

JAN 21 2022

A BILL FOR AN ACT

RELATING TO HOUSING.

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

PART I

SECTION 1. The legislature finds that, pursuant to section 201H-38(a), Hawaii Revised Statutes, the development of certain housing projects may be exempt from certain laws relating to planning, zoning, construction; provided that certain other requirements are met, including the approval of the legislative body of the county in which a project is located. The legislature notes that section 201H-38(a)(3) provides a county legislative body only forty-five days to approve or disapprove a housing project, and that if on the forty-sixth day a project is not disapproved, it shall be deemed approved by the legislative body. The legislature recognizes that this deadline does not give county legislative bodies sufficient time to adequately review proposed housing projects. The legislature also recognizes that in September of 2021, the council of the city and county of Honolulu adopted Resolution No. 21-180, C. D. 1,



1 which requests the state legislature to extend the deadline from
2 forty-five days to ninety days.

3 The legislature also finds that current administrative
4 rules regarding environmental assessments allow certain actions
5 involving minor expansions, minor changes, minor alterations,
6 routine activities, routine maintenance, routine repair, or
7 minor structures, to be exempt from environmental assessments.
8 Unfortunately, these rules have allowed the Hawaii housing
9 finance and development corporation and the department of
10 planning and permitting of the city and county of Honolulu to
11 develop a lax attitude, leading those agencies to exclude
12 virtually all state-funded and county-funded housing projects.
13 This, in turn, has led to housing project developers to use
14 tactics to prevent community members from learning about housing
15 projects that could adversely impact communities and excluding
16 the projects from adequate community review and evaluation, even
17 while developers and housing advocates push for expedited
18 approval of the projects.

19 The purpose of this Act is to:

20 (1) Increase from forty-five days to ninety days the
21 deadline by which county legislative bodies shall



1 approve housing projects developed pursuant to section
2 201H-38, Hawaii Revised Statutes; and

3 (2) Establish that any housing project developed pursuant
4 to section 201H-38, Hawaii Revised Statutes, or with
5 state or county funds shall not be exempt from an
6 environmental assessment.

7 PART II

8 SECTION 2. Section 201H-38, Hawaii Revised Statutes, is
9 amended by amending subsection (a) to read as follows:

10 "(a) The corporation may develop on behalf of the State or
11 with an eligible developer, or may assist under a government
12 assistance program in the development of, housing projects that
13 shall be exempt from all statutes, ordinances, charter
14 provisions, and rules of any government agency relating to
15 planning, zoning, construction standards for subdivisions,
16 development and improvement of land, and the construction of
17 dwelling units thereon; provided that:

18 (1) The corporation finds the housing project is
19 consistent with the purpose and intent of this
20 chapter, and meets minimum requirements of health and
21 safety;



1 (2) The development of the proposed housing project does
2 not contravene any safety standards, tariffs, or rates
3 and fees approved by the public utilities commission
4 for public utilities or of the various boards of water
5 supply authorized under chapter 54;

6 (3) The legislative body of the county in which the
7 housing project is to be situated shall have approved
8 the project with or without modifications:

9 (A) The legislative body shall approve, approve with
10 modification, or disapprove the project by
11 resolution within [~~forty-five~~] ninety days after
12 the corporation has submitted the preliminary
13 plans and specifications for the project to the
14 legislative body. If on the [~~forty-sixth~~]
15 ninety-first day a project is not disapproved, it
16 shall be deemed approved by the legislative body;

17 (B) No action shall be prosecuted or maintained
18 against any county, its officials, or employees
19 on account of actions taken by them in reviewing,
20 approving, modifying, or disapproving the plans
21 and specifications; and



1 (C) The final plans and specifications for the
2 project shall be deemed approved by the
3 legislative body if the final plans and
4 specifications do not substantially deviate from
5 the preliminary plans and specifications. The
6 final plans and specifications for the project
7 shall constitute the zoning, building,
8 construction, and subdivision standards for that
9 project. For purposes of sections 501-85 and
10 502-17, the executive director of the corporation
11 or the responsible county official may certify
12 maps and plans of lands connected with the
13 project as having complied with applicable laws
14 and ordinances relating to consolidation and
15 subdivision of lands, and the maps and plans
16 shall be accepted for registration or recordation
17 by the land court and registrar; and

18 (4) The land use commission shall approve, approve with
19 modification, or disapprove a boundary change within
20 forty-five days after the corporation has submitted a
21 petition to the commission as provided in section



1 205-4. If, on the forty-sixth day, the petition is
2 not disapproved, it shall be deemed approved by the
3 commission."

4 PART III

5 SECTION 3. Section 343-6, Hawaii Revised Statutes, is
6 amended by amending subsection (a) to read as follows:

7 "(a) After consultation with the affected agencies and the
8 environmental advisory council, the office of planning and
9 sustainable development shall adopt, amend, or repeal necessary
10 rules for the purposes of this chapter in accordance with
11 chapter 91 including but not limited to rules that shall:

12 (1) Prescribe the procedures whereby a group of proposed
13 actions may be treated by a single environmental
14 assessment or statement;

15 (2) Establish procedures whereby specific types of
16 actions, because they will probably have minimal or no
17 significant effects on the environment, are declared
18 exempt from the preparation of an environmental
19 assessment; provided that any housing project
20 developed pursuant to section 201H-38 or with state or



county funds shall not be exempt from an environmental
assessment;

(3) Prescribe procedures for the preparation of an
environmental assessment;

(4) Prescribe the contents of an environmental assessment;

(5) Prescribe procedures for informing the public of
determinations that a statement is either required or
not required, for informing the public of the
availability of draft environmental impact statements
for review and comments, and for informing the public
of the acceptance or nonacceptance of the final
environmental statement;

(6) Prescribe the contents of an environmental impact
statement;

(7) Prescribe procedures for the submission, distribution,
review, acceptance or nonacceptance, and withdrawal of
an environmental impact statement; and

(8) Establish criteria to determine whether an
environmental impact statement is acceptable or not."



1 PART IV

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

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

7 SECTION 6. This Act shall take effect on July 1, 2022.

8 INTRODUCED BY: Kurt Fevelba



S.B. NO. 2453

Report Title:

Housing Projects; HHFDC; Counties; Environmental Assessment

Description:

Increases from 45 days to 90 days the deadline by which county legislative bodies shall approve certain housing projects supported by the Hawaii Housing Finance and Development Corporation. Establishes that certain housing projects shall not be exempt from an environmental assessment.

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

