

JAN 23 2020

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



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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:



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- 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.




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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.

4

INTRODUCED BY: 

By Request



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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.9

