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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. The legislature finds that the severe shortage  
2 of affordable housing imposes a tremendous hardship on the  
3 residents of the State. The lack of affordable housing options  
4 is the biggest barrier for employers to recruit and retain  
5 skilled workers, and the reason many residents are migrating to  
6 more affordable communities in the continental United States. A  
7 December 2019 study commissioned by the Hawaii housing finance  
8 and development corporation estimates that the State will need  
9 to build more than fifty thousand housing units by 2025 to meet  
10 the housing demand, with over ninety per cent of the units  
11 required for households earning at or below one hundred forty  
12 per cent of the area median income.

13           Accordingly, the purpose of this Act is to provide  
14 developers with incentives to encourage the development of  
15 additional affordable housing units above and beyond  
16 inclusionary requirements, including creating pathways to  
17 deliver affordable homes in a timely matter to the public.



1 SECTION 2. 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- Rental deposit loan program. (a) There is  
5 established within the corporation a rental deposit loan program  
6 to assist residents of the State who are renter-occupants and  
7 own no other real property with obtaining rental housing by  
8 providing zero per cent interest loans for security deposits up  
9 to \$2,500. Zero interest loans for security deposits under this  
10 subsection shall be repaid to the corporation over a period not  
11 to exceed forty-eight months.

12 (b) The corporation shall award grants pursuant to chapter  
13 103D to counties and nonprofit corporations for the  
14 administration of the rental deposit loan program.

15 (c) Prospective tenants who are eligible to participate in  
16 the rental deposit loan program shall be limited to individuals  
17 and families who reside in the State, are renter-occupants, and  
18 own no other real property.

19 (d) The recipient county or nonprofit corporation shall  
20 determine the eligibility of an applicant, including but not  
21 limited to:



- 1        (1) Proof of a rental offering of at least six months;  
2        (2) Evaluation of the applicant's financial resources;  
3        (3) Determination that the applicant is unable to afford  
4        both the rental deposit and first month's rent, but is  
5        able to afford the rent thereafter; and  
6        (4) Proof of Hawaii residency.  
7        (e) The recipient county or nonprofit corporation shall  
8        enter into a contract with persons deemed eligible and awarded a  
9        loan under the rental deposit loan program in which the  
10       repayment schedule is agreed upon a specific amount of months  
11       not to exceed forty-eight months at zero per cent interest.  
12       (f) A county or nonprofit corporation receiving a grant  
13       pursuant to this section may use an amount not to exceed eight  
14       per cent of the grant for the costs of administering the rental  
15       deposit loan program.  
16       (g) County and nonprofit corporation recipients shall:  
17       (1) Keep statistical records on loan recipients, including  
18       the numbers of individuals and families served and  
19       repayment status; and  
20       (2) Provide quarterly reports to the corporation."



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

4 "§201H- Housing development; income restrictions and  
5 additional exemptions. (a) The corporation may develop on  
6 behalf of the State or, with an eligible developer, may assist  
7 under a government assistance program in the development of  
8 housing projects that shall be exempt from all statutes,  
9 ordinances, charter provisions, and rules of any government  
10 agency relating to planning, zoning, construction standards for  
11 subdivisions, development and improvement of land, and the  
12 construction of dwelling units thereon.

13 (b) Housing projects developed by the corporation pursuant  
14 to this section shall not be subject to income restrictions by  
15 the corporation or any other agency of the State or county in  
16 which the project is developed; provided that:

17 (1) All units constructed under the proposed housing  
18 project shall exclusively be:

19 (A) Sold or transferred as leasehold or fee simple  
20 units;

21 (B) Sold or transferred to owner-occupiers;



1           (C) Sold or transferred to prospective owners who own  
2           no other real property; and

3           (D) Sold or transferred to residents of the State;  
4 provided further that the provisions of this paragraph shall  
5 apply in perpetuity. If the project fails to meet the above  
6 provisions at any point, all exemptions for the project shall  
7 lapse and the developer shall be subject to all fees, fines, or  
8 other penalties deemed appropriate by the county in which the  
9 project is located;

10        (2) The corporation finds that the housing project meets  
11        minimum requirements of health and safety;

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

17        (4) The county in which the housing project is to be  
18        situated shall have approved the project with or  
19        without modifications and:

20           (A) The county shall approve, approve with  
21           modification; or disapprove the project by



1 resolution within forty-five days after the  
2 corporation has submitted the preliminary plans  
3 and specifications for the project to the county.

4 If on the forty-sixth day a project is not  
5 disapproved, it shall be deemed approved by the  
6 county;

7 (B) No action shall be prosecuted or maintained  
8 against any county, its officials, or employees  
9 on account of actions taken by them in reviewing,  
10 approving, modifying, or disapproving the plans  
11 and specifications; and

12 (C) The final plans and specifications for the  
13 project shall be deemed approved by the county if  
14 the final plans and specifications do not  
15 substantially deviate from the preliminary plans  
16 and specifications. The final plans and  
17 specifications for the project shall constitute  
18 the zoning, building, construction, and  
19 subdivision standards for that project. For  
20 purposes of sections 501-85 and 502-17, the  
21 executive director of the corporation or the



1           responsible county official, as applicable, may  
 2           certify maps and plans of lands connected with  
 3           the project as having complied with applicable  
 4           laws and ordinances relating to consolidation and  
 5           subdivision of lands, and the maps and plans  
 6           shall be accepted for registration or recordation  
 7           by the land court and registrar; and

8           (5) The land use commission shall approve, approve with  
 9           modification, or disapprove a boundary change within  
 10           forty-five days after the corporation has submitted a  
 11           petition to the commission as provided in section  
 12           205-4. If, on the forty-sixth day, the petition is  
 13           not disapproved, it shall be deemed approved by the  
 14           commission.

15           (c) For the purposes of this section, "government  
 16           assistance program" has the same meaning as defined in section  
 17           201H-38."

18           SECTION 4. Chapter 237, Hawaii Revised Statutes, is  
 19           amended by adding a new section to be appropriately designated  
 20           and to read as follows:



1           "§237-    Exemption for construction of affordable housing  
2 units. (a) All gross income received by any qualified person  
3 or firm for the planning, design, financing, construction, sale,  
4 or lease of affordable housing units in the State that are part  
5 of a government agency's or approving body's condition for  
6 approval and that have been certified by the government agency  
7 or approving body, shall be exempt from general excise taxes.

8           (b) This section shall not apply to gross income received  
9 by any qualified person or firm for housing projects certified  
10 or approved under section 201H-36.

11           (c) The director of taxation shall modify, or adopt, rules  
12 pursuant to chapter 91 for the purpose of this section as  
13 necessary.

14           (d) For purposes of this section:  
15           "Affordable housing units in the State that are part of a  
16 government agency's or approving body's condition for approval"  
17 means the designated affordable housing units approved by a  
18 government agency or approving body for a project to qualify for  
19 the exemption under subsection (a).

20           "Qualified person or firm" means an individual,  
21 partnership, joint venture, corporation, association, limited





1 liability partnership, limited liability company, business,  
2 trust, or any organized group of persons or legal entities, or  
3 any combination thereof, which possesses all professional or  
4 vocational licenses necessary to do business in the State in  
5 conjunction with the planning, design, financing, construction  
6 (including materials and supplies for new construction, moderate  
7 rehabilitation, and substantial rehabilitation), sale, or rental  
8 of eligible housing projects."

9 SECTION 5. Section 6E-2, Hawaii Revised Statutes, is  
10 amended by amending the definition of "historic property" to read  
11 as follows:

12 "Historic property" means any building, structure, object,  
13 district, area, or site, including heiau and an underwater site  
14 [~~which~~] that is over [~~fifty~~] one hundred years old."

15 SECTION 6. Section 6E-8, Hawaii Revised Statutes, is  
16 amended to read as follows:

17 "§6E-8 Review of effect of proposed state projects. (a)  
18 Before any agency or officer of the State or its political  
19 subdivisions commences any project [~~which~~] that may affect  
20 historic property, aviation artifact, or a burial site, the  
21 agency or officer shall advise the department and allow the



1 department an opportunity for review of the effect of the  
2 proposed project on historic properties, aviation artifacts, or  
3 burial sites, consistent with section 6E-43, especially those  
4 listed on the Hawaii register of historic places. The proposed  
5 project shall not be commenced, or if it has already begun,  
6 continued, until the department has given its written  
7 concurrency. If:

- 8 (1) The proposed project consists of corridors or large  
9 land areas;
- 10 (2) Access to properties is restricted; or
- 11 (3) Circumstances dictate that construction be done in  
12 stages,

13 the department may give its written concurrence based on a  
14 phased review of the project; provided that there shall be a  
15 programmatic agreement between the department and the project  
16 applicant that identifies each phase and the estimated timelines  
17 for each phase.

18 The department shall provide written concurrence or non-  
19 concurrence within ninety days after the filing of a request  
20 with the department. The agency or officer seeking to proceed  
21 with the project, or any person, may appeal the department's



1 concurrence or non-concurrence to the Hawaii historic places  
2 review board. An agency, officer, or other person who is  
3 dissatisfied with the decision of the review board may apply to  
4 the governor, who may take action as the governor deems best in  
5 overruling or sustaining the department.

6 (b) The department of Hawaiian home lands, prior to any  
7 proposed project relating to lands under its jurisdiction, shall  
8 consult with the department regarding the effect of the project  
9 upon historic property or a burial site.

10 (c) The State, its political subdivisions, agencies, and  
11 officers shall report to the department the finding of any  
12 historic property during any project and shall cooperate with the  
13 department in the investigation, recording, preservation, and  
14 salvage of the property.

15 (d) The department may retain a third-party consultant to  
16 conduct the review described under subsection (a) if, after an  
17 initial evaluation, the department determines that:

18 (1) It is not able to provide its written concurrence or  
19 non-concurrence within sixty days of the filing of the  
20 request with the department;



1       (2) The third-party consultant has the qualifications and  
2       experience required pursuant to subsection (e) to  
3       conduct the review; and

4       (3) The third-party consultant will be required by  
5       contract to provide a recommendation to the department  
6       within thirty days of the filing of the request with  
7       the department.

8       The department shall obtain the approval of the appropriate  
9       island burial council and aha moku council prior to retaining  
10       the services of the third-party consultant.

11       (e) Whenever the department retains any third party,  
12       including an architect, engineer, archaeologist, planner, or  
13       other person to review an application for a permit, license, or  
14       approval under subsection (d), the third party shall meet the  
15       educational and experience standards and the qualifications for  
16       preservation professionals pursuant to rules adopted by the  
17       state historic preservation division.

18       ~~[(d)]~~ (f) The department shall adopt rules in accordance  
19 with chapter 91 to implement this section."

20       SECTION 7. Section 6E-10, Hawaii Revised Statutes, is  
21 amended to read as follows:



1           "§6E-10 Privately owned historic property. (a) Before  
2 any construction, alteration, disposition or improvement of any  
3 nature, by, for, or permitted by a private landowner may be  
4 commenced [~~which~~] that will affect [~~an~~] a historic property on  
5 the Hawaii register of historic places, the landowner shall  
6 notify the department of the construction, alteration,  
7 disposition, or improvement of any nature and allow the  
8 department opportunity for review of the effect of the proposed  
9 construction, alteration, disposition, or improvement of any  
10 nature on the historic property. The proposed construction,  
11 alteration, disposition, or improvement of any nature shall not  
12 be commenced, or, in the event it has already begun, continue,  
13 until the department shall have given its concurrence or ninety  
14 days have elapsed. Within ninety days after notification, the  
15 department shall:

- 16           (1) Commence condemnation proceedings for the purchase of  
17           the historic property if the department and property  
18           owner do not agree upon an appropriate course of  
19           action;
- 20           (2) Permit the owner to proceed with the owner's  
21           construction, alteration, or improvement; or



1           (3) In coordination with the owner, undertake or permit  
2           the investigation, recording, preservation, and  
3           salvage of any historical information deemed necessary  
4           to preserve Hawaiian history, by any qualified agency  
5           for this purpose.

6           (b) Nothing in this section shall be construed to prevent  
7           the ordinary maintenance or repair of any feature in or on ~~[an]~~  
8           a historic property that does not involve a change in design,  
9           material, or outer appearance or change in those characteristics  
10          ~~[which]~~ that qualified the historic property for entry onto the  
11          Hawaii register of historic places.

12          (c) Any person, natural or corporate, who violates the  
13          provisions of this section shall be fined not more than \$1,000,  
14          and each day of continued violation shall constitute a distinct  
15          and separate offense under this section for which the offender  
16          may be punished.

17          (d) If funds for the acquisition of needed property are  
18          not available, the governor may, upon the recommendation of the  
19          department, allocate from the contingency fund an amount  
20          sufficient to acquire an option on the property or for the



1 immediate acquisition, preservation, restoration, or operation  
2 of the property.

3 (e) The department may retain a third-party consultant to  
4 conduct the review described under subsection (a) if, after an  
5 initial evaluation, the department determines that:

6 (1) It is not able to provide its written concurrence or  
7 non-concurrence within sixty days of the landowner's  
8 notification of construction, alteration, disposition,  
9 or improvement;

10 (2) The third-party consultant has the qualifications and  
11 experience required pursuant to subsection (f) to  
12 conduct the review; and

13 (3) The third-party consultant will be required by  
14 contract to provide a recommendation to the department  
15 within thirty days of the landowner's notification of  
16 construction, alteration, disposition, or improvement.

17 The department shall obtain the approval of the appropriate  
18 island burial council and aha moku council prior to contracting  
19 to retain the services of the third-party consultant.

20 (f) Whenever the department retains any third party,  
21 including an architect, engineer, archaeologist, planner, or



1 other person, to review an application for a permit, license, or  
2 approval under subsection (e), the third party shall meet the  
3 educational and experience standards as well as the  
4 qualifications for preservation professionals pursuant to rules  
5 adopted by the state historic preservation division.

6       ~~[(e)]~~ (g) The department or third-party consultant, as  
7 applicable, may enter, solely in performance of [its] the  
8 department's official duties and only at reasonable times, upon  
9 private lands for examination or survey thereof. Whenever any  
10 member of the department or the department's third-party  
11 consultant, as applicable, that is duly authorized to conduct  
12 investigations and surveys of [an] a historic or cultural nature  
13 determines that entry onto private lands for examination or  
14 survey of historic or cultural finding is required, the  
15 department or the department's third-party consultant, as  
16 applicable, shall give written notice of the finding to the  
17 owner or occupant of such property at least five days prior to  
18 entry. If entry is refused, the member or the department's  
19 third-party consultant, as applicable, may make a complaint to  
20 the district environmental court in the circuit in which such  
21 land is located. The district environmental court may thereupon





1 issue a warrant, directed to any police officer of the circuit,  
2 commanding the officer to take sufficient aid, and, being  
3 accompanied by a member of the department [~~7~~] or the department's  
4 third-party consultant, as applicable, between the hours of  
5 sunrise and sunset, allow the member of the department or the  
6 department's third-party consultant, as applicable, to examine  
7 or survey the historic or cultural property."

8 SECTION 8. Section 6E-42, Hawaii Revised Statutes, is  
9 amended to read as follows:

10 "§6E-42 Review of proposed projects. (a) Except as  
11 provided in section 6E-42.2, before any agency or officer of the  
12 State or its political subdivisions approves any project  
13 involving a permit, license, certificate, land use change,  
14 subdivision, or other entitlement for use [~~7, which~~] that may  
15 affect historic property, aviation artifacts, or a burial site,  
16 the agency or office shall advise the department and, prior to  
17 any approval, allow the department an opportunity for review and  
18 comment on the effect of the proposed project on historic  
19 properties, aviation artifacts, or burial sites, consistent with  
20 section 6E-43, including those listed in the Hawaii register of  
21 historic places. If:



1 (1) The proposed project consists of corridors or large  
2 land areas;

3 (2) Access to properties is restricted; or

4 (3) Circumstances dictate that construction be done in  
5 stages,

6 the department's review and comment may be based on a phased  
7 review of the project; provided that there shall be a  
8 programmatic agreement between the department and the project  
9 applicant that identifies each phase and the estimated timelines  
10 for each phase.

11 (b) The department shall inform the public of any project  
12 proposals submitted to it under this section that are not  
13 otherwise subject to the requirement of a public hearing or  
14 other public notification.

15 (c) The department may retain a third-party consultant to  
16 conduct the review described under subsection (a) if, after an  
17 initial evaluation, the department determines that:

18 (1) It is not able to provide its written concurrence or  
19 non-concurrence within sixty days of being advised of  
20 the project pursuant to subsection (a);



1       (2) The third-party consultant has the qualifications and  
2           experience required pursuant to subsection (d) to  
3           conduct the review; and

4       (3) The third-party consultant will be required by  
5           contract to provide a recommendation to the department  
6           within thirty days of being advised of the project  
7           pursuant to subsection (a).

8       The department shall obtain the approval of the appropriate  
9           island burial council and aha moku council prior to contracting  
10          to retain the services of the third-party consultant.

11       (d) Whenever the department retains any third party,  
12          including an architect, engineer, archaeologist, planner, or  
13          other person to review an application for a permit, license, or  
14          approval under subsection (c), the third party shall meet the  
15          educational and experience standards and the qualifications for  
16          preservation professionals pursuant to rules adopted by the  
17          state historic preservation division.

18       ~~(e)~~ (e) The department shall adopt rules in accordance  
19 with chapter 91 to implement this section."

20       SECTION 9. Section 46-4, Hawaii Revised Statutes, is  
21 amended by amending subsection (a) to read as follows:



1           "(a) This section and any ordinance, rule, or regulation  
2 adopted in accordance with this section shall apply to lands not  
3 contained within the forest reserve boundaries as established on  
4 January 31, 1957, or as subsequently amended.

5           Zoning in all counties shall be accomplished within the  
6 framework of a long-range, comprehensive general plan prepared  
7 or being prepared to guide the overall future development of the  
8 county. Zoning shall be one of the tools available to the  
9 county to put the general plan into effect in an orderly manner.

10 Zoning in the counties of Hawaii, Maui, and Kauai means the  
11 establishment of districts of [~~such~~] a number, shape, and area,  
12 and the adoption of regulations for each district to carry out  
13 the purposes of this section. In establishing or regulating the  
14 districts, full consideration shall be given to all available  
15 data as to soil classification and physical use capabilities of  
16 the land to allow and encourage the most beneficial use of the  
17 land consonant with good zoning practices. The zoning power  
18 granted herein shall be exercised by ordinance [~~which~~] that may  
19 relate to:

- 20           (1) The areas within which agriculture, forestry,  
21           industry, trade, and business may be conducted;



- 1 (2) The areas in which residential uses may be regulated  
2 or prohibited;
- 3 (3) The areas bordering natural watercourses, channels,  
4 and streams, in which trades or industries, filling or  
5 dumping, erection of structures, and the location of  
6 buildings may be prohibited or restricted;
- 7 (4) The areas in which particular uses may be subjected to  
8 special restrictions;
- 9 (5) The location of buildings and structures designed for  
10 specific uses and designation of uses for which  
11 buildings and structures may not be used or altered;
- 12 (6) The location, height, bulk, number of stories, and  
13 size of buildings and other structures;
- 14 (7) The location of roads, schools, and recreation areas;
- 15 (8) Building setback lines and future street lines;
- 16 (9) The density and distribution of population;
- 17 (10) The percentage of a lot that may be occupied, size of  
18 yards, courts, and other open spaces;
- 19 (11) Minimum and maximum lot sizes; ~~and~~
- 20 (12) Promoting labor standards, including but not limited  
21 to living wages, benefits, requirements for



1           participation in state-approved apprenticeship  
 2           programs that promote the efficient and expeditious  
 3           completion of construction projects and permit and  
 4           encourage the orderly development of land resources  
 5           within the county's jurisdiction; and

6           ~~[-(12)]~~ (13) Other regulations the boards or city council  
 7           find necessary and proper to permit and encourage the  
 8           orderly development of land resources within their  
 9           jurisdictions.

10           The council of any county shall prescribe rules,  
 11 regulations, and administrative procedures and provide personnel  
 12 it finds necessary to enforce this section and any ordinance  
 13 enacted in accordance with this section. The ordinances may be  
 14 enforced by appropriate fines and penalties, civil or criminal,  
 15 or by court order at the suit of the county or the owner or  
 16 owners of real estate directly affected by the ordinances.

17           Any civil fine or penalty provided by ordinance under this  
 18 section may be imposed by the district court, or by the zoning  
 19 agency after an opportunity for a hearing pursuant to chapter  
 20 91. The proceeding shall not be a prerequisite for any  
 21 injunctive relief ordered by the circuit court.



1           Nothing in this section shall invalidate any zoning  
2 ordinance or regulation adopted by any county or other agency of  
3 government pursuant to the statutes in effect prior to July 1,  
4 1957.

5           The powers granted herein shall be liberally construed in  
6 favor of the county exercising them, and in [~~such~~] a manner as  
7 to promote the orderly development of each county or city and  
8 county in accordance with a long-range, comprehensive general  
9 plan to ensure the greatest benefit for the State as a whole.  
10 This section shall not be construed to limit or repeal any  
11 powers of any county to achieve these ends through zoning and  
12 building regulations, except insofar as forest and water reserve  
13 zones are concerned and as provided in subsections (c) and (d).

14           Neither this section nor any ordinance enacted pursuant to  
15 this section shall prohibit the continued lawful use of any  
16 building or premises for any trade, industrial, residential,  
17 agricultural, or other purpose for which the building or  
18 premises is used at the time this section or the ordinance takes  
19 effect; provided that a zoning ordinance may provide for  
20 elimination of nonconforming uses as the uses are discontinued,  
21 or for the amortization or phasing out of nonconforming uses or



1 signs over a reasonable period of time in commercial,  
 2 industrial, resort, and apartment zoned areas only. In no event  
 3 shall ~~such~~ the amortization or phasing out of nonconforming  
 4 uses apply to any existing building or premises used for  
 5 residential (single-family or duplex) or agricultural uses.  
 6 Nothing in this section shall affect or impair the powers and  
 7 duties of the director of transportation as set forth in chapter  
 8 262."

9 SECTION 10. Section 104-2, Hawaii Revised Statutes, is  
 10 amended as follows:

11 1. By amending subsection (b) to read:

12 "(b) Every laborer and mechanic ~~[performing work on the~~  
 13 ~~job site]~~ employed for the construction of any public work  
 14 project, including but not limited to off-site construction  
 15 where a portion of the building or work is manufactured or  
 16 constructed for the performance of the contract, shall be paid  
 17 no less than prevailing wages; provided that:

18 (1) The prevailing wages shall be established by the  
 19 director as the sum of the basic hourly rate and the  
 20 cost to an employer of providing a laborer or mechanic





1 with fringe benefits. In making prevailing wage  
2 determinations, the following shall apply:

3 (A) The director shall make separate findings of:

4 (i) The basic hourly rate; and

5 (ii) The rate of contribution or cost of fringe  
6 benefits paid by the employer when the  
7 payment of the fringe benefits by the  
8 employer constitutes a prevailing practice.

9 The cost of fringe benefits shall be  
10 reflected in the wage rate scheduled as an  
11 hourly rate; and

12 (B) The rates of wages which the director shall  
13 regard as prevailing in each corresponding  
14 classification of laborers and mechanics shall be  
15 the rate of wages paid to the greatest number of  
16 those employed in the State, the modal rate, in  
17 the corresponding classes of laborers or  
18 mechanics on projects that are similar to the  
19 contract work;

20 (2) Except for the project prevailing wages established by  
21 subsections (h) and (i), the prevailing wages shall be



1 not less than the wages payable under federal law to  
2 corresponding classes of laborers and mechanics  
3 employed on public works projects in the State that  
4 are prosecuted under contract or agreement with the  
5 government of the United States; and

- 6 (3) Notwithstanding the provisions of the original  
7 contract, the prevailing wages shall be periodically  
8 adjusted during the performance of the contract in an  
9 amount equal to the change in the prevailing wage as  
10 periodically determined by the director."

11 2. By amending subsection (i) to read:

12 "(i) The terms of section 201H-36(a)(5) prevailing wages  
13 shall be deemed the prevailing wages serving as the basis of  
14 compliance with this chapter for work on the project when:

- 15 (1) The Hawaii housing finance and development corporation  
16 has approved and certified a qualified person or firm  
17 involved with a newly constructed, or moderately or  
18 substantially rehabilitated project under section  
19 201H-36(a)(5) for exemption from general excise taxes;  
20 and



1 (2) The qualified person or firm has entered into a  
2 contract with a general contractor or subcontractors  
3 whose workforce is subject to either:

4 (A) A collective bargaining agreement with a bona  
5 fide labor union for which a section  
6 201H-36(a)(5) prevailing wage for the laborers  
7 and mechanics employed for the construction  
8 project has been approved by the director; or

9 (B) A project labor agreement with the group whose  
10 wages are reflected in the Hawaii prevailing wage  
11 schedule for which section 201H-36(a)(5)  
12 prevailing wages for the laborers and mechanics  
13 employed for the construction project have been  
14 approved by the director [~~and~~

15 ~~(3) The qualified person or firm has received no other~~  
16 ~~direct or indirect financing for the construction~~  
17 ~~project from any other governmental contracting~~  
18 ~~agency, including the Hawaii housing finance and~~  
19 ~~development corporation]."~~

20 SECTION 11. Section 171-11, Hawaii Revised Statutes, is  
21 amended to read as follows:



1           "§171-11 Public purposes, lands set aside by the governor;  
2 management. The governor may, with the prior approval of the  
3 board of land and natural resources, set aside public lands to  
4 any department or agency of the State, the city and county,  
5 county, or other political subdivisions of the State for public  
6 use or purpose. All withdrawals of the lands or portions  
7 thereof so set aside shall be made by the governor. Any order  
8 issued by the governor to set aside public lands for public  
9 purposes pursuant to this section to be under the control and  
10 management of any county or state agency for the development of  
11 affordable housing projects and related purposes, and in the  
12 interests of promoting the fair, efficient, and expeditious  
13 completion of the projects, shall incorporate, as a condition of  
14 the order, that the applicable county or state agency, as part  
15 of any request for proposal for an affordable housing project,  
16 require the developer of the affordable housing project to enter  
17 into contracts with only general contractors and subcontractors  
18 whose wages are reflected in the Hawaii prevailing wage statute,  
19 chapter 104, for laborers and mechanics employed for the  
20 affordable housing project. The developer shall certify to the  
21 applicable county or state agency that this requirement shall be



1 met in the construction of the affordable housing project,  
2 including but not limited to off-site construction where a  
3 portion of the building or work is manufactured or constructed  
4 for the performance of the contract.

5 Any public lands set aside by the governor prior to the  
6 enactment of this chapter, or any public lands set aside by the  
7 governor of the Territory of Hawaii, shall be subject to the  
8 provisions of this section.

9 Lands while so set aside for such use or purpose or when  
10 acquired for roads and streets shall be managed by the  
11 department, agency, city and county, county, or other political  
12 subdivisions of the State having jurisdiction thereof, unless  
13 otherwise provided by law. Such department, agency of the  
14 State, the city and county, county, or other political  
15 subdivisions of the State in managing such lands shall be  
16 authorized to exercise all of the powers vested in the board in  
17 regard to the issuance of leases, easements, licenses, revocable  
18 permits, concessions, or rights of entry covering such lands for  
19 such use as may be consistent with the purposes for which the  
20 lands were set aside on the same terms, conditions, and  
21 restrictions applicable to the disposition of public lands, as



1 provided by this chapter all such dispositions being subject to  
2 the prior approval of the board; provided that any nonrenewable  
3 dispositions granting rights for a period not in excess of  
4 fourteen days shall not require (1) the approval of the board or  
5 (2) public auction or public advertisement for sealed tenders;  
6 and provided further that disposition of lands set aside for use  
7 as agricultural parks pursuant to chapter 166 shall not be  
8 subject to the prior approval of the board. If at the time of  
9 the disposition of any such leases the board shall have approved  
10 the same, any order withdrawing or setting aside any or all of  
11 such lands for any other public purpose shall be made subject to  
12 such leases. Subject to section 5(f) of the Act of March 18,  
13 1959 (73 Stat. 6), all proceeds from such lands shall be  
14 deposited into the appropriate funds provided by law.

15 This section shall also apply where the purposes are the  
16 uses and purposes of the United States; provided that all  
17 revenues derived from the lands and improvements thereon shall  
18 be paid to the department of land and natural resources by the  
19 United States.

20 Whenever lands set aside for a public purpose to the  
21 various departments and agencies of the State, or to any city



1 and county, county, or other political subdivisions of the  
2 State, or to the United States, are not being utilized or  
3 required for the public purpose stated, the order setting aside  
4 the lands shall be withdrawn and the lands shall be returned to  
5 the department. The governor may withdraw public lands and,  
6 with the prior approval of the board of land and natural  
7 resources, set aside the withdrawn lands to another department  
8 or agency of the State, the city and county, county, or  
9 political subdivision of the State, or to the United States for  
10 public use or purpose, provided that no structure on such lands  
11 shall be built, demolished or altered until after the  
12 legislative action or inaction as hereinbelow provided.

13 The power granted to the governor in this section to set  
14 aside or withdraw or withdraw and set aside public lands shall  
15 be exercised subject to disapproval by the legislature by two-  
16 thirds vote of either the senate or the house of representatives  
17 or by the majority vote of both, in any regular or special  
18 session next following the date of the setting aside or  
19 withdrawal, or withdrawal and setting aside.

20 Whenever portions of lands set aside for a public purpose  
21 to the various departments and agencies of the State, or to any



1 city and county, county, or other political subdivision of the  
 2 State are not presently utilized or required for the public  
 3 purpose stated, the board shall have the power, without  
 4 withdrawing the order setting aside the lands, to dispose of any  
 5 and all real property interest less than the fee in the portions  
 6 of such lands where the disposition is for a use which is  
 7 consistent or inconsistent with the purpose for which the land  
 8 was set aside. All funds derived from disposition by the board  
 9 shall be deposited in the general fund of the State or be paid  
 10 to the appropriate account; provided that all such dispositions  
 11 shall be with the prior written approval of the department,  
 12 agency, city and county, county, or other political subdivisions  
 13 of the State and the governor, and shall be undertaken in  
 14 compliance with all other applicable sections of this chapter."

15 SECTION 12. Section 201H-36, Hawaii Revised Statutes, is  
 16 amended by amending subsection (a) to read as follows:

17 "(a) In accordance with section 237-29, the corporation  
 18 may approve and certify for exemption from general excise taxes  
 19 any qualified person or firm involved with a newly constructed,  
 20 or a moderately or substantially rehabilitated, project that is:

21 (1) Developed under this part;





- 1           (2) Developed under a government assistance program  
2           approved by the corporation, including but not limited  
3           to the United States Department of Agriculture's  
4           section 502 direct loan program and Federal Housing  
5           Administration's section 235 program;
- 6           (3) Developed under the sponsorship of a private nonprofit  
7           organization providing home rehabilitation or new  
8           homes for qualified families in need of decent, low-  
9           cost housing;
- 10          (4) Developed by a qualified person or firm to provide  
11          affordable rental housing where at least fifty per  
12          cent of the available units are for households with  
13          incomes at or below eighty per cent of the area median  
14          family income as determined by the United States  
15          Department of Housing and Urban Development, of which  
16          at least twenty per cent of the available units are  
17          for households with incomes at or below sixty per cent  
18          of the area median family income as determined by the  
19          United States Department of Housing and Urban  
20          Development; or



1 (5) Approved or certified from July 1, 2018, to June 30,  
2 2030, and developed under a contract described in  
3 section 104-2(i)(2) by a qualified person or firm to  
4 provide affordable rental housing through new  
5 construction or substantial rehabilitation; provided  
6 that [:-

7 ~~(A) The allowable general excise tax and use tax~~  
8 ~~costs shall apply to contracting only and shall~~  
9 ~~not exceed \$30,000,000 per year in the aggregate~~  
10 ~~for all projects approved and certified by the~~  
11 ~~corporation; and~~

12 ~~(B) All] all available units are for households with~~  
13 ~~incomes at or below one hundred forty per cent of~~  
14 ~~the area median family income as determined by~~  
15 ~~the United States Department of Housing and Urban~~  
16 ~~Development, of which at least twenty per cent of~~  
17 ~~the available units are for households with~~  
18 ~~incomes at or below eighty per cent of the area~~  
19 ~~median family income as determined by the United~~  
20 ~~States Department of Housing and Urban~~  
21 ~~Development; provided that an owner shall not~~



1           refuse to lease a unit solely because the  
 2           applicant holds a voucher or certificate of  
 3           eligibility under section 8 of the United States  
 4           Housing Act of 1937, as amended."

5           SECTION 13. There is appropriated out of the general  
 6 revenues of the State of Hawaii the sum of \$2,500,000 or so much  
 7 thereof as may be necessary for fiscal year 2023-2024 and the  
 8 same sum or so much thereof as may be necessary for fiscal year  
 9 2024-2025 for the establishment of the rental deposit loan  
 10 program and one full-time equivalent (1.0 FTE) staff position to  
 11 administer the rental deposit loan program.

12           The sums appropriated shall be expended by the Hawaii  
 13 housing finance and development corporation for the purposes of  
 14 this Act.

15           SECTION 14. This Act does not affect rights and duties  
 16 that matured, penalties that were incurred, and proceedings that  
 17 were begun before its effective date.

18           SECTION 15. Statutory material to be repealed is bracketed  
 19 and stricken. New material is underscored.

20           SECTION 16. This Act shall take effect on January 1, 2024;  
 21 provided that:



- 1           (1) Section 13 shall take effect on July 1, 2023;
- 2           (2) The amendments made to sections 104-2 and 201H-36(a),  
3           Hawaii Revised Statutes, in sections 10 and 12 of this  
4           Act shall not be repealed when those sections are  
5           repealed and reenacted on June 30, 2030, by Act 39,  
6           Session Laws of Hawaii 2018; and
- 7           (3) On July 1, 2028, sections 6, 7, and 8 shall be  
8           repealed, and sections 6E-8, 6E-10, and 6E-42, Hawaii  
9           Revised Statutes, shall be reenacted in the form in  
10          which they read on the day before the approval of this  
11          Act.



**Report Title:**

Affordable Housing; Housing; Rental Deposit Loan Program; Hawaii Housing Finance and Development Corporation; General Excise Tax Exemption; State Historic Preservation Division; Counties; Wages and Hours of Employees on Public Works; Position; Appropriation

**Description:**

Creates the Rental Deposit Loan Program. Allows the Hawaii Housing Finance and Development Corporation to develop certain housing projects that are exempt from laws, rules, and ordinances, including income restrictions, under certain circumstances. Creates tax incentives for the development of affordable housing. Amends the definition of "history property". Temporarily allows third-party reviews of application and notifications to the State Historic Preservation Division for five years. Authorizes counties to promote certain labor standards through zoning ordinances. Includes off-site construction of a public work project under Hawaii's law on the wages and hours of employees on public works. Requires that all orders from the Governor to set aside public lands for the development of affordable housing contain a provision that the construction of the development be subject to Hawaii's law on the wages and hours of employees on public works. Appropriates funds. Effective 01/01/2024. (SD1)

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

