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## A BILL FOR AN ACT

RELATING TO A GENERAL EXCISE TAX EXEMPTION FOR MIXED-USE HOUSING  
PROJECTS.

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

1           SECTION 1. The legislature finds that plans for growth  
2 outside the urban core and development of corresponding  
3 amenities generally increase nearby land and housing values.  
4 Market forces have historically failed to generate affordable  
5 housing in these areas, making it incumbent upon the government  
6 to intervene where market forces fail to create the desired  
7 solution.

8           Location-efficient housing on state or county land requires  
9 that affordable housing units consist of high-density vertical  
10 housing within mixed-use environments to ensure that the  
11 greatest number of potential tenants and purchasers can avail  
12 themselves of its conveniences and cost savings.

13           SECTION 2. Chapter 201H, Hawaii Revised Statutes, is  
14 amended by adding a new section to part II to be appropriately  
15 designated and to read as follows:



1           "§201H- Mixed-use housing projects. (a) The  
2 corporation may develop, on behalf of the State or with any  
3 qualified person or firm, a mixed-use project within a location-  
4 efficient area.

5           (b) The corporation may approve and certify any qualified  
6 person or firm who is involved in the development of affordable  
7 housing in a newly constructed, or moderately or substantially  
8 rehabilitated, mixed-use project within a location-efficient  
9 area for purposes of receiving the general excise tax exemption  
10 authorized pursuant to sections 201H-36 and 237-29 in taxable  
11 years beginning after December 31, 2016.

12           (c) All claims under this section shall be filed with, and  
13 certified by, the corporation and forwarded to the department of  
14 taxation. Any claim that is filed with, and certified by, the  
15 corporation shall not be considered a subsidy for the purposes  
16 of this part.

17           (d) For the purposes of this section:

18           "Location-efficient area" means one or more contiguous  
19 parcels of land aggregating one or more acres that are owned by  
20 the State or a county, at least one parcel of which is located



1 within half a mile of a mass transit station or proposed mass  
2 transit station.

3 "Mixed-use project" means a project that:

4 (1) Is located in a location-efficient area;

5 (2) Contains affordable multi-family residential dwelling  
6 units that may be combined with governmental,  
7 educational, commercial, cultural, institutional, or  
8 industrial uses;

9 (3) Is approved by the county in which the project is  
10 located; and

11 (4) Is subject to chapter 104; title 40 United States Code  
12 sections 3141, 3142, 3143, 3144, 3146, and 3147; or a  
13 project labor agreement by law or contract in the  
14 construction of the project.

15 (e) The corporation may establish, revise, charge, and  
16 collect a reasonable service fee, as necessary, in connection  
17 with its approvals and certifications under this section. Any  
18 fees collected shall be deposited into the dwelling unit  
19 revolving fund.



1        (f) The corporation, in consultation with the department  
2 of taxation, shall adopt rules pursuant to chapter 91 for the  
3 purposes of this section requiring that:

4        (1) Any certification or approval of a general excise tax  
5 exemption for a qualified person or firm involved in  
6 the development of a mixed-use project pursuant to  
7 this section shall apply to the development of the  
8 entire mixed-use project;

9        (2) Cost savings from a general excise tax exemption  
10 granted to a qualified person or firm for the  
11 development of a mixed-use project pursuant to this  
12 section shall be used exclusively to provide  
13 affordable rental housing units, including student and  
14 faculty housing units, within the mixed-use project;  
15 and

16        (3) Affordable rental housing units developed pursuant to  
17 this section shall serve as many low income households  
18 as feasible."

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



1           "(a) Any law to the contrary notwithstanding, any county  
2 shall have and may exercise the same powers, subject to  
3 applicable limitations, as those granted the Hawaii housing  
4 finance and development corporation pursuant to chapter 201H  
5 insofar as those powers may be reasonably construed to be  
6 exercisable by a county for the purpose of developing,  
7 constructing, and providing low- and moderate-income housing;  
8 provided that no county shall be empowered to cause the State to  
9 issue general obligation bonds to finance a project pursuant to  
10 this section; provided further that county projects shall be  
11 granted an exemption from general excise or receipts taxes in  
12 the same manner as projects of the Hawaii housing finance and  
13 development corporation pursuant to section 201H-36, except that  
14 no county shall certify an exemption pursuant to section 201H-36  
15 for a mixed-use project under section 201H-     ; and provided  
16 further that section 201H-16 shall not apply to this section  
17 unless federal guidelines specifically provide local governments  
18 with that authorization and the authorization does not conflict  
19 with any state laws. The powers shall include the power,  
20 subject to applicable limitations, to:



- 1           (1) Develop and construct dwelling units, alone or in  
2           partnership with developers;
- 3           (2) Acquire necessary land by lease, purchase, exchange,  
4           or eminent domain;
- 5           (3) Provide assistance and aid to a public agency or other  
6           person in developing and constructing new housing and  
7           rehabilitating existing housing for elders of low- and  
8           moderate-income, other persons of low- and moderate-  
9           income, and persons displaced by any governmental  
10          action, by making long-term mortgage or interim  
11          construction loans available;
- 12          (4) Contract with any eligible bidders to provide for  
13          construction of urgently needed housing for persons of  
14          low- and moderate-income;
- 15          (5) Guarantee the top twenty-five per cent of the  
16          principal balance of real property mortgage loans,  
17          plus interest thereon, made to qualified borrowers by  
18          qualified lenders;
- 19          (6) Enter into mortgage guarantee agreements with  
20          appropriate officials of any agency or instrumentality  
21          of the United States to induce those officials to



1           commit to insure or to insure mortgages under the  
2           National Housing Act, as amended;

3           (7) Make a direct loan to any qualified buyer for the  
4           downpayment required by a private lender to be made by  
5           the borrower as a condition of obtaining a loan from  
6           the private lender in the purchase of residential  
7           property;

8           (8) Provide funds for a share, not to exceed fifty per  
9           cent, of the principal amount of a loan made to a  
10          qualified borrower by a private lender who is unable  
11          otherwise to lend the borrower sufficient funds at  
12          reasonable rates in the purchase of residential  
13          property; and

14          (9) Sell or lease completed dwelling units.

15          For purposes of this section, a limitation is applicable to  
16          the extent that it may reasonably be construed to apply to a  
17          county."

18          SECTION 4. Section 237-8.6, Hawaii Revised Statutes, is  
19          amended by amending subsection (d) to read as follows:

20          "(d) No county surcharge on state tax shall be established  
21          on any:



- 1 (1) Gross income or gross proceeds taxable under this
- 2 chapter at the one-half per cent tax rate;
- 3 (2) Gross income or gross proceeds taxable under this
- 4 chapter at the 0.15 per cent tax rate; or
- 5 (3) Transactions, amounts, persons, gross income, or gross
- 6 proceeds exempt from tax under this chapter[-], except
- 7 those that are exempt under section 237-29 pursuant to
- 8 section 201H- ."

9 SECTION 5. Section 238-2.6, Hawaii Revised Statutes, is  
 10 amended by amending subsection (c) to read as follows:

11 "(c) No county surcharge on state tax shall be established  
 12 upon any use taxable under this chapter at the one-half per cent  
 13 tax rate or upon any use that is not subject to taxation or that  
 14 is exempt from taxation under this chapter[-], except for the  
 15 use of property, services, or contracting not subject to  
 16 taxation under section 238-3(j) as a result of an exemption  
 17 under section 237-29 pursuant to section 201H- ."

18 SECTION 6. (a) All state agencies within a location-  
 19 efficient area shall enter into a memorandum of understanding  
 20 with the department of business, economic development, and  
 21 tourism or its attached agency by December 31, 2017, to develop





1 at least one mixed-use project pursuant to section 201H-  
2 Hawaii Revised Statutes, within the location-efficient area,  
3 unless the location-efficient area is exempted by the department  
4 of business, economic development, and tourism or its agency as  
5 currently unsuitable for residential development.

6 (b) The department of business, economic development, and  
7 tourism or its agency shall submit an annual report to the  
8 legislature no later than twenty days prior to the convening of  
9 each regular session. The annual report shall include the  
10 following information:

11 (1) How many memoranda of understanding it has entered  
12 into and how many location-efficient areas it has  
13 exempted as not currently suitable for residential  
14 development;

15 (2) How the mixed-use projects subject to the memoranda of  
16 understanding will help address the State's population  
17 growth by meeting affordable housing demand and  
18 increasing density around location-efficient areas;  
19 and



1           (3) How the mixed-use projects subject to the memoranda of  
2           understanding will achieve the goals of establishing a  
3           new population center outside of the urban core.

4           SECTION 7. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

6           SECTION 8. This Act shall take effect on January 1, 2017.

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INTRODUCED BY: Mark J. Harkin

JAN 22 2015



**Report Title:**

General Excise Tax Exemption; Mixed-Use Projects

**Description:**

Establishes an exemption from general excise taxes for the development of mixed-use projects incorporating affordable housing units on state or county lands.

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

