

S.B. NO. 3102

JAN 24 2024

A BILL FOR AN ACT

RELATING TO HOUSING.

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

1 SECTION 1. Section 104-2, Hawaii Revised Statutes, is
2 amended by amending subsection (i) to read as follows:

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

6 (1) The Hawaii housing finance and development corporation
7 has approved and certified a qualified person or firm
8 involved with a newly constructed, or moderately or
9 substantially rehabilitated project under section
10 201H-36(a)(5) for exemption from general excise taxes;
11 and

12 (2) The qualified person or firm that has entered into a
13 contract with a general contractor or subcontractors
14 [~~whose workforce is~~] shall ensure that all general
15 contractors and subcontractors working on the project
16 are subject to either:

17 (A) A collective bargaining agreement with a bona
18 fide labor union for which a section

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1 201H-36(a)(5) prevailing wage for the laborers
2 and mechanics employed for the construction
3 project has been approved by the director; or
4 (B) A project labor agreement with the group whose
5 wages are reflected in the Hawaii prevailing wage
6 schedule for which section 201H-36(a)(5)
7 prevailing wages for the laborers and mechanics
8 employed for the construction project have been
9 approved by the director[, and

10 ~~(3) The qualified person or firm has received no other~~
11 ~~direct or indirect financing for the construction~~
12 ~~project from any other governmental contracting~~
13 ~~agency, including the Hawaii housing finance and~~
14 ~~development corporation]."~~

15 SECTION 2. 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;

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- 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
- 21 (5) Approved or certified from July 1, 2018, to June 30,
22 [~~2030~~,] 2035, and developed under a contract described

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1 in section 104-2(i)(2) by a qualified person or firm
2 to provide affordable rental housing through new
3 construction or substantial rehabilitation; provided
4 that [+

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

10 ~~(B) All]~~ 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

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1 eligibility under section 8 of the United States
2 Housing Act of 1937, as amended."

3 SECTION 3. Act 54, Session Laws of Hawaii 2017, as amended
4 by Act 39, Session Laws of Hawaii 2018, is amended by amending
5 section 5 to read as follows:

6 "SECTION 5. This Act shall take effect on July 1, 2017,
7 and shall be repealed on June 30, [~~2030~~] 2035; provided that

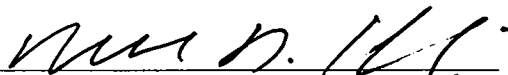
8 (1) Section 3 of this Act shall apply to taxable years
9 beginning after December 31, 2017, but shall not apply
10 to projects certified or approved after June 30,

11 [~~2030~~] 2035; and

12 (2) Section 104-2, Hawaii Revised Statutes, and section
13 201H-36, Hawaii Revised Statutes, shall be reenacted
14 in the form in which they read on the day before the
15 effective date of this Act."

16 SECTION 4. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 5. This Act shall take effect upon its approval
19 and shall apply to taxable years beginning after December 31,
20 2024.

21 INTRODUCED BY: 

22 BY REQUEST

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Report Title:

HHFDC; Taxation; GET; Exemption; Contracts; Prevailing Wage

Description:

Extends the Hawaii Housing Finance and Development Corporation approval and certification period in which construction or rehabilitation of certain projects under section 201H-36(a)(5), HRS, can qualify for general excise tax (GET) exemption and repeals the limitation of the costs to contracting, including repealing the \$30,000,000 annual cap on allowable GET and use tax costs applicable to contracting under section 201H-36(a)(5), HRS. Repeals the provision prohibiting qualified persons or firms from receiving direct or indirect financing for construction projects from any governmental contracting agency, including HHFDC, as a condition of the section 201H-36(a)(5), HRS, prevailing wage terms.

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

JUSTIFICATION SHEET

DEPARTMENT: Governor

TITLE: A BILL FOR AN ACT RELATING TO HOUSING.

PURPOSE: To extend the Hawaii Housing Finance and Development Corporation (HHFDC) approval and certification period in which construction or rehabilitation of certain projects under section 201H-36(a)(5), Hawaii Revised Statutes (HRS), can qualify for general excise tax (GET) exemption; repeal the limitation of the costs to contracting, including repealing the \$30,000,000 annual cap on allowable GET and use tax costs applicable to contracting under section 201H-36(a)(5), HRS; repeal the provision prohibiting qualified persons or firms from receiving direct or indirect financing for construction projects from any governmental contracting agency, including HHFDC, as a condition of the section 201H-36(a)(5), HRS, prevailing wage terms; and extend the repeal date of the GET exemption authority from June 30 2030, to June 30, 2035.

MEANS: Amend sections 104-2(i) and 201H-36(a)(5), HRS, and section 5 of Act 54, Session Laws of Hawaii (SLH) 2017, as amended by Act 39, SLH 2018.

JUSTIFICATION: Hawaii's housing crisis represents one of the largest economic challenges facing families and individuals in our State. A June 28, 2023, report by the Economic Research Organization at the University of Hawai'i states that Hawaii residents face the highest housing costs in the nation. Housing is also the single biggest household expense in our State, making up 38 percent of household spending. The cost-burden of housing and lack of affordable housing in the State are compounded by Hawaii having the highest cost of living in the nation. Hawaii's housing crisis is detrimental to the health and well-being of individuals and

families in our State and erodes our communities.

This measure expands the GET exemption for certified or approved housing projects pursuant to section 201H-36, Hawaii Revised Statutes (HRS), to optimize opportunities for developing new or refurbished rental housing in the State. This measure is also aimed at improving the supply of affordable rental housing in the State by incentivizing affordable housing development. The expanded tax incentive and wage law compliance amendments improve the economics of building rental housing in the State to tackle our housing crisis.

Impact on the public: Greater development of affordable housing will increase housing supply and opportunity for more individuals and families to secure housing in Hawaii. Increased access to affordable housing is fundamental to the security, health, well-being, and prosperity of communities throughout our State.

Impact on the department and other agencies: None.

GENERAL FUND: To be determined.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: None.

OTHER AFFECTED AGENCIES: Department of Taxation, Hawaii Housing Finance and Development Corporation, and Department of Budget and Finance.

EFFECTIVE DATE: Upon approval and shall apply to taxable years beginning after December 31, 2024.