

JAN 15 2025

A BILL FOR AN ACT

RELATING TO AFFORDABLE HOUSING.

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

1 SECTION 1. The legislature finds that the State is
2 experiencing a severe affordable housing crisis, with demand far
3 exceeding supply and disproportionately impacting low- and
4 moderate-income residents. The lack of affordable housing is
5 exacerbated by limited land availability, high construction
6 costs, and speculative real estate practices that undermine
7 long-term affordability. To address the ongoing affordable
8 housing shortage, the state must adopt policies to ensure that
9 housing remains affordable for future generations and protects
10 residents from environmental risks.

11 Policies requiring affordability covenants, as successfully
12 implemented in jurisdictions such as California and New York
13 City, have demonstrated their effectiveness in preserving long-
14 term access to affordable housing while fostering community
15 stability. Additionally, restricting development in flood-prone
16 areas, as seen in states such as Louisiana and New Jersey,



1 reduces disaster risks and mitigates the long-term financial and
2 physical impacts of climate change.

3 Accordingly, the purpose of this Act is to safeguard the
4 perpetual affordability of state-assisted housing, protect
5 residents from environmental hazards by prohibiting developments
6 in special flood hazard areas, and streamline housing
7 development approvals to expedite the creation of safe and
8 sustainable affordable housing units.

9 SECTION 2. Section 201H-38, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "**§201H-38 Housing development; exemption from statutes,**
12 **ordinances, charter provisions, and rules.** (a) The corporation
13 may develop on behalf of the State or with an eligible
14 developer, or may assist under a government assistance program
15 in the development of, housing projects that shall be exempt
16 from all statutes, charter provisions, ordinances, and rules of
17 any government agency relating to planning, zoning, construction
18 standards for subdivisions, development and improvement of land,
19 and the construction of dwelling units thereon; provided that
20 either:

21 (1) The housing projects meet the following conditions:



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- 1 (A) The corporation finds the housing project is
2 consistent with the purpose and intent of this
3 chapter, and meets minimum requirements of health
4 and safety;
- 5 (B) The development of the proposed housing project
6 does not contravene any safety standards,
7 tariffs, or rates and fees approved by the public
8 utilities commission for public utilities or of
9 the various boards of water supply authorized
10 under chapter 54;
- 11 (C) The preliminary plans and specifications for the
12 project shall include a restrictive covenant that
13 states that the units designated as affordable
14 housing, as described in the submitted project
15 application, shall remain as affordable housing
16 in perpetuity;
- 17 ~~(D)~~ (D) The legislative body of the county in which the
18 housing project is to be situated has approved
19 the project with or without modifications:
- 20 (i) The legislative body shall approve, approve
21 with modification, or disapprove the project



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1 by resolution within forty-five days after
2 the corporation has submitted the
3 preliminary plans and specifications for the
4 project to the legislative body. If on the
5 forty-sixth day a project is not
6 disapproved, it shall be deemed approved by
7 the legislative body;

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

14 (iii) The final plans and specifications for the
15 project shall be deemed approved by the
16 legislative body if the final plans and
17 specifications do not substantially deviate
18 from the preliminary plans and
19 specifications. The final plans and
20 specifications for the project shall
21 constitute the zoning, building,



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1 construction, and subdivision standards for
2 that project. For purposes of sections
3 501-85 and 502-17, the executive director of
4 the corporation or the responsible county
5 official may certify maps and plans of lands
6 connected with the project as having
7 complied with applicable laws and ordinances
8 relating to consolidation and subdivision of
9 lands, and the maps and plans shall be
10 accepted for registration or recordation by
11 the land court and registrar; ~~and~~

12 ~~(D)~~ (E) The land use commission has approved, approved
13 with modification, or disapproved a boundary
14 change within forty-five days after the
15 corporation has submitted a petition to the
16 commission as provided in section 205-4. If, on
17 the forty-sixth day, the petition is not
18 disapproved, it shall be deemed approved by the
19 commission; ~~or~~ and

20 (F) The development is not within a special flood
21 hazard area as identified on the current Federal



1 Emergency Management Agency's flood insurance
2 rate maps; or

- 3 (2) The housing projects:
- 4 (A) Meet the conditions of paragraph (1);
 - 5 (B) Do not impose stricter income requirements than
 - 6 those adopted or established by the State; and
 - 7 (C) For the lifetime of the project, require one
 - 8 hundred per cent of the units in the project be
 - 9 exclusively for qualified residents.

10 (b) For the purposes of this section [~~,"government"]:~~

11 "Affordable housing" has the same meaning as defined in
12 section 201H-57.

13 "Government assistance program" means a housing program
14 qualified by the corporation and administered or operated by the
15 corporation or the United States or any of their political
16 subdivisions, agencies, or instrumentalities, corporate or
17 otherwise."

18 SECTION 3. Section 201H-41, Hawaii Revised Statutes, is
19 amended by amending subsection (c) to read as follows:

20 "(c) The corporation may accept and approve housing
21 projects independently initiated by private developers that



1 fully comply with subsections (a) and (b). The corporation may
2 review the plans, specifications, districting, and zoning of the
3 project for the purpose of exempting the project from all
4 statutes, ordinances, charter provisions, and rules of any
5 government agency relating to zoning and construction standards
6 for subdivisions, development, and improvement of land and the
7 construction, improvement, and sale of dwelling units thereon;
8 provided that the procedures in section 201H-38(a)(1)(A), (B),
9 [~~and~~] (C), and (D) have been satisfied."

10 SECTION 4. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 5. This Act shall take effect upon its approval.

13

INTRODUCED BY: _____



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Report Title:

HHFDC; Affordable Housing; Housing Projects; Affordability;
Perpetuity; Special Flood Hazard Area

Description:

Requires that Hawaii Housing Finance and Development Corporation housing projects include a restrictive covenant that states that the units designated as affordable housing, as described in the submitted project application, shall remain as affordable housing in perpetuity. Prohibits development of affordable housing in a special flood hazard area.

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