

JAN 21 2022

S.B. NO. 2233

A BILL FOR AN ACT

RELATING TO HOUSING PRODUCTION.

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

1 SECTION 1. The legislature finds that the State has a
2 housing crisis. A 2019 study commissioned by the Hawaii
3 department of business, economic development, and tourism found
4 that the State will require an additional 50,156 homes by the
5 year 2025, with the city and county of Honolulu requiring 22,168
6 new units, Hawaii county requiring 13,303 new units, Maui county
7 requiring 10,404 new units, and Kauai county requiring 4,281 new
8 housing units. While this forecast projects an acute housing
9 shortage, there has been a lack of measurable progress at the
10 county level to enact policies that will stimulate housing
11 production to meet project demand.

12 The purpose of this Act is to require the counties to focus
13 on being proactive in the production of new housing units rather
14 than reacting to individual housing projects by requiring each
15 county to annually authorize the construction of ten per cent of
16 the forecasted demand by 2025.



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

3 "**§46-15.1 Housing; county powers.** (a) Notwithstanding
4 any law to the contrary, any county shall have and may exercise
5 the same powers, subject to applicable limitations, as those
6 granted the Hawaii housing finance and development corporation
7 pursuant to chapter 201H insofar as those powers may be
8 reasonably construed to be exercisable by a county for the
9 purpose of developing, constructing, and providing low- and
10 moderate-income housing; provided that no county shall be
11 empowered to cause the State to issue general obligation bonds
12 to finance a project pursuant to this section; provided further
13 that county projects shall be granted an exemption from general
14 excise or receipts taxes in the same manner as projects of the
15 Hawaii housing finance and development corporation pursuant to
16 section 201H-36; and provided further that section 201H-16 shall
17 not apply to this section unless federal guidelines specifically
18 provide local governments with that authorization and the
19 authorization does not conflict with any state laws. The powers
20 shall include the power, subject to applicable limitations, to:



- 1 (1) Develop and construct dwelling units, alone or in
2 partnership with developers;
- 3 (2) Acquire necessary land by lease, purchase, exchange,
4 or eminent domain;
- 5 (3) Provide assistance and aid to a public agency or other
6 person in developing and constructing new housing and
7 rehabilitating existing housing for elders of low- and
8 moderate-income, other persons of low- and moderate-
9 income, and persons displaced by any governmental
10 action, by making long-term mortgage or interim
11 construction loans available;
- 12 (4) Contract with any eligible bidders to provide for
13 construction of urgently needed housing for persons of
14 low- and moderate-income;
- 15 (5) Guarantee the top twenty-five per cent of the
16 principal balance of real property mortgage loans,
17 plus interest thereon, made to qualified borrowers by
18 qualified lenders;
- 19 (6) Enter into mortgage guarantee agreements with
20 appropriate officials of any agency or instrumentality
21 of the United States to induce those officials to



1 commit to insure or to insure mortgages under the
2 National Housing Act, as amended;

3 (7) Make a direct loan to any qualified buyer for the
4 downpayment required by a private lender to be made by
5 the borrower as a condition of obtaining a loan from
6 the private lender in the purchase of residential
7 property;

8 (8) Provide funds for a share, not to exceed fifty per
9 cent, of the principal amount of a loan made to a
10 qualified borrower by a private lender who is unable
11 otherwise to lend the borrower sufficient funds at
12 reasonable rates in the purchase of residential
13 property; and

14 (9) Sell or lease completed dwelling units.

15 For purposes of this section, a limitation is applicable to
16 the extent that it may reasonably be construed to apply to a
17 county.

18 (b) Each county shall recognize housing units developed by
19 the department of Hawaiian home lands and issue affordable
20 housing credits to the department of Hawaiian home lands. The
21 credits shall be transferable and shall be issued on a one-



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



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

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



1 (c) Commencing with fiscal year 2022-2023 and each year
2 thereafter until fiscal year 2024-2025, each county shall
3 authorize the construction of new housing units as follows:

4 (1) For the city and county of Honolulu, 2,217 new housing
5 units;

6 (2) For the county of Hawaii, 1,330 new housing units;

7 (3) For the county of Maui, 1,040 new housing units; and

8 (4) For the county of Kauai, 428 new housing units.

9 ~~[-e)]~~ (d) Notwithstanding any law to the contrary, any
10 county may:

11 (1) Authorize and issue bonds under chapter 47 and chapter
12 49 to provide moneys to carry out the purposes of this
13 section or section 46-15.2, including the satisfaction
14 of any guarantees made by the county pursuant to this
15 section;

16 (2) Appropriate moneys of the county to carry out the
17 purposes of this section;

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

20 (4) Designate, after holding a public hearing on the
21 matter and with the approval of the respective



1 council, any lands owned by it for the purposes of
2 this section;

- 3 (5) Provide interim construction loans to partnerships of
4 which it is a partner and to developers whose projects
5 qualify for federally assisted project mortgage
6 insurance, or other similar programs of federal
7 assistance for persons of low and moderate income; and
8 (6) Adopt rules pursuant to chapter 91 as are necessary to
9 carry out the purposes of this section.

10 [~~(d)~~] (e) Notwithstanding any law to the contrary, a
11 county may waive its right to repurchase a privately-developed
12 affordable housing unit built pursuant to a unilateral agreement
13 or similar instrument, and may transfer that right of repurchase
14 to a qualified nonprofit housing trust for the purpose of
15 maintaining the unit as affordable for as long as required by
16 the county program.

17 For the purposes of this subsection, "qualified nonprofit
18 housing trust" means a corporation, association, or other duly
19 chartered organization that is registered and in good standing
20 with the State; that is recognized by the Internal Revenue
21 Service as a charitable or otherwise tax-exempt organization



1 under section 501(c)(3) of the Internal Revenue Code of 1986, as
2 amended; and that has the capacity, resources, and mission to
3 carry out the purposes of this section as determined by the
4 county in which the housing unit is located.

5 ~~[(e)]~~ (f) A qualified nonprofit housing trust shall report
6 the status and use of its housing units to its respective county
7 by November 30 of each calendar year.

8 ~~[(f)]~~ (g) The provisions of this section shall be
9 construed liberally so as to effectuate the purpose of this
10 section in facilitating the development, construction, and
11 provision of low- and moderate-income housing by the various
12 counties.

13 ~~[(g)]~~ (h) For purposes of this section, "low and moderate
14 income housing" means any housing project that meets the
15 definition of "low- and moderate-income housing project" in
16 section 39A-281."

17 SECTION 3. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19 SECTION 4. This Act shall take effect upon its approval;
20 provided that the amendments made to section 46-15.1, Hawaii
21 Revised Statutes, by section 1 of this Act shall not be repealed



S.B. NO. 2233

1 when that section is repealed and reenacted on July 1, 2024,
2 pursuant to sections 1 and 2 of Act 80, Session Laws of Hawaii
3 2019.

4

INTRODUCED BY:

A handwritten signature in black ink, appearing to be "B. S.", is written over a horizontal line.

S.B. NO. 2233

Report Title:

Counties; Housing Production; Requirements; Transient
Accommodation Tax

Description:

Requires each county to authorize construction for a specified number of new housing units between fiscal year 2022-2023 and 2024-2025. Reduces the amount of transient accommodation tax revenue the counties receive for failure to meet the requirements. Allows for recoupment of reduction under certain circumstances. Repeals June 30, 2025.

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

