
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 Hawaii is in the
2 midst of a crisis as a substantial number of residents are
3 unable to secure attainable housing to rent or to own. The
4 exorbitant cost of real estate renders homeownership
5 unattainable for many local families, with the average price of
6 a home in Hawaii surpassing \$800,000, an amount considerably
7 beyond the financial reach of most local working residents.

8 The legislature further finds that Hawaii has been
9 struggling with outmigration as local working residents are
10 compelled to leave the islands in search of more affordable
11 living situations. The department of business, economic
12 development, and tourism reported that between July 1, 2022, and
13 July 1, 2023, an average of twelve people departed from Hawaii
14 each day. As a result, for the first time in history, a greater
15 number of Native Hawaiians reside outside of Hawaii than in it.
16 This exodus signifies a loss not only of population but also of
17 cultural heritage.



1 A recent study of nearly fifteen hundred local working
2 residents conducted by Holomua Collective found that seventy per
3 cent of respondents plan to leave or are considering leaving
4 Hawaii as they cannot afford to live here. Nearly half of that
5 seventy per cent plan to move within the next five years.

6 The legislature also finds that another crucial aspect of
7 Hawaii's housing crisis is the shortage of attainable housing
8 for essential workers like teachers, police officers, health
9 care providers, and others who serve the community. With
10 limited attainable housing options and high building costs, it
11 is becoming increasingly difficult to find suitable places for
12 these workers to live, driving crucial workers to relocate to
13 the continent.

14 The legislature additionally finds that like Hawaii, the
15 town of Vail, Colorado has a tourism-based economy in which
16 local working residents struggle to find attainable housing in
17 part due to the large percentage of vacant homes owned by non-
18 residents. In 2018, in an attempt to provide for local
19 workforce housing and invest in the future of its town, the town
20 of Vail implemented "Vail InDEED", a voluntary program that
21 allowed the town to buy and place deed restrictions in



1 perpetuity on local homes from willing buyers that limited
2 occupancy to owner-occupants or resident tenants that live and
3 work in the town of Vail. Since 2018, the program has resulted
4 in the establishment of over one thousand deed restricted
5 residences for local working residents, helped provide more
6 attainable housing options for local working residents, and
7 created a culture in which Vail residents want to live in and
8 support the deed restricted residences.

9 The legislature believes Hawaii can learn from the town of
10 Vail, and that a program similar to Vail InDEED could develop a
11 stock of homes in Hawaii that are dedicated to locals. This
12 program could be effective in helping local families buy homes
13 by bringing together the needs of employers, workers, and the
14 community. Additionally, this program would not only aid people
15 in securing housing but would also contribute to the
16 preservation of Hawaii's distinctive culture by ensuring that
17 local families remain in the State.

18 Accordingly, the purpose of this Act is to establish and
19 fund the kamaaina homes program as an investment in the future
20 of Hawaii and keep local working families in the State by
21 securing a dedicated housing supply specifically for locals.



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

4 " . Kamaaina Homes Program

5 **§201H-A Definitions.** As used in this subpart, unless the
6 context otherwise requires:

7 "Eligible homeowner or homebuyer" means a person or family,
8 without regard to race, creed, national origin, or sex, who:

- 9 (1) Is a citizen of the United States or a resident alien;
10 (2) Is a resident domiciled in the State;
11 (3) Is at least eighteen years of age;
12 (4) Agrees to sell to the county and place a deed
13 restriction on the property that is in compliance with
14 section 201H-C;
15 (5) Agrees to comply with annual reporting requirements
16 pursuant to section 201H-F;
17 (6) Owns no other property with a deed restriction
18 pursuant to this subpart; and
19 (7) Meets any other qualifications as established by rules
20 adopted by the corporation or county.



1 "Qualified business" means a corporation, partnership, sole
2 proprietorship, trust or foundation, or any other individual or
3 organization carrying on a business, whether or not operated for
4 profit that:

5 (1) Has a physical presence within the State;

6 (2) Has a current and valid business license to operate in
7 the State;

8 (3) Pays state income taxes pursuant to chapter 235; and

9 (4) Is generally recognized as an operating business
10 within the community.

11 "Qualified business" includes state and county departments and
12 agencies.

13 **§201H-B Kamaaina homes program; established; general**

14 **provisions.** (a) There is established within the corporation
15 the kamaaina homes program to provide counties funding through
16 the dwelling unit revolving fund established pursuant to section
17 201H-191 to purchase voluntary deed restrictions from eligible
18 homeowners or homebuyers.

19 (b) Upon application by a county, in a form prescribed by
20 the corporation, the corporation may allocate an annual lump
21 sum, in an amount to be determined by the corporation, necessary



1 for a county to purchase a voluntary deed restriction from an
2 eligible homeowner or homebuyer; provided that the corporation
3 shall not distribute funds solely based on the population size
4 of a county.

5 (c) A county may deposit funds received from the
6 corporation pursuant to subsection (b) into an escrow account
7 until the purchase of a deed restriction is finalized.

8 (d) No eligible homeowner or homebuyer shall be granted
9 funds under this subpart if a deed restriction that satisfies
10 section 201H-C already runs with the land of the property.

11 (e) Any initial lease for tenancy offered at a property
12 with a deed restriction placed pursuant to this subpart shall be
13 for a minimum of six months. An initial lease may transfer to a
14 month-to-month lease upon completion of the original term.

15 (f) The deed restriction placed and owned by the county
16 pursuant to this subpart shall take first priority over other
17 restrictions on the property, if applicable; provided that for a
18 planned community under chapter 421J, a deed restriction may be
19 secondary only to conditions, covenants, and restrictions with a
20 requisite first position.



1 (g) Counties shall be responsible for validating the
2 evidence and ensuring compliance with this subpart. Counties
3 may contract with non-government persons or entities to ensure
4 compliance with this subpart. Counties shall report any
5 property not in compliance with this subpart to the corporation.

6 (h) If a property with a deed restriction in place
7 pursuant to this subpart is sold to a nonresident, or at sale it
8 is determined that the property has been rented to a
9 nonresident, the corporation may bring action against the
10 homeowner in the appropriate circuit court and shall be entitled
11 to fifty per cent of appreciation at the time of sale, to be
12 collected by the corporation and placed in the dwelling unit
13 revolving fund established under section 201H-191.

14 (i) If a county does not expend moneys allocated pursuant
15 to this section within one year of receipt, the moneys shall be
16 returned to the corporation and placed in the dwelling unit
17 revolving fund established under section 201H-191.

18 (j) The corporation and each county may establish, revise,
19 charge, and collect fees and premiums and impose costs as
20 necessary, reasonable, or convenient to effectuate the purposes
21 of this subpart.



1 (k) The corporation may adopt rules pursuant to chapter 91
2 for the purposes of this subpart. Each county may adopt rules
3 pursuant to chapter 91 for purposes of this subpart; provided
4 that the rules shall not conflict with rules adopted by the
5 corporation.

6 **§201H-C Deed restriction; requirements. (a)**

7 Notwithstanding any other law to the contrary, a deed
8 restriction shall be recorded against the property and shall run
9 with the land in perpetuity, binding all future owners,
10 successors, and assigns.

11 (b) Notwithstanding any other law to the contrary, a deed
12 restriction placed on a property and held by a county pursuant
13 to this subpart shall require that the property be occupied by
14 at least one owner-occupant or tenant who:

15 (1) Works an average of thirty hours or more per week at a
16 qualified business;

17 (2) Is involuntarily unemployed:

18 (A) From a job in which the owner-occupant or tenant
19 worked an average of thirty hours or more per
20 week at a qualified business at the time of
21 initial occupancy; and



- 1 (B) For a period of less than three hundred sixty-
2 five days;
- 3 (3) Is retired; provided that the retiree:
- 4 (A) Was sixty-five years of age or older at the time
5 of retirement; and
- 6 (B) Worked an average of thirty hours or more per
7 week at a qualified business within the county;
8 or
- 9 (4) Has a disability, as defined in section 515-2;
10 provided that the owner or tenant with a disability
11 worked an average of thirty hours or more per week at
12 a qualified business.

13 **§201H-D Remedies.** A county that reasonably believes a
14 property with a deed restriction in place pursuant to this
15 subpart is not in compliance with this subpart may bring action
16 against the owner of the property for civil remedies based in
17 contract or real property law, including but not limited to
18 claiming a lien or obtaining specific performance.

19 **§201H-E Conveyance tax; environmental impact statement;**
20 **procurement code; exemptions.** (a) An action on property with a



1 deed restriction in place pursuant to this subpart shall be
2 exempt from chapter 343.

3 (b) Property sold for which a county has purchased a deed
4 restriction pursuant to this subpart shall be exempt from
5 chapter 247.

6 (c) Any contract entered into by a county pursuant to this
7 subpart shall be exempt from chapter 103D.

8 **§201H-F Annual reporting.** No later than of each
9 year, beginning in the year following the first year of
10 occupancy of the property after the deed restriction has been
11 entered into, the owner of the property shall submit a written
12 statement with accompanying evidence to the county verifying the
13 property was occupied by a qualified owner-occupant or tenant
14 during all of the prior calendar year; provided that, if
15 applicable, a copy of the lease form currently used for the
16 property shall be submitted with the statement."

17 SECTION 3. Section 46-15.2, Hawaii Revised Statutes, is
18 amended to read as follows:

19 **"§46-15.2 Housing; additional county powers.** In addition
20 and supplemental to the powers granted to counties by section



1 46-15.1, a county shall have and may exercise any of the
2 following powers:

3 (1) To provide assistance and aid to persons of low- and
4 moderate-income in acquiring housing by:

5 (A) Providing loans secured by a mortgage;

6 (B) Acquiring the loans from private lenders where
7 the county has made advance commitment to acquire
8 the loans; and

9 (C) Making and executing contracts with private
10 lenders or a public agency for the origination
11 and servicing of the loans and paying the
12 reasonable value of the services;

13 (2) In connection with the exercise of any powers granted
14 under this section or section 46-15.1, to establish
15 one or more loan programs and to issue bonds under
16 chapter 47 or 49 to provide moneys to carry out the
17 purposes of this section or section 46-15.1; provided
18 that:

19 (A) If bonds are issued pursuant to chapter 47 to
20 finance one or more loan programs, the county may



1 establish qualifications for the program or
2 programs as it deems appropriate;

3 (B) If bonds are issued pursuant to chapter 49 to
4 finance one or more loan programs, the loan
5 program or programs shall comply with part III,
6 subpart B of chapter 201H, to the extent
7 applicable;

8 (C) If bonds are issued pursuant to section 47-4 or
9 chapter 49, any loan program established pursuant
10 to this section or any county-owned dwelling
11 units constructed under section 46-15.1 shall be
12 and constitute an "undertaking" under section
13 49-1 and chapter 49 shall apply to the loan
14 program or county-owned dwelling units to the
15 extent applicable;

16 (D) In connection with the establishment of any loan
17 program pursuant to this section, a county may
18 employ financial consultants, attorneys, real
19 estate counselors, appraisers, and other
20 consultants as may be required in the judgment of



1 the county and fix and pay their compensation
2 from funds available to the county therefor;

3 (E) Notwithstanding any limitation otherwise
4 established by law, with respect to the rate of
5 interest on any loan made under any loan program
6 established pursuant to this section, the loan
7 may bear a rate or rates of interest per year as
8 the county shall determine; provided that no loan
9 made from the proceeds of any bonds of the county
10 shall be under terms or conditions that would
11 cause the interest on the bonds to be deemed
12 subject to income taxation by the United States;

13 (F) Notwithstanding any limitation otherwise
14 established by law, with respect to the amount of
15 compensation permitted to be paid for the
16 servicing of loans made under any loan program
17 established pursuant to this section, a county
18 may fix any reasonable compensation as the county
19 may determine;

20 (G) Notwithstanding the requirement of any other law,
21 a county may establish separate funds and



1 accounts with respect to bonds issued pursuant to
2 chapter 47 or 49 to provide moneys to carry out
3 the purposes of this section or section 46-15.1
4 as the county may deem appropriate;

5 (H) Notwithstanding any provision of chapter 47 or 49
6 or of any other law, but subject to the
7 limitations of the state constitution, bonds
8 issued to provide moneys to carry out the
9 purposes of this section or section 46-15.1 may
10 [be]:

11 (i) Be sold at public or private sale at a
12 price; ~~[may bear]~~

13 (ii) Bear interest at a rate or rates per year;
14 may be payable at a time or times; ~~[may~~
15 ~~mature]~~

16 (iii) Mature at a time or times; ~~[may be]~~

17 (iv) Be made redeemable before maturity at the
18 option of the county, the holder, or both,
19 at a price or prices and upon terms and
20 conditions; and ~~[may be]~~



1 (v) Be issued in coupon or registered form, or
2 both, as the county may determine;

3 (I) If deemed necessary or advisable, the county may
4 designate a national or state bank or trust
5 company within or without the State to serve as
6 trustee for the holders of bonds issued to
7 provide moneys to carry out the purposes of this
8 section or section 46-15.1, and enter into a
9 trust indenture, trust agreement, or indenture of
10 mortgage with the trustee whereby the trustee may
11 be authorized to receive and receipt for, hold,
12 and administer the proceeds of the bonds and to
13 apply the proceeds to the purposes for which the
14 bonds are issued, or to receive and receipt for,
15 hold, and administer the revenues and other
16 receipts derived by the county from the
17 application of the proceeds of the bonds and to
18 apply the revenues and receipts to the payment of
19 the principal of, or interest on the bonds, or
20 both. Any trust indenture, trust agreement, or
21 indenture of mortgage entered into with the



1 trustee may contain any covenants and provisions
2 as may be deemed necessary, convenient, or
3 desirable by the county to secure the bonds. The
4 county may pledge and assign to the trustee any
5 agreements related to the application of the
6 proceeds of the bonds and the rights of the
7 county thereunder, including the rights to
8 revenues and receipts derived thereunder. Upon
9 appointment of the trustee, the director of
10 finance of the county may elect not to serve as
11 fiscal agent for the payment of the principal and
12 interest, and for the purchase, registration,
13 transfer, exchange, and redemption, of the bonds;
14 or may elect to limit the functions the director
15 of finance performs as a fiscal agent; and may
16 appoint a trustee to serve as the fiscal agent;
17 and may authorize and empower the trustee to
18 perform the functions with respect to payment,
19 purchase, registration, transfer, exchange, and
20 redemption, as the director of finance deems
21 necessary, advisable, or expedient, including



1 without limitation the holding of the bonds and
2 coupons that have been paid and the supervision
3 and conduction or the destruction thereof in
4 accordance with law;

5 (J) If a trustee is not appointed to collect, hold,
6 and administer the proceeds of bonds issued to
7 provide moneys to carry out the purposes of this
8 section or section 46-15.1, or the revenues and
9 receipts derived by the county from the
10 application of the proceeds of the bonds, as
11 provided in subparagraph (I), the director of
12 finance of the county may hold the proceeds or
13 revenues and receipts in a separate account in
14 the treasury of the county, to be applied solely
15 to the carrying out of the ordinance, trust
16 indenture, trust agreement, or indenture of
17 mortgage, if any, authorizing or securing the
18 bonds; and

19 (K) Any law to the contrary notwithstanding, the
20 investment of funds held in reserves and sinking
21 funds related to bonds issued to provide moneys



1 to carry out the purposes of this section or
2 section 46-15.1 shall comply with section 201H-
3 77; provided that any investment that requires
4 approval by the county council pursuant to
5 section 46-48 or 46-50 shall first be approved by
6 the county council;

7 (3) To acquire policies of insurance and enter into
8 banking arrangements as the county may deem necessary
9 to better secure bonds issued to provide money to
10 carry out the purposes of this section or section 46-
11 15.1, including without limitation contracting for a
12 support facility or facilities as may be necessary
13 with respect to bonds issued with a right of the
14 holders to put the bonds and contracting for interest
15 rate swaps; [~~and~~]

16 (4) To enter into negotiations for, and purchase deed
17 restrictions on, housing properties from eligible
18 homeowners and homebuyers pursuant to subpart ,
19 part III of chapter 201H; and



1 ~~[-(4)-]~~ (5) To do any and all other things necessary or
2 appropriate to carry out the purposes and exercise the
3 powers granted in section 46-15.1 and this section."

4 SECTION 4. Section 201H-191, Hawaii Revised Statutes, is
5 amended by amending subsection (a) to read as follows:

6 "(a) There is created a dwelling unit revolving fund. The
7 funds appropriated for the purpose of the dwelling unit
8 revolving fund and all moneys received or collected by the
9 corporation for the purpose of the revolving fund shall be
10 deposited in the revolving fund. The proceeds in the revolving
11 fund shall be used ~~[to reimburse]~~ for:

12 (1) Reimbursements to the general fund to pay the interest
13 on general obligation bonds issued for the purposes of
14 the revolving fund~~[, for the necessary];~~

15 (2) Necessary expenses in administering housing
16 development programs and regional state infrastructure
17 programs~~[, and for carrying];~~

18 (3) Carrying out the purposes of housing development
19 programs and regional state infrastructure programs,
20 including but not limited to the expansion of
21 community facilities and regional state infrastructure



1 constructed in conjunction with housing and mixed-use
2 transit-oriented development projects, permanent
3 primary or secondary financing, and supplementing
4 building costs, federal guarantees required for
5 operational losses, and all things required by any
6 federal agency in the construction and receipt of
7 federal funds or low-income housing tax credits for
8 housing projects[-]; and

9 (4) The administration and purchase of deed restrictions
10 as part of the kamaaina homes program under
11 subpart ; provided that there shall be no area
12 median income requirements for moneys expended for the
13 purposes of this program."

14 SECTION 5. Section 247-3, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§247-3 Exemptions.** The tax imposed by section 247-1
17 shall not apply to:

- 18 (1) Any document or instrument that is executed prior to
19 January 1, 1967;
20 (2) Any document or instrument that is given to secure a
21 debt or obligation;



- 1 (3) Any document or instrument that only confirms or
2 corrects a deed, lease, sublease, assignment,
3 transfer, or conveyance previously recorded or filed;
4 (4) Any document or instrument between husband and wife,
5 reciprocal beneficiaries, or parent and child, in
6 which only a nominal consideration is paid;
7 (5) Any document or instrument in which there is a
8 consideration of \$100 or less paid or to be paid;
9 (6) Any document or instrument conveying real property
10 that is executed pursuant to an agreement of sale, and
11 where applicable, any assignment of the agreement of
12 sale, or assignments thereof; provided that the taxes
13 under this chapter have been fully paid upon the
14 agreement of sale, and where applicable, upon such
15 assignment or assignments of agreements of sale;
16 (7) Any deed, lease, sublease, assignment of lease,
17 agreement of sale, assignment of agreement of sale,
18 instrument or writing in which the United States or
19 any agency or instrumentality thereof or the State or
20 any agency, instrumentality, or governmental or



1 political subdivision thereof are the only parties
2 thereto;

3 (8) Any document or instrument executed pursuant to a tax
4 sale conducted by the United States or any agency or
5 instrumentality thereof or the State or any agency,
6 instrumentality, or governmental or political
7 subdivision thereof for delinquent taxes or
8 assessments;

9 (9) Any document or instrument conveying real property to
10 the United States or any agency or instrumentality
11 thereof or the State or any agency, instrumentality,
12 or governmental or political subdivision thereof
13 pursuant to the threat of the exercise or the exercise
14 of the power of eminent domain;

15 (10) Any document or instrument that solely conveys or
16 grants an easement or easements;

17 (11) Any document or instrument whereby owners partition
18 their property, whether by mutual agreement or
19 judicial action; provided that the value of each
20 owner's interest in the property after partition is



1 equal in value to that owner's interest before
2 partition;

3 (12) Any document or instrument between marital partners or
4 reciprocal beneficiaries who are parties to a divorce
5 action or termination of reciprocal beneficiary
6 relationship that is executed pursuant to an order of
7 the court in the divorce action or termination of
8 reciprocal beneficiary relationship;

9 (13) Any document or instrument conveying real property
10 from a testamentary trust to a beneficiary under the
11 trust;

12 (14) Any document or instrument conveying real property
13 from a grantor to the grantor's revocable living
14 trust, or from a grantor's revocable living trust to
15 the grantor as beneficiary of the trust;

16 (15) Any document or instrument conveying real property, or
17 any interest therein, from an entity that is a party
18 to a merger or consolidation under chapter 414, 414D,
19 415A, 421, 421C, 425, 425E, or 428 to the surviving or
20 new entity;



1 (16) Any document or instrument conveying real property, or
2 any interest therein, from a dissolving limited
3 partnership to its corporate general partner that
4 owns, directly or indirectly, at least a ninety per
5 cent interest in the partnership, determined by
6 applying section 318 (with respect to constructive
7 ownership of stock) of the federal Internal Revenue
8 Code of 1986, as amended, to the constructive
9 ownership of interests in the partnership; ~~and~~

10 ~~+~~] (17) ~~[+~~] Any document or instrument that conforms to the
11 transfer on death deed as authorized under chapter
12 527~~[-]~~; and

13 (18) Any document or instrument conveying real property
14 with a county owned deed restriction pursuant to
15 subpart , part III of chapter 201H."

16 SECTION 6. Section 525-4, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "**§525-4 Exclusions from statutory rule against**
19 **perpetuities.** Section 525-1 shall not apply to:



- 1 (1) A fiduciary's power to sell, lease, or mortgage
2 property, and the power of a fiduciary to determine
3 principal and income;
- 4 (2) A discretionary power of a trustee to distribute
5 principal before termination of a trust;
- 6 (3) A nonvested property interest held by a charity,
7 government, or governmental agency or subdivision, if
8 the nonvested property interest is preceded by an
9 interest held by another charity, government, or
10 governmental agency or subdivision;
- 11 (4) A property interest in or a power of appointment with
12 respect to a pension, profit-sharing, stock bonus,
13 health, disability, death benefit, income deferral, or
14 other current or deferred benefit plan for one or more
15 employees, independent contractors, or their
16 beneficiaries or spouses;
- 17 (5) A property interest, power of appointment, or
18 arrangement that was not subject to the common-law
19 rule against perpetuities or is excluded by any other
20 applicable law; ~~[or]~~
- 21 (6) A trust described in chapter 554G~~[or]~~; or



1 (7) A property interest in property with a county owned
2 deed restriction in place pursuant to subpart ,
3 part III of chapter 201H."

4 SECTION 7. In codifying the new sections added by section
5 2 of this Act, the revisor of statutes shall substitute
6 appropriate section numbers for the letters used in designating
7 the new sections in this Act.

8 SECTION 8. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 9. This Act shall take effect on July 1, 3000.



H.B. NO. 739 H.D. 1

Report Title:

Kamaaina Homes Program; Voluntary Deed Restrictions; Counties

Description:

Establishes the Kamaaina Homes Program to provide funding to the counties to purchase voluntary deed restrictions from eligible homeowners or homebuyers. Effective 7/1/3000. (HD1)

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

