

Honolulu, Hawaii

FEB 28 2020

RE: S.B. No. 3104  
S.D. 2

Honorable Ronald D. Kouchi  
President of the Senate  
Thirtieth State Legislature  
Regular Session of 2020  
State of Hawaii

Sir:

Your Committee on Ways and Means, to which was referred S.B. No. 3104, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO LAND DEVELOPMENT,"

begs leave to report as follows:

The purpose and intent of this measure is to provide solutions to expeditiously develop housing for working families in the State.

Specifically, this measure:

- (1) Exempts from the definition of public land those lands set aside by the Governor or leased by any state department or agency to the Hawaii Housing Finance and Development Corporation for the primary purpose of developing affordable housing;
- (2) Requires the Hawaii Housing Finance and Development Corporation to transfer certain housing units to the Department of Hawaiian Home Lands or the Office of Hawaiian Affairs;
- (3) Requires the Hawaii Housing Finance and Development Corporation to identify state lands that can be developed for multi-unit dwellings;



- (4) Requires the Hawaii Housing Finance and Development Corporation to submit to the Legislature by December 31, 2020, a program addressing certain housing issues;
- (5) Authorizes the issuance of general obligation bonds, the proceeds of which shall be used for the establishment of infrastructure for housing;
- (6) Appropriates funds for three full-time equivalent project manager positions;
- (7) Authorizes a person to petition the appropriate county land use decision-making authority for a change in the boundary of a district involving certain lands comprising twenty-five acres or less;
- (8) Authorizes the Department of Land and Natural Resources State Historic Preservation Division to delegate the responsibility of historic preservation project reviews to the respective counties;
- (9) Establishes the Office of the Housing Advocate; and
- (10) Repeals the statutory cap on the amount of conveyance tax revenues that are deposited into the rental housing revolving fund each fiscal year.

Your Committee received written comments in support of this measure from the Office of the Governor; University of Hawaii System; Department of Agriculture; Hawaii Public Housing Authority; Land Use Commission; Department of Transportation Services of the City and County of Honolulu; Office of Housing and Community Development of the County of Hawaii; Hawaii Kai Homeless Task Force; Kohala Coast Resort Association; Catholic Charities Hawaii; IMUAlliance; Young Progressives Demanding Action; Island Business Management, LLC; KAI Hawaii, Inc.; Kamehameha Schools; Hawaii Association of REALTORS; Faith Action for Community Equity; Environmental Caucus of the Democratic Party of Hawaii; Hawaii Community Foundation; Sierra Club of Hawaii; Hawaii Appleseed Center for Law and Economic Justice; and numerous individuals.

Your Committee received written comments in opposition to this measure from the Hawaii Housing Finance and Development



Corporation, Kihei Community Association, Hawaiian Affairs Caucus of the Democratic Party of Hawaii, and ten individuals.

Your Committee received written comments on this measure from the Department of Land and Natural Resources, Department of the Attorney General, Office of Hawaiian Affairs, Department of Hawaiian Home Lands, Office of Planning, Department of Planning and Permitting of the City and County of Honolulu, Tax Foundation of Hawaii, Parents and Children Together, Bank of Hawaii, Hawaii Island Community Development Corporation, Pacific Resource Partnership, and Kupuna for the Moopuna.

Your Committee finds that the State's high cost of living and lack of affordable housing has led to an unprecedented population decline. Your Committee further finds that housing costs in the State continue to rise, keeping homeownership outside the reach of many Hawaii residents. Your Committee also finds that the solutions provided in this measure will expeditiously develop housing for the State's working families.

Your Committee has amended this measure by:

- (1) Establishing a residential leasehold program within the Hawaii Housing Finance and Development Corporation to develop residential leasehold projects on state lands set aside by the Governor or leased by any state department or agency to the Hawaii Housing Finance and Development Corporation; provided that the residential leases do not exceed ninety-nine years;
- (2) Deleting provisions requiring the transfer of housing units from the Hawaii Housing Finance and Development Corporation to the Department of Hawaiian Home Lands or the Office of Hawaiian Affairs;
- (3) Removing the requirement that residential units be priced to be affordable to families making eighty percent of the area median income, and instead providing a preference for projects that deliver the greatest amount of lower-priced units;
- (4) Providing that all lands set aside by the Governor or leased by a state agency to the Hawaii Housing Finance



and Development Corporation for the primary purpose of developing affordable housing, and not just those lands set aside for a period not to exceed ninety-nine years, shall be exempt from the definition of "public lands";

- (5) Clarifying that the Hawaii Housing Finance and Development Corporation is required to submit a report to the Legislature that addresses certain housing concerns no later than twenty days prior to the convening of the Regular Session of 2021;
- (6) Deleting a requirement that the Hawaii Housing Finance and Development Corporation produce a demonstration project;
- (7) Providing that the appropriation to the dwelling unit revolving fund made in section 8 of the measure shall not lapse at the end of the current fiscal biennium;
- (8) Removing a requirement that the infrastructure constructed using general obligation bond proceeds be used for construction in which the majority of the square footage of the development is housing to be occupied in perpetuity by Hawaii residents who own no other real property;
- (9) Providing that the three full-time equivalent project manager positions shall be funded by moneys in the dwelling unit revolving fund for fiscal year 2020-2021, and providing that the appropriation and positions shall be included in the Hawaii Housing Finance and Development Corporation's base budget in future fiscal bienniums;
- (10) Clarifying that, following a hearing, a person who is found to have violated a condition of a decision and order of the Land Use Commission may be subject to civil penalties;
- (11) Prohibiting a person from petitioning a county decision-making authority for a boundary amendment of a district involving conservation lands;



- (12) Removing the requirement that a person petitioning a county decision-making authority for a boundary amendment of land comprising twenty-five acres or less must use a majority of the square footage of the development for Hawaii residents who are owner-occupants and own no other real property, and instead requiring that a majority of the development be for affordable housing, with a preference for projects that are able to deliver more lower-priced housing;
- (13) Removing a provision providing for the reversion of parceled land back to the land's original classification;
- (14) Providing that if a petitioner fails to adhere to or comply with representations made to the Land Use Commission, or conditions imposed by the Commission, and:
- (A) The Commission decides that the failure does not warrant reversion to the land's former land use classification; or
- (B) Use of the land has substantially commenced, the Land Use Commission may record a notice of noncompliance with the Bureau of Conveyances, modify existing conditions or impose new conditions to ensure compliance, or provide by decision and order that the petitioner or its successors in interest shall be subject to civil penalties;
- (15) Removing a requirement that the Department of Land and Natural Resources, when delegating responsibility for review and comment of historic preservation project reviews, must consult with the Office of Hawaiian Affairs or memorialize the scope of a delegation of authority with a written agreement;
- (16) Removing a requirement that the Office of Hawaiian Affairs must approve the certification of third-party individuals and organizations to review documents prior

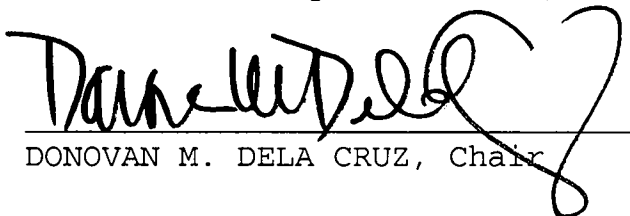


to the documents' submission to the Department of Land and Natural Resources;

- (17) Providing that the Office of the Housing Advocate shall be funded by the general fund, rather than the dwelling unit revolving fund;
- (18) Removing a provision authorizing the Housing Advocate to set aside lands belonging to any state agency to the Hawaii Housing Finance and Development Corporation, Hawaii Public Housing Authority, or Department of Hawaiian Home Lands;
- (19) Correcting an internal cross reference;
- (20) Changing the effective date to July 1, 2020; and
- (21) Making technical nonsubstantive changes for purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3104, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3104, S.D. 2.

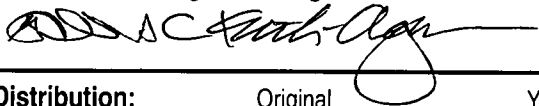
Respectfully submitted on  
behalf of the members of the  
Committee on Ways and Means,

  
DONOVAN M. DELA CRUZ, Chair



The Senate  
Thirtieth Legislature  
State of Hawai'i

**Record of Votes**  
**Committee on Ways and Means**  
**WAM**

Bill / Resolution No.:* <i>SB 3104 SD1</i>	Committee Referral: <i>HOU/WTL, WAM</i>	Date: <i>2/28/20</i>		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
DELA CRUZ, Donovan M. (C)	X			
KEITH-AGARAN, Gilbert S.C. (VC)	X			
ENGLISH, J. Kalani	X			
HARIMOTO, Breene	X			
INOUYE, Lorraine R.	X			
KAHELE, Kaiali'i		X		
KANUHA, Dru Mamo	X			
KIDANI, Michelle N.	X			
MORIWAKI, Sharon Y.	X			
RIVIERE, Gil				X
SHIMABUKURO, Maile S.L.				X
TANIGUCHI, Brian T.	X			
FEVELLA, Kurt		X		
<b>TOTAL</b>	<i>9</i>	<i>2</i>		<i>2</i>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
<b>Distribution:</b> Original    Yellow    Pink    Goldenrod File with Committee Report    Clerk's Office    Drafting Agency    Committee File Copy				

\*Only one measure per Record of Votes