that county projects shall be granted an exemption from general  
5 excise or receipts taxes in the same manner as projects of the  
6 Hawaii housing finance and development corporation pursuant to  
7 section 201H-36; and provided further that section 201H-16 shall  
8 not apply to this section unless federal guidelines specifically  
9 provide local governments with that authorization and the  
10 authorization does not conflict with any state laws. The powers  
11 shall include the power, subject to applicable limitations, to:

- 12 (1) Develop and construct dwelling units, alone or in  
13 partnership with developers;
- 14 (2) Acquire necessary land by lease, purchase, exchange,  
15 or eminent domain;
- 16 (3) Provide assistance and aid to a public agency or other  
17 person in developing and constructing new housing and  
18 rehabilitating existing housing for elders of low- and  
19 moderate-income, other persons of low- and moderate-  
20 income, and persons displaced by any governmental



- 1           action, by making long-term mortgage or interim  
2           construction loans available;
- 3           (4)   Contract with any eligible bidders to provide for  
4           construction of urgently needed housing for persons of  
5           low- and moderate-income;
- 6           (5)   Guarantee the top twenty-five per cent of the  
7           principal balance of real property mortgage loans,  
8           plus interest thereon, made to qualified borrowers by  
9           qualified lenders;
- 10          (6)   Enter into mortgage guarantee agreements with  
11          appropriate officials of any agency or instrumentality  
12          of the United States to induce those officials to  
13          commit to insure or to insure mortgages under the  
14          National Housing Act, as amended;
- 15          (7)   Make a direct loan to any qualified buyer for the  
16          downpayment required by a private lender to be made by  
17          the borrower as a condition of obtaining a loan from  
18          the private lender in the purchase of residential  
19          property;
- 20          (8)   Provide funds for a share, not to exceed fifty per  
21          cent, of the principal amount of a loan made to a



1 qualified borrower by a private lender who is unable  
2 otherwise to lend the borrower sufficient funds at  
3 reasonable rates in the purchase of residential  
4 property; and

5 (9) Sell or lease completed dwelling units.

6 For purposes of this section, a limitation is applicable to  
7 the extent that it may reasonably be construed to apply to a  
8 county.

9 (b) Each county shall issue every ministerial permit  
10 associated with any project approved pursuant to section 201H-  
11 within sixty days from the date of receipt of a permit  
12 application deemed to be complete by the receiving county  
13 agency.

14 [~~(b)~~] (c) Each county shall recognize housing units  
15 developed by the department of Hawaiian home lands and issue  
16 affordable housing credits to the department of Hawaiian home  
17 lands. The credits shall be transferable and shall be issued on  
18 a one-credit for one-unit basis, unless the housing unit is  
19 eligible for additional credits as provided by adopted county  
20 ordinances, rules, or any memoranda of agreement between a  
21 county and the department of Hawaiian home lands. In the event



1 that credits are transferred by the department of Hawaiian home  
2 lands, twenty-five per cent of any monetary proceeds from the  
3 transfer shall be used by the department of Hawaiian home lands  
4 to develop units for rental properties. Credits shall be issued  
5 for each single-family residence, multi-family unit, other  
6 residential unit, whether for purposes of sale or rental, or if  
7 allowed under the county's affordable housing programs, vacant  
8 lot, developed by the department of Hawaiian home lands. The  
9 credits may be applied county-wide within the same county in  
10 which the credits were earned to satisfy affordable housing  
11 obligations imposed by the county on market-priced residential  
12 and non-residential developments. County-wide or project-  
13 specific requirements for housing class, use, or type; or  
14 construction time for affordable housing units shall not impair,  
15 restrict, or condition the county's obligation to apply the  
16 credits in full satisfaction of all county requirements, whether  
17 by rule, ordinance, or particular zoning conditions of a  
18 project. Notwithstanding any provisions herein to the contrary,  
19 the department may enter into a memorandum of agreement with the  
20 county of Kauai to establish, modify, or clarify the conditions  
21 for the issuance, transfer, and redemption of the affordable



1 housing credits in accordance with county affordable housing  
2 ordinances or rules. Notwithstanding any provisions herein to  
3 the contrary, the department may enter into a memorandum of  
4 agreement with the city and county of Honolulu to establish,  
5 modify, or clarify the conditions for the issuance, transfer,  
6 and redemption of the affordable housing credits in accordance  
7 with county affordable housing ordinances or rules. At least  
8 half of the affordable housing credits issued by the city and  
9 county of Honolulu shall be subject to a memorandum of agreement  
10 pursuant to this subsection.

11 ~~[For purposes of this section, "affordable housing~~  
12 ~~obligation" means the requirement imposed by a county,~~  
13 ~~regardless of the date of its imposition, to develop vacant~~  
14 ~~lots, single family residences, multi family residences, or any~~  
15 ~~other type of residence for sale or rent to individuals within a~~  
16 ~~specified income range.~~

17 ~~(e)]~~ (d) Notwithstanding any law to the contrary, any  
18 county may:

19 (1) Authorize and issue bonds under chapter 47 and chapter  
20 49 to provide moneys to carry out the purposes of this  
21 section or section 46-15.2, including the satisfaction





1 of any guarantees made by the county pursuant to this  
2 section;

3 (2) Appropriate moneys of the county to carry out the  
4 purposes of this section;

5 (3) Obtain insurance and guarantees from the State or the  
6 United States, or grants from either;

7 (4) Designate, after holding a public hearing on the  
8 matter and with the approval of the respective  
9 council, any lands owned by it for the purposes of  
10 this section;

11 (5) Provide interim construction loans to partnerships of  
12 which it is a partner and to developers whose projects  
13 qualify for federally assisted project mortgage  
14 insurance, or other similar programs of federal  
15 assistance for persons of low and moderate income; and

16 (6) Adopt rules pursuant to chapter 91 as are necessary to  
17 carry out the purposes of this section.

18 [~~d~~] (e) Notwithstanding any law to the contrary, a  
19 county may waive its right to repurchase a privately-developed  
20 affordable housing unit built pursuant to a unilateral agreement  
21 or similar instrument, and may transfer that right of repurchase



1 to a qualified nonprofit housing trust for the purpose of  
2 maintaining the unit as affordable for as long as required by  
3 the county program.

4 For the purposes of this subsection, "qualified nonprofit  
5 housing trust" means a corporation, association, or other duly  
6 chartered organization that is registered and in good standing  
7 with the State; that is recognized by the Internal Revenue  
8 Service as a charitable or otherwise tax-exempt organization  
9 under section 501(c)(3) of the Internal Revenue Code of 1986, as  
10 amended; and that has the capacity, resources, and mission to  
11 carry out the purposes of this section as determined by the  
12 county in which the housing unit is located.

13 ~~(e)~~ (f) A qualified nonprofit housing trust shall report  
14 the status and use of its housing units to its respective county  
15 by November 30 of each calendar year.

16 ~~(f)~~ (g) The provisions of this section shall be  
17 construed liberally so as to effectuate the purpose of this  
18 section in facilitating the development, construction, and  
19 provision of low- and moderate-income housing by the various  
20 counties.

21 ~~(g)~~ (h) For purposes of this section ~~["low"]~~:



1        "Affordable housing obligation" means the requirement  
 2 imposed by a county, regardless of the date of its imposition,  
 3 to develop vacant lots, single-family residences, multi-family  
 4 residences, or any other type of residence for sale or rent to  
 5 individuals within a specified income range.

6        "Low- and [~~moderate-income~~] moderate-income housing" means  
 7 any housing project that meets the definition of "low- and  
 8 moderate-income housing project" in section 39A-281.

9        "Ministerial permit" means any nondiscretionary permit for  
 10 which the permit administrator needs to determine conformity  
 11 with applicable ordinances before approving the project."

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

14        SECTION 4. This Act shall take effect on July 1, 2020;  
 15 provided that the amendments made to section 46-15.1, Hawaii  
 16 Revised Statutes, by section 2 of this Act shall not be repealed  
 17 when that section is reenacted on July 1, 2024, pursuant to  
 18 section 3 of Act 141, Session Laws of Hawaii 2009, as amended  
 19 and section 23 of Act 96, Session Laws of Hawaii 2014.

20

INTRODUCED BY:




S.B. NO. 2214

~~sc. Rich-Ann~~

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Kurt Favelle



# S.B. NO. 2214

**Report Title:**

Ministerial Permit; High-density Housing; Transit-oriented Development; Affordable Housing Development

**Description:**

Requires state or county agencies to issue ministerial permits for housing development projects that meet certain requirements within sixty days of receipt of a permit application deemed to be complete by the receiving state or county agency.

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

