

JAN 15 2025

---

---

# A BILL FOR AN ACT

RELATING TO LIMITED-PROFIT HOUSING ASSOCIATIONS.

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

1 PART I

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

5 "§201- Limited-profit housing council. (a) There is  
6 established the limited-profit housing council within the  
7 department of business, economic development, and tourism for  
8 administrative purposes, to oversee and administer the  
9 establishment and governance of limited-profit housing  
10 associations in the State.

11 (b) The limited-profit housing council shall be composed  
12 of the following members:

13 (1) The chairs of the standing committees of the  
14 legislature with subject matter jurisdiction over  
15 housing or the chairs' designees;



- 1        (2) The executive director of the Hawaii housing finance  
2                    and development corporation, who shall serve as  
3                    co-chair;
- 4        (3) The executive director of the Hawaii public housing  
5                    authority, who shall serve as co-chair;
- 6        (4) The director of business, economic development, and  
7                    tourism or the director's designee;
- 8        (5) The attorney general or the attorney general's  
9                    designee;
- 10       (6) The director of taxation or the director's designee;
- 11       (7) A representative from the city and county of  
12                    Honolulu's office of housing with experience in  
13                    affordable housing development;
- 14       (8) A representative from the county of Maui's department  
15                    of housing with experience in affordable housing  
16                    development;
- 17       (9) A representative from the county of Kauai's housing  
18                    agency with experience in affordable housing  
19                    development; and





1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19

"CHAPTER

LIMITED-PROFIT HOUSING ASSOCIATIONS

§ -1 Purpose. The purpose of this chapter is to create long-term affordable housing in the State through the establishment of limited-profit housing associations.

§ -2 Definitions. As used in this chapter:

"Contractor" means any general engineering, general building, or specialty contractor, any subcontractor, or any person, who by oneself or through others offers to undertake, or holds oneself out as being able to undertake, or does undertake to alter, add to, subtract from, improve, enhance, or beautify any realty or construct, alter, repair, add to, subtract from, improve, move, wreck, or demolish any building, highway, road, railroad, excavation, or other structure, project, development, or improvement, or do any part thereof, including the erection of scaffolding or other structures or works in connection therewith.

"Financial relationship" means a relationship between a person and a contractor, where:



- 1           (1) The person is, or has been within the last three  
2                   years, an employee of a contractor, its parent  
3                   company, or its subsidiaries;
- 4           (2) The person is related by blood, marriage, or adoption  
5                   to; is a party to a civil union with; is a reciprocal  
6                   beneficiary or household member of; or resides with a  
7                   contractor or an officer or director of a contractor,  
8                   its parent company, or its subsidiaries; or
- 9           (3) The person or an association of which the person is a  
10                  director, officer, or manager or in which the person  
11                  owns beneficially or of record five per cent or more  
12                  of the outstanding equity interests or the outstanding  
13                  shares of a contractor, its parent company, or its  
14                  subsidiaries.

15           "Limited-profit housing association" or "association" means  
16 a domestic corporation, incorporated under chapter 414, that is  
17 approved by the limited-profit housing council to act as a  
18 limited-profit housing association and whose status as a  
19 limited-profit housing association has not been terminated as  
20 provided in this chapter.



1 "Limited-profit housing council" or "council" means the  
2 council established pursuant to section 201- .

3 **§ -3 Establishment; standards of conduct; termination.**

4 (a) A domestic corporation, incorporated under chapter 414, may  
5 establish itself as a limited-profit housing association upon  
6 approval from the council. If a corporation that is not a  
7 limited-profit housing association is a party to a merger,  
8 consolidation, or division, or is the exchanging corporation in  
9 a share exchange, and the surviving, new, or any resulting  
10 corporation in the merger, consolidation, division, or share  
11 exchange is to be a limited-profit housing association, then the  
12 plan of merger, consolidation, division, or share exchange shall  
13 not be effective unless approved by the council.

14 (b) Upon approval of its limited-profit housing  
15 association status, the corporation shall include in its  
16 articles, or amend its articles to include, a statement that the  
17 corporation's primary purpose is to provide long-term affordable  
18 housing in the State and that the corporation shall devote its  
19 assets, including its shareholders' equity, to generate  
20 affordable housing and regularly check and monitor its business



1 operations to ensure that it is aligned with this primary  
2 purpose.

3 (c) All directors and officers of an association shall be  
4 independent of and shall have no financial relationship with any  
5 contractors.

6 (d) The director of an association shall not be personally  
7 liable for monetary damages for any action taken as a director;  
8 provided that the director performed the duties of the  
9 director's office in compliance with the general standards of  
10 conduct pursuant to section 414-221.

11 (e) The officer of an association shall not be personally  
12 liable for monetary damages for any action taken as an officer;  
13 provided that the officer performed the duties of the position  
14 in compliance with the general standards of conduct pursuant to  
15 section 414-233.

16 (f) Upon proper notice, an association that is  
17 noncompliant with this chapter shall have its status as a  
18 limited-profit housing association revoked.

19 (g) An association may elect to terminate its status as a  
20 limited-profit housing association and cease to be subject to  
21 this chapter upon approval from the council. If a plan of



1 merger, consolidation, division, or share exchange would have  
2 the effect of terminating the status of a corporation as a  
3 limited-profit housing association, the plan shall not be  
4 effective unless it is approved by the council.

5       **§ -4 Leasehold purchase prices; rental prices.** (a) A  
6 limited-profit housing association shall only charge a fixed  
7 price for the use of its affordable housing units. The fixed  
8 price shall be at a level neither higher nor lower than  
9 necessary to cover the costs for constructing and operating the  
10 building, while considering the actual and reasonable costs of  
11 managing the affordable housing units, including the formation  
12 of reserves. The fixed price shall be based on the following  
13 factors:

- 14       (1) Construction expenses, including the financing of the  
15             affordable housing units;
- 16       (2) Operating expenses and management costs; and
- 17       (3) Replacement reserves.

18       (b) If a tenant or buyer of an affordable housing unit  
19 that is built by an association disagrees with the cost of the  
20 affordable housing unit, they may have the amount of the fixed  
21 price reviewed by a court of law.





1           **§ -5 Asset management.** (a) The revenues generated by a  
2 limited-profit housing association shall be reserved and placed  
3 in a revolving fund where the moneys shall be used only for  
4 limited business activities as provided under section -6.

5           (b) The association shall only distribute its profits once  
6 a year. The profit distributed shall not exceed the permissible  
7 interest rate for shareholder equity as determined by the  
8 council.

9           (c) The dividend paid to a member or shareholder that  
10 withdraws from the association shall be only the amount of the  
11 nominal value of the member's or shareholder's capital  
12 contribution.

13           **§ -6 Limited business activities.** (a) Limited-profit  
14 housing associations shall primarily construct, rehabilitate,  
15 and manage affordable housing. Additional primary activities of  
16 an association may include the large-scale renovation and  
17 management of the affordable housing of other limited-profit  
18 housing associations. All activities performed under this  
19 subsection shall be performed under the name of the association.

20           (b) With written approval from the council, an association  
21 may perform other housing-related services.



1 (c) Any interruption in building activities by an  
2 association shall require the explicit permission of the  
3 council."

4 SECTION 3. Chapter 235, Hawaii Revised Statutes, is  
5 amended by adding a new section to be appropriately designated  
6 and to read as follows:

7 "§235- Income earned by a limited-profit housing  
8 association. Notwithstanding any law to the contrary, all  
9 income earned from a limited-profit housing association  
10 established pursuant to chapter that would otherwise be  
11 taxed as ordinary income shall be excluded from taxation under  
12 this chapter; provided that any income that is not used for  
13 primary business activities under section -6(a) shall be  
14 subject to taxation under this chapter if the limited-profit  
15 housing association is unable to verify that the income has been  
16 properly utilized in five years for the primary business  
17 activities of the association."

18 SECTION 4. Section 23-94, Hawaii Revised Statutes, is  
19 amended by amending subsection (c) to read as follows:

20 "(c) This section shall apply to the following:



# S.B. NO. 24

- 1           (1) Section 235-4.5(a)--Exclusion of intangible income
- 2                   earned by a trust sited in this State;
- 3           (2) Section 235-4.5(b)--Exclusion of intangible income of
- 4                   a foreign corporation owned by a trust sited in this
- 5                   State;
- 6           (3) Section 235-4.5(c)--Credit to a resident beneficiary
- 7                   of a trust for income taxes paid by the trust to
- 8                   another state;
- 9           (4) Sections 235-55 and 235-129--Credit for income taxes
- 10                  paid by a resident taxpayer to another jurisdiction;
- 11           (5) Section 235-71(c)--Credit for a regulated investment
- 12                  company shareholder for the capital gains tax paid by
- 13                  the company;
- 14           (6) Section 235-110.6--Credit for fuel taxes paid by a
- 15                  commercial fisher;
- 16           (7) Section 235-110.93--Credit for important agricultural
- 17                  land qualified agricultural cost;
- 18           ~~[(8) Section 235-110.94--Credit for organically produced~~
- 19                  ~~agricultural products;~~
- 20           (8) Section 235-129(b)--Credit to a shareholder of
- 21                  an S corporation for the shareholder's pro rata share



1 of the tax credit earned by the S corporation in this  
 2 State; [and  
 3 ~~(10)~~ (9) Section 209E-10--Credit for a qualified business  
 4 in an enterprise zone; provided that the review of  
 5 this credit pursuant to this part shall be limited in  
 6 scope to income tax credits[-]; and  
 7 (10) Section 235- --Exclusion of income earned by a  
 8 limited-profit housing association."

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

11 "§247-3 Exemptions. The tax imposed by section 247-1  
 12 shall not apply to:

- 13 (1) Any document or instrument that is executed prior to  
 14 January 1, 1967;
- 15 (2) Any document or instrument that is given to secure a  
 16 debt or obligation;
- 17 (3) Any document or instrument that only confirms or  
 18 corrects a deed, lease, sublease, assignment,  
 19 transfer, or conveyance previously recorded or filed;



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



1 instrumentality thereof or the State or any agency,  
2 instrumentality, or governmental or political  
3 subdivision thereof for delinquent taxes or  
4 assessments;

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

11 (10) Any document or instrument that solely conveys or  
12 grants an easement or easements;

13 (11) Any document or instrument whereby owners partition  
14 their property, whether by mutual agreement or  
15 judicial action; provided that the value of each  
16 owner's interest in the property after partition is  
17 equal in value to that owner's interest before  
18 partition;

19 (12) Any document or instrument between marital partners or  
20 reciprocal beneficiaries who are parties to a divorce  
21 action or termination of reciprocal beneficiary



1 relationship that is executed pursuant to an order of  
2 the court in the divorce action or termination of  
3 reciprocal beneficiary relationship;

4 (13) Any document or instrument conveying real property  
5 from a testamentary trust to a beneficiary under the  
6 trust;

7 (14) Any document or instrument conveying real property  
8 from a grantor to the grantor's revocable living  
9 trust, or from a grantor's revocable living trust to  
10 the grantor as beneficiary of the trust;

11 (15) Any document or instrument conveying real property, or  
12 any interest therein, from an entity that is a party  
13 to a merger or consolidation under chapter 414, 414D,  
14 415A, 421, 421C, 425, 425E, or 428 to the surviving or  
15 new entity;

16 (16) Any document or instrument conveying real property, or  
17 any interest therein, from a dissolving limited  
18 partnership to its corporate general partner that  
19 owns, directly or indirectly, at least a ninety per  
20 cent interest in the partnership, determined by  
21 applying section 318 (with respect to constructive



1 ownership of stock) of the federal Internal Revenue  
2 Code of 1986, as amended, to the constructive  
3 ownership of interests in the partnership; [~~and~~

4 ~~]~~ (17) ~~[+]~~ Any document or instrument that conforms to the  
5 transfer on death deed as authorized under chapter  
6 527 ~~[+]~~; and

7 (18) Any document or instrument conveying real property, or  
8 any interest therein, to or by a limited-profit  
9 housing association established pursuant to  
10 chapter \_\_\_\_\_."

11 PART III

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

14 SECTION 7. This Act shall take effect upon its approval;  
15 provided that:

16 (1) Sections 3, 4, and 5 shall take effect on January 1,  
17 2026; and

18 (2) Section 3 shall apply to taxable years beginning after  
19 December 31, 2025.

20

INTRODUCED BY: 





# S.B. NO. 24

**Report Title:**

Affordable Housing; Limited-Profit Housing Associations;  
Limited-Profit Housing Council

**Description:**

Establishes an organizational, tax, and regulatory framework for limited-profit housing associations. Establishes the Limited-Profit Housing Council to oversee limited-profit housing associations.

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

