
A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. The legislature finds that whatever form of
2 mass transit that is adopted by the city and county of Honolulu
3 will have an impact reaching far beyond transportation issues
4 alone. Development of a new transportation system provides the
5 State and the city and county of Honolulu the opportunity to
6 maximize affordable housing facilities, and add to and improve
7 care of the elderly and related public functions as mass transit
8 development is planned between west Oahu and the University of
9 Hawaii at Manoa.

10 The legislature further finds that in areas with a
11 higher-than-average senior citizen population, which also lack
12 adequate long-term care facilities, there is an opportunity to
13 meet the objective of "aging-in-place" through creative
14 distribution of services, such as aggregating services for
15 condominium building residents in close proximity to one
16 another.



1 In areas with limited recreational spaces and facilities
2 for young people, public, private, and non-profit partnerships
3 can stimulate development of additional services, programs, and
4 facilities to serve at-risk youth, families with special needs,
5 and others, in a school, park, or church setting.

6 The purpose of this Act is to provide the means for the
7 State and the city and county of Honolulu to meet the needs for
8 affordable housing, care for the elderly, and services to
9 Hawaii's disadvantaged, which will be available as a result of
10 mixed-use transit-oriented joint development project
11 opportunities.

12 SECTION 2. Chapter 321, Hawaii Revised Statutes, is
13 amended by adding a new section to be appropriately designated
14 and to read as follows:

15 "§321- Exemption from general excise taxes. (a) In
16 accordance with section 237-29, the department may approve and
17 certify for exemption from general excise taxes any qualified
18 person or firm involved with a newly constructed, or moderately
19 or substantially rehabilitated project:

- 20 (1) Developed under this section; or
- 21 (2) Developed by a qualified person or firm to provide a
22 community health care facility within a mixed-use



1 transit-oriented joint development project approved by
2 the department.

3 (b) All claims for exemption under this section shall be
4 filed with and certified by the department and forwarded to the
5 department of taxation. Any claim for exemption that is filed
6 and approved shall not be considered a subsidy for the purpose
7 of this part.

8 (c) For the purposes of this section:

9 "Community health care facility" means a health care
10 facility as defined in section 323D-2, which is leased or sold
11 to a person who is controlled by:

12 (1) A person who has received recognition of tax-exempt
13 status or who is a subordinate person of a person who
14 has received a group exemption letter under Section
15 501(c)(3) of the Internal Revenue Code of 1986, as
16 amended;

17 (2) The State;

18 (3) Any political subdivision of the State;

19 (4) A county;

20 (5) A state agency or any instrumentality of the State; or

21 (6) A county agency or any instrumentality of a county.



1 "Mixed-use transit-oriented joint development project"

2 means a transit-oriented joint development project that:

3 (1) Combines residential development with any combination
4 of commercial and industrial development, including
5 the development of community health care facilities;

6 and

7 (2) Is approved by the county in which the project is
8 located.

9 "Moderate rehabilitation" means rehabilitation to upgrade a
10 dwelling unit to a decent, safe, and sanitary condition, or to
11 repair or replace major building systems or components in danger
12 of failure.

13 "Substantial rehabilitation":

14 (1) Means the improvement of a property to a decent, safe,
15 and sanitary condition that requires more than routine
16 or minor repairs or improvements. It may include
17 gutting and extensive reconstruction of a dwelling
18 unit, or cosmetic improvements coupled with the curing
19 of a substantial accumulation of deferred maintenance;

20 and

21 (2) Includes renovation, alteration, or remodeling to
22 convert or adapt structurally sound property to the



1 design and condition required for a specific use, such
2 as conversion of a hotel to housing for elders.

3 (d) The department may establish, revise, charge, and
4 collect a reasonable service fee, as necessary, in connection
5 with its approvals and certifications under this section. The
6 fees shall be deposited into the dwelling unit revolving fund."

7 SECTION 3. Section 46-15.1, Hawaii Revised Statutes, is
8 amended by amending subsection (a) to read as follows:

9 "(a) Any law to the contrary notwithstanding, any county
10 shall have and may exercise the same powers, subject to
11 applicable limitations, as those granted the Hawaii housing
12 finance and development corporation pursuant to chapter 201H
13 insofar as those powers may be reasonably construed to be
14 exercisable by a county for the purpose of developing,
15 constructing, and providing low- and moderate-income housing;
16 provided that no county shall be empowered to cause the State to
17 issue general obligation bonds to finance a project pursuant to
18 this section; provided further that county projects shall be
19 granted an exemption from general excise or receipts taxes in
20 the same manner as projects of the Hawaii housing finance and
21 development corporation pursuant to section 201H-36; except that
22 no county shall be empowered to grant an exemption from general



1 excise taxes for a mixed-use transit-oriented joint development
2 project as defined in section 201H-36(c); and provided further
3 that section 201H-16 shall not apply to this section unless
4 federal guidelines specifically provide local governments with
5 that authorization and the authorization does not conflict with
6 any state laws. The powers shall include the power, subject to
7 applicable limitations, to:

- 8 (1) Develop and construct dwelling units, alone or in
9 partnership with developers;
- 10 (2) Acquire necessary land by lease, purchase, exchange,
11 or eminent domain;
- 12 (3) Provide assistance and aid to a public agency or other
13 person in developing and constructing new housing and
14 rehabilitating existing housing for elders of low- and
15 moderate-income, other persons of low- and moderate-
16 income, and persons displaced by any governmental
17 action, by making long-term mortgage or interim
18 construction loans available;
- 19 (4) Contract with any eligible bidders to provide for
20 construction of urgently needed housing for persons of
21 low- and moderate-income;



- 1 (5) Guarantee the top twenty-five per cent of the
2 principal balance of real property mortgage loans,
3 plus interest thereon, made to qualified borrowers by
4 qualified lenders;
- 5 (6) Enter into mortgage guarantee agreements with
6 appropriate officials of any agency or instrumentality
7 of the United States to induce those officials to
8 commit to insure or to insure mortgages under the
9 National Housing Act, as amended;
- 10 (7) Make a direct loan to any qualified buyer for the
11 downpayment required by a private lender to be made by
12 the borrower as a condition of obtaining a loan from
13 the private lender in the purchase of residential
14 property;
- 15 (8) Provide funds for a share, not to exceed fifty per
16 cent, of the principal amount of a loan made to a
17 qualified borrower by a private lender who is unable
18 otherwise to lend the borrower sufficient funds at
19 reasonable rates in the purchase of residential
20 property; and
- 21 (9) Sell or lease completed dwelling units.

1 For purposes of this section, a limitation is applicable to
2 the extent that it may reasonably be construed to apply to a
3 county."

4 SECTION 4. Section 201H-36, Hawaii Revised Statutes, is
5 amended by amending subsections (a), (b), and (c) as follows:

6 "(a) In accordance with section 237-29, the corporation
7 may approve and certify for exemption from general excise taxes
8 any qualified person or firm involved with a newly constructed,
9 or moderately or substantially rehabilitated project:

- 10 (1) Developed under this part;
- 11 (2) Developed under a government assistance program
12 approved by the corporation, including [~~but not~~
13 ~~limited to~~] the United States Department of
14 Agriculture 502 program and Federal Housing
15 Administration 235 program;
- 16 (3) Developed under the sponsorship of a private nonprofit
17 organization providing home rehabilitation or new
18 homes for qualified families in need of decent, low-
19 cost housing; [~~or~~]
- 20 (4) Developed by a qualified person or firm to provide
21 affordable rental housing where at least fifty per
22 cent of the available units are for households with



1 incomes at or below eighty per cent of the area median
2 family income as determined by the United States
3 Department of Housing and Urban Development, of which
4 at least twenty per cent of the available units are
5 for households with incomes at or below sixty per cent
6 of the area median family income as determined by the
7 United States Department of Housing and Urban
8 Development [-]; or

9 (5) Developed by a qualified person or firm to provide
10 affordable rental housing units within a mixed-use
11 transit-oriented joint development project approved by
12 the corporation.

13 (b) All claims for exemption under this section shall be
14 filed with and certified by the corporation and forwarded to the
15 department of taxation. Any claim for exemption that is filed
16 and approved[-] shall not be considered a subsidy for the
17 purpose of this part.

18 (c) For the purposes of this section:

19 "Mixed-use transit-oriented joint development project"
20 means a transit-oriented joint development project that:

21 (1) Combines residential development with any combination
22 of commercial and industrial development, including



1 the development of community health care facilities;
 2 and
 3 (2) Is approved by the county in which the project is
 4 located.

5 "Moderate rehabilitation" means rehabilitation to upgrade a
 6 dwelling unit to a decent, safe, and sanitary condition, or to
 7 repair or replace major building systems or components in danger
 8 of failure.

9 "Substantial rehabilitation":

- 10 (1) Means the improvement of a property to a decent, safe,
 11 and sanitary condition that requires more than routine
 12 or minor repairs or improvements. It may include but
 13 is not limited to the gutting and extensive
 14 reconstruction of a dwelling unit, or cosmetic
 15 improvements coupled with the curing of a substantial
 16 accumulation of deferred maintenance; and
- 17 (2) Includes renovation, alteration, or remodeling to
 18 convert or adapt structurally sound property to the
 19 design and condition required for a specific use, such
 20 as conversion of a hotel to housing for elders."

21 SECTION 5. Section 237-8.6, Hawaii Revised Statutes, is
 22 amended by amending subsection (d) to read as follows:



1 "(d) No county surcharge on state tax shall be established
2 on any:

3 (1) Gross income or gross proceeds taxable under this
4 chapter at the one-half per cent tax rate;

5 (2) Gross income or gross proceeds taxable under this
6 chapter at the 0.15 per cent tax rate; or

7 (3) Transactions, amounts, persons, gross income, or gross
8 proceeds exempt from tax under this chapter[-];
9 provided that the surcharge on state tax shall be
10 assessed, levied, and collected on transactions,
11 amounts, persons, gross income, or gross proceeds
12 exempted under section 237-29 pursuant to section
13 201H-36(a)(5) and (6)."

14 SECTION 6. Section 237-29, Hawaii Revised Statutes, is
15 amended by amending its title and subsection (a) to read as
16 follows:

17 "**§237-29 Exemptions for certified or approved housing or**
18 **community health care facility projects.** (a) All gross income
19 received by any qualified person or firm for the planning,
20 design, financing, construction, sale, or lease in the [State]
21 state of a housing or community health care facility project

1 that has been certified or approved under section 201H-36 shall
2 be exempt from general excise taxes."

3 SECTION 7. Section 238-2.6, Hawaii Revised Statutes, is
4 amended by amending subsection (c) to read as follows:

5 "(c) No county surcharge on state tax shall be established
6 upon any use taxable under this chapter at the one-half per cent
7 tax rate or upon any use that is not subject to taxation or that
8 is exempt from taxation under this chapter[-]; provided that the
9 surcharge on state tax shall be levied on the use of property,
10 services, or contracting that is not subject to taxation under
11 section 238-3(j) as a result of an exemption under section
12 237-29 pursuant to section 201H-36(a) (5) and (6)."

13 SECTION 8. It is the intent of the legislature that in
14 adopting rules pursuant to section 237-29(c), Hawaii Revised
15 Statutes, for the purpose of this Act, the director of taxation
16 and the Hawaii housing finance and development corporation shall
17 consult with the director of health and representatives of any
18 interested county in an effort to streamline the approval
19 process for mixed-use transit-oriented joint development
20 projects and maximize the coordination among federal, state, and
21 county governments with respect to the projects.



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

3 SECTION 10. This Act, upon its approval, shall apply to
4 taxable years beginning after December 31, 2007.



Report Title:

Taxation; County Authority; GET Exemptions; Fixed Guideway
Transportation System; Affordable Rental Housing; Community
Health Care Facility

Description:

Specifies that a county shall not grant an exemption from the
general excise tax (GET) or receipt taxes for a mixed-use
transit-oriented joint development project. Exempts from GET a
project developed to provide affordable rental housing or a
community health care facility within a mixed-use transit-
oriented joint development project. (SB3165 HD1)

