

JAN 26 2022

A BILL FOR AN ACT

RELATING TO LAND USE.

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

1 SECTION 1. The Hawaii Revised Statutes is amended by
2 adding a new chapter to title 13 to be appropriately designated
3 and to read as follows:

4 **"CHAPTER**

5 **EXPEDITED AFFORDABLE HOUSING DEVELOPMENT**

6 **PROCESS FOR QUALIFIED NONPROFIT ORGANIZATIONS**

7 § -1 **Definitions.** As used in this chapter, unless the
8 context otherwise requires:

9 "Affordable housing" or "affordable housing units" means
10 housing that is affordable to households having incomes at or
11 below per cent of the median family income as determined
12 by the United States Department of Housing and Urban
13 Development.

14 "Apartment building" means a structure containing one or
15 more dwelling units, except a single-family residence or a
16 structure in which all tenants are roomers or boarders.



1 "Applicant" means a developer that intends to build a
2 project under this chapter.

3 "Dwelling unit" means a structure, or part of a structure,
4 that is used as a home, residence, or sleeping place by one
5 person or by two or more persons maintaining a common household,
6 to the exclusion of all others.

7 "Level affordable to households of moderate, low, or very
8 low income" means an amount that is affordable to households
9 having incomes at or below per cent of the median family
10 income as determined by the United States Department of Housing
11 and Urban Development.

12 "Project" has the same meaning as "housing project" in
13 section 201H-1.

14 "Public highway" means a public highway described in
15 section 264-1.

16 "Qualified buyer" means a buyer having an income that is at
17 or below per cent of the median family income as determined
18 by the United States Department of Housing and Urban
19 Development.

20 "Qualified nonprofit organization" means an entity that is
21 registered and in good standing with the State; is recognized by



1 the Internal Revenue Serve as a charitable or otherwise
2 tax-exempt organization under section 501(c)(3) of the Internal
3 Revenue Code of 1986, as amended; and has the capacity,
4 resources, and mission to carry out the purposes of this
5 chapter.

6 "Shoreline" has the same meaning as in section 205A-1.

7 "Urban" means an area classified as urban pursuant to
8 section 205-2.

9 § -2 **Eligibility.** (a) An applicant may develop a
10 project that shall be subject to the exemptions from statutes,
11 ordinances, charter provisions, and rules established in section
12 201H-38(a); provided that:

13 (1) The project includes not more than twenty-five units,
14 whether the project is an apartment building or a
15 subdivided lot;

16 (2) Each unit is an affordable housing unit that will be
17 sold to a qualified buyer;

18 (3) The project is not part of a larger development
19 involving more than twenty-five units;

20 (4) The units are subject to a recorded covenant,
21 ordinance, or law that restricts mortgages to levels



- 1 affordable to households of moderate, low, or very low
- 2 income for at least forty-five years;
- 3 (5) The project requires the buyer to occupy the unit as
- 4 the buyer's principal residence;
- 5 (6) The project is a self-help housing project, in which
- 6 at least five hundred hours of construction work
- 7 associated with the units are performed by the
- 8 qualified buyer who will occupy the unit and by
- 9 volunteers;
- 10 (7) The applicant is, and the project is being built by, a
- 11 qualified nonprofit organization;
- 12 (8) The project meets minimum requirements of health and
- 13 safety;
- 14 (9) The project is approved by the legislative body of the
- 15 county in which the projected is to be developed as
- 16 provided in section -3;
- 17 (10) If the project requires a boundary change, the project
- 18 receives approval from the land use commission as
- 19 provided in section -4; and
- 20 (11) The applicant meets all other requirements of this
- 21 chapter.



1 (b) In addition to the eligibility requirements
2 established in subsection (a), a project developed pursuant to
3 this chapter shall meet the following requirements:

4 (1) The project shall be located on land that is
5 classified as urban;

6 (2) At least seventy-five per cent of the perimeter of the
7 site adjoins parcels shall be classified as urban.

8 For the purpose of this paragraph, parcels that are
9 only separated by a public highway shall be considered
10 to be adjoined;

11 (3) The project shall be built in an area zoned for
12 residential use or residential mixed use, or otherwise
13 allows a mix of residential and nonresidential uses;
14 provided that at least two-thirds of the square
15 footage of the project shall be designated for
16 residential use. For the purpose of this paragraph,
17 the square footage of the project shall not include
18 underground space, such as basements or underground
19 parking garages;

20 (4) The project shall not be located on a site that:

21 (A) Is within feet of the shoreline;



(B) Includes important agricultural lands;

(C) Includes wetlands;

(D) Is in a special flood hazard area subject to inundation by the one per cent annual chance flood (one hundred-year flood) as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency; provided that a project may be located on a site described in this subparagraph if either of the following are met:

(i) The site has been subject to a Letter of Map Revision prepared by the Federal Emergency Management Agency and issued to the county; or

(ii) The site meets Federal Emergency Management Agency requirements necessary to meet minimum flood plain management criteria of the National Flood Insurance Program pursuant to title 44 Code of Federal Regulations, chapter I, subchapter B, parts 59 and 60;



1 (E) Within a regulatory floodway as determined by the
2 Federal Emergency Management Agency in any
3 official maps published by the Federal Emergency
4 Management Agency, unless the project has
5 received a no-rise certification in accordance
6 with title 44 Code of Federal Regulations section
7 60.3(d) (3);

8 (F) Lands identified for conservation in a habitat
9 conservation plan pursuant to the federal
10 Endangered Species Act of 1973 (16 U.S.C. section
11 1531 et seq.), or other adopted natural resource
12 protection plan;

13 (G) Habitat for protected species identified as
14 candidate, sensitive, or species of special
15 status by state or federal agencies, fully
16 protected species, or species protected by the
17 federal Endangered Species Act of 1973 (16 U.S.C.
18 section 1531 et seq.); and

19 (H) Lands under conservation easement;

20 (5) The project shall not require the demolition of the
21 following types of housing:



(A) Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to households of moderate, low, or very low income;

(B) Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power; and

(C) Housing that has been occupied by tenants within the past ten years;

(6) The project shall not be located on a site that was previously used for housing that was occupied by tenants and that was demolished within ten years before the applicant submits an application under this section;

(7) The project shall not be located on a site that would require the demolition of a historic structure that was placed on a national or state historic register; and

(8) The project shall not be located on a site that contains housing units that are occupied by tenants, and units at the property are, or were, subsequently



1 offered for sale to the general public by the
2 subdivider or subsequent owner of the property.

3 § -3 **County action.** An applicant seeking to develop a
4 project pursuant to this chapter shall submit an application to
5 the legislative body of the county in which the project is
6 proposed to be developed. Upon receiving the application, the
7 legislative body shall determine whether the project meets the
8 eligibility requirements described in section -2 and shall
9 follow the procedures described in section 201H-38(a)(3) to
10 approve, approve with modification, or disapprove the project.

11 § -4 **Land use commission action.** If a project requires
12 a boundary change, then the applicant seeking to develop a
13 project pursuant to this chapter shall submit an application for
14 the boundary change to the land use commission. Upon receiving
15 the application, the land use commission shall determine whether
16 the project meets the eligibility requirements described in
17 section -2 and shall follow the procedures described in
18 section 201H-38(a)(4) to approve, approve with modification, or
19 disapprove the boundary change."



1 SECTION 2. This Act shall take effect upon its approval.

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INTRODUCED BY:

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S.B. NO. 3173

Report Title:

Affordable Housing; Exemptions for Qualified Nonprofit Organizations

Description:

Establishes a process for qualifying nonprofit organizations to expedite the develop of affordable housing projects that meet certain requirements. Exempts these qualifying projects from certain statutes, ordinances, charter provisions, and rules, as provided in section 201H-38, HRS.

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

