A BILL FOR AN ACT

RELATING TO LAND DEVELOPMENT.

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

PART I

SECTION 1. The legislature finds that the State's population has declined each year over the past three years, an unprecedented situation that has not happened since Hawaii became a state in 1959. A significant portion of this population loss can be attributed to the State's high cost of living and lack of affordable dwellings. The legislature further finds that housing costs continue to rise, keeping homeownership outside the reach of many Hawaii residents.

Accordingly, the purpose of this Act is to provide solutions to expeditiously develop housing for working families in the State.

PART II

SECTION 2. The purpose of this part is to make amendments to chapter 201H, Hawaii Revised Statutes, to:

(1) Authorize the Hawaii housing finance and development corporation to lease real property for a period not to
exceed ninety-nine years for development projects that include affordable housing;

(2) Require the Hawaii housing finance and development corporation to identify state lands that can be developed for multi-unit dwellings;

(3) Authorize the issuance of $200,000,000 in general obligation bonds, with the proceeds used for the establishment of regional infrastructure with the primary purpose of supporting the development of housing on lands owned by the university of Hawaii near or adjacent to the university of Hawaii West Oahu campus; and

(4) Authorize the issuance of $75,000,000 in general obligation bonds for infrastructure for affordable housing in counties having a population of less than 500,000.

SECTION 3. Section 201H-9, Hawaii Revised Statutes, is amended to read as follows:

"[§201H-9(1)] Acquisition, use, and disposition of property. (a) The corporation may acquire any real or personal property or interest therein by purchase, exchange, gift, grant,
lease, or other means from any person or government to provide housing. Exchange of real property shall be in accordance with section 171-50.

(b) The corporation may own or hold real property. All real property owned or held by the corporation shall be exempt from mechanic's or materialman's liens and also from levy and sale by virtue of an execution, and no execution or other judicial process shall issue against the same nor shall any judgment against the corporation be a charge or lien upon its real property; provided that this subsection shall not apply to or limit the right of obligees to foreclose or otherwise enforce any mortgage of the corporation or the right of obligees to pursue any remedies for the enforcement of any pledge or lien given by the corporation on its rents, fees, or revenues. The corporation and its property shall be exempt from all taxes and assessments.

(c) The corporation may lease real property set aside by the governor to the corporation or leased to the corporation by any department or agency of the State for a period not to exceed ninety-nine years; provided that:
(1) Any lease granted pursuant to this subsection shall be issued only for the development of multi-unit dwellings; and

(2) Any development project that is granted a lease shall reserve at least fifty per cent of the development's dwelling units for affordable housing.

For the purpose of this subsection:

"Affordable housing" means housing that is affordable to households having incomes at or below one hundred forty per cent of the area median income as determined by the United States Department of Housing and Urban Development.

"Condominium project" means a development of multi-unit dwellings where separate dwelling units are offered for sale; provided that the sale of a dwelling unit shall not include any fee simple interest in the real property upon which the project has been built.

"Development of multi-unit dwellings" and "development project" shall include the development of a condominium project.

[d] The corporation may lease or rent all or a portion of any housing project and establish and revise the rents or charges therefor. The corporation may sell, exchange,
transfer, assign, or pledge any property, real or personal, or any interest therein to any person or government.

[(e) The corporation may insure or provide for the insurance of its property or operations against risks as it deems advisable.]

SECTION 4. (a) The Hawaii housing finance and development corporation shall submit a report to the legislature that:

(1) Identifies state lands that may be developed for multi-unit dwellings;

(2) Includes the estimated cost of planning, designing, and constructing multi-unit dwellings on the lands identified in paragraph (1), including the costs of installing necessary infrastructure; and

(3) Proposes a priority listing of the lands identified in paragraph (1) based on:

(A) Cost of development;

(B) Demand for affordable housing in the county in which the land is situated;

(C) Availability of existing infrastructure to support the development; and

(D) Any other relevant factors.
(b) The Hawaii housing finance and development corporation shall submit the report of its findings and recommendations, including any proposed legislation, to the legislature no later than twenty days prior to the convening of the regular session of 2021.

(c) Each state or county agency shall provide to the Hawaii housing finance and development corporation any information the Hawaii housing finance and development corporation deems necessary to prepare the report required by this section.

SECTION 5. The director of finance is authorized to issue general obligation bonds in the sum of $275,000,000 or so much thereof as may be necessary and the same sum or so much thereof as may be necessary is appropriated for fiscal year 2020-2021 to be deposited into the dwelling unit revolving fund established pursuant to section 201H-191, Hawaii Revised Statutes.

SECTION 6. There is appropriated out of the dwelling unit revolving fund the sum of $200,000,000 or so much thereof as may be necessary for fiscal year 2020-2021 for the establishment of regional infrastructure for the primary purpose of supporting development of housing on lands owned by the university of
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Hawaii that are near or adjacent to the University of Hawaii West Oahu campus; provided that:

(1) The sum appropriated shall be expended by the Hawaii housing finance and development corporation for the purposes of this part; and

(2) The appropriation shall not lapse at the end of the fiscal biennium for which the appropriation is made; provided that all moneys from the appropriation unencumbered as of June 30, 2022, shall lapse as of that date.

SECTION 7. There is appropriated out of the dwelling unit revolving fund the sum of $75,000,000 or so much thereof as may be necessary for fiscal year 2020-2021 for the establishment of infrastructure to support the development for affordable housing in counties with a population of less than 500,000; provided that:

(1) The sum appropriated shall be expended by the Hawaii housing finance and development corporation for the purposes of this part; and

(2) The appropriation shall not lapse at the end of the fiscal biennium for which the appropriation is made;
provided that all moneys from the appropriation unencumbered as of June 30, 2022, shall lapse as of that date.

PART III

SECTION 8. The purpose of this part is to authorize any person, including a state or county department or agency, to petition the appropriate county land use decision-making authority, rather than the land use commission, for a change in the boundary of a district involving land areas between fifteen acres and twenty-five acres where the majority of the development will be for affordable housing.

SECTION 9. Section 201H-12, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The corporation may develop public land in an agricultural district subject to the prior approval of the land use commission, when developing lands greater than fifteen acres in size, and public land in a conservation district subject to the prior approval of the board of land and natural resources[–]; provided that the corporation may develop lands having an area between fifteen acres and twenty-five acres using the process established pursuant to section 205-3.1(e). The
corporation shall not develop state monuments, historical sites, or parks. When the corporation proposes to develop public land, it shall file with the department of land and natural resources a petition setting forth the purpose for the development. The petition shall be conclusive proof that the intended use is a public use superior to that which the land has been appropriated."

SECTION 10. Section 205-3.1, Hawaii Revised Statutes, is amended to read as follows:

"§205-3.1 Amendments to district boundaries. (a) Except as provided in subsection (e), district boundary amendments involving lands in the conservation district, land areas greater than fifteen acres, or lands delineated as important agricultural lands shall be processed by the land use commission pursuant to section 205-4.

(b) Any department or agency of the State, and department or agency of the county in which the land is situated, or any person with a property interest in the land sought to be reclassified may petition the appropriate county land use decision-making authority of the county in which the land is situated for a change in the boundary of a district involving
lands less than fifteen acres presently in the rural and urban
districts and lands less than fifteen acres in the agricultural
district that are not designated as important agricultural
lands.

(c) District boundary amendments involving land areas of
fifteen acres or less, except as provided in subsection (b),
shall be determined by the appropriate county land use decision-
making authority for the district and shall not require
consideration by the land use commission pursuant to section
205-4; provided that such the boundary amendments and approved
uses are consistent with this chapter. The appropriate county
land use decision-making authority may consolidate proceedings
to amend state land use district boundaries pursuant to this
subsection, with county proceedings to amend the general plan,
development plan, zoning of the affected land, or such other
proceedings. Appropriate ordinances and rules to allow
consolidation of such proceedings may be developed by the
county land use decision-making authority.

(d) The county land use decision-making authority shall
serve a copy of the application for a district boundary
amendment to the land use commission and the department of
business, economic development, and tourism and shall notify the
commission and the department of the time and place of the
hearing and the proposed amendments scheduled to be heard at the
hearing. A change in the state land use district boundaries
pursuant to this subsection shall become effective on the day
designated by the county land use decision-making authority in
its decision. Within sixty days of the effective date of any
decision to amend state land use district boundaries by the
county land use decision-making authority, the decision and the
description and map of the affected property shall be
transmitted to the land use commission and the department of
business, economic development, and tourism by the county
planning director.

(e) Not withstanding any other provision of this section
to the contrary, a person may petition the appropriate county
decision making authority in the county in which the land is
situated for a change in the boundary of a district involving
lands comprising twenty-five acres or less; provided that the
majority of the development for which the boundary change is
sought shall be for affordable housing.
(f) parceling of lands for development shall be prohibited
for the purposes of subsection (e). If lands that have been
parceled are proposed for reclassification, the petition for
reclassification shall be processed as lands greater than
fifteen or twenty-five acres, pursuant to section 205-4.

(g) Before a county land use decision-making authority
grants a petition for reclassification pursuant to subsection
(e), the county land use decision-making authority shall make a
clear finding, based on the evidence submitted, that the land
subject to a petition for reclassification has not been
parceled. Any land that has parcelled shall be reverted back to
the land's original land use classification.

(h) As used in this section, "parceling" means the
subdivision of lands greater than twenty-five acres into two or
more parcels, more than one of which is then proposed for
reclassification within a ten-year period from the date of the
subdivision."

SECTION 11. Section 205-4, Hawaii Revised Statutes, is
amended by amending subsection (a) to read as follows:

"(a) Any department or agency of the State, any department
or agency of the county in which the land is situated, or any
person with a property interest in the land sought to be
reclassified [–] may petition the land use commission for a
change in the boundary of a district. This section applies to
all petitions for changes in district boundaries of lands within
conservation districts, lands designated or sought to be
designated as important agricultural lands, and lands greater
than fifteen acres in the agricultural, rural, and urban
districts, except as provided in sections 201H-38[–]
and 205-3.1(e). The land use commission shall adopt rules
pursuant to chapter 91 to implement section 201H-38."

SECTION 12. Section 205-6, Hawaii Revised Statutes, is
amended by amending subsections (d) and (e) to read as follows:
"(d) Except as provided in section 205-3.1(e),
special permits for land the area of which is greater than
fifteen acres or for lands designated as important agricultural
lands shall be subject to approval by the land use commission.
The land use commission may impose additional restrictions as
may be necessary or appropriate in granting the approval,
including the adherence to representations made by the
applicant.
(e) [A] Except for district boundary changes made through an appropriate county decision-making authority pursuant to section 205-3.1(e), a copy of the decision, together with the complete record of the proceeding before the county planning commission on all special permit requests involving a land area greater than fifteen acres or for lands designated as important agricultural lands, shall be transmitted to the land use commission within sixty days after the decision is rendered.

Within forty-five days after receipt of the complete record from the county planning commission, the land use commission shall act to approve, approve with modification, or deny the petition. A denial either by the county planning commission or by the land use commission, or a modification by the land use commission, as the case may be, of the desired use shall be appealable to the circuit court of the circuit in which the land is situated and shall be made pursuant to the Hawaii rules of civil procedure."

PART IV

SECTION 13. The purpose of this part is to allow the department of land and natural resources state historic
preservation division to delegate the responsibility of historic
preservation project reviews to the respective counties.

SECTION 14. Section 6E-42, Hawaii Revised Statutes, is
amended to read as follows:

"§6E-42 Review of proposed projects. (a) Except as
provided in section 6E-42.2, before any agency or officer of the
State or its political subdivisions approves any project
involving a permit, license, certificate, land use change,
subdivision, or other entitlement for use that may
affect historic property, aviation artifacts, or a burial site,
the agency or office shall advise the department and prior to
any approval allow the department an opportunity for review and
comment on the effect of the proposed project on historic
properties, aviation artifacts, or burial sites, consistent with
section 6E-43, including those listed in the Hawaii register of
historic places. If:

(1) The proposed project consists of corridors or large
land areas;

(2) Access to properties is restricted; or

(3) Circumstances dictate that construction be done in
stages,
the department's review and comment may be based on a phased
review of the project; provided that there shall be a
programmatic agreement between the department and the project
applicant that identifies each phase and the estimated timelines
for each phase.

(b) The department shall inform the public of any project
proposals submitted to it under this section that are not
otherwise subject to the requirement of a public hearing or
other public notification.

(c) The department may delegate responsibility for review
and comment of projects pursuant to this section, and any
administrative rules adopted thereunder, to the respective
counties; provided that the department has certified that the
county has:

(1) Adopted an ordinance to govern the county's review
process that is consistent with the requirements of
this section and with any administrative rules adopted
pursuant thereto;

(2) Hired qualified professional staff who meet standards
established by the department to conduct the reviews;
(3) Established sufficient internal organizational controls to ensure that the qualified professional staff can make independent determinations regarding the effects of projects on historic properties;

(4) Ensured that the qualified professional staff can function in a manner that does not create a conflict of interest or an appearance of a conflict of interest;

(5) Provided for appropriate public notification in a manner consistent with standards established by the department; and

(6) Entered into a written agreement with the department memorializing the delegation to the county; provided that the delegation of authority shall automatically be suspended or terminated if the county fails to retain its qualified professional staff or if it becomes apparent that the county does not have sufficient staffing capacity to complete the delegated reviews in a timely manner.

(d) The department shall not delegate reviews or comments to the county for projects affecting properties listed in the Hawaii register of historic places or the national register of
historic places, or for projects subject to review under section 6E-43.

(e) The department may establish a program to certify third-party individuals and organizations to review documents prior to submission of the documents to the department for review. A review by a third party shall ensure that the information submitted is complete and complies with the department's documentation requirements and that any accompanying data and analysis supports recommendations made in the submission. All third-party reviews shall be conducted in accordance with the following requirements:

(1) Staff who conduct the reviews shall meet professional qualifications and standards established by the department;

(2) Individuals and organizations that apply for certification shall demonstrate that they have established sufficient internal organizational controls to ensure that the qualified professional staff can make independent determinations regarding the effects of projects on historic properties and can function in a manner that does not create a conflict
of interest or an appearance of a conflict of
interest; and

(3) Individuals or organizations certified to conduct
third-party document reviews that precede the
department's review shall be independent from the
individual or organization that drafted or generated
the documents.

[(e)] (f) The department shall adopt rules in accordance
with chapter 91 to implement this section."

PART V

SECTION 15. The purpose of this part is to establish the
office of the housing ombudsman, which shall be funded by the
dwelling unit revolving fund.

SECTION 16. The Hawaii Revised Statutes is amended by
adding a new chapter to title 13 to be appropriately designated
and to read as follows:

"CHAPTER

HOUSING OMBUDSMAN

§ -1 Office of the housing ombudsman; qualifications;
duties. (a) There is established the office of the housing
ombudsman, to be placed within the department of business,
economic development, and tourism for administrative purposes only. The office shall be headed by the housing ombudsman and funded by the dwelling unit revolving fund established pursuant to section 201H-191. The housing ombudsman shall be appointed by the governor to serve a term of four years concurrent with the term of the governor. This appointment shall not be subject to senate confirmation.

(b) The housing ombudsman shall develop, advocate for, and implement policies to solve Hawaii's housing shortage by:

(1) Analyzing solutions and programs to address the State's need for housing that is affordable for all economic segments of the State, including but not limited to programs or proposals regarding the:

(A) Financing, acquisition, rehabilitation, preservation, conversion, or construction of housing;

(B) Use of publicly owned land and buildings as sites for affordable housing;

(C) Identification of state and local regulatory barriers to the development and placement of housing;
(D) Stimulation of public and private sector and intergovernmental cooperation in the development of housing;

(E) Equitable geographic distribution of housing for all economic segments;

(F) Examination of successful housing policies from jurisdictions, nationally and internationally, and methods to adapt these policies to the State;

(G) Unique circumstances for special needs populations;

(H) Provision of infrastructure for existing and future housing needs;

(I) Preservation and enhancement of the character of the State's unique cultures and communities;

(J) Correction of distortions in the housing market;

(K) Prevention of the erosion of housing stock due to speculation, transient accommodations and short-term vacation rentals, and other phenomena; and

(L) Diversity of communities across the State;

(2) Considering homeownership and rental housing as viable options for the provision of housing;
(3) Considering various types of residential construction and innovation housing options, including but not limited to manufactured housing;
(4) Reviewing, evaluating, and making recommendations regarding existing and proposed housing programs and initiatives, including but not limited to tax policies, land use policies, and financing programs;
(5) Incorporating feedback and concerns from all stakeholders in the State's housing crisis;
(6) Attracting and retaining future generations and industries through the provision of abundant and affordable housing;
(7) Engaging and educating the public on housing policies and programs;
(8) Facilitating the development process by serving as a comprehensive guide for housing developers through all parts of the development process;
(9) Establishing a consolidated permit application and process to facilitate the expedited processing of affordable housing development projects;
(10) Addressing complaints and issues concerning public housing;

(11) Encouraging state and county housing agencies to explore the potential or expanded use of development and hold mechanisms, such as community land trusts, land banks, and master leases, to preserve public lands under long term leases or in perpetuity for affordable housing; and

(12) Facilitating redevelopment and rehabilitation of existing state public housing units."

SECTION 17. Section 201H-191, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) There is created a dwelling unit revolving fund. The funds appropriated for the purpose of the dwelling unit revolving fund and all moneys received or collected by the corporation for the purpose of the revolving fund shall be deposited in the revolving fund. The proceeds in the revolving fund shall be used (1):

(1) To reimburse the general fund to pay the interest on general obligation bonds issued for the purposes of the revolving fund (end)."
(2) For the necessary expenses in administering housing development programs and regional state infrastructure programs; and for carrying.

(3) To carry out the purposes of housing development programs and regional state infrastructure programs, including but not limited to the expansion of community facilities and regional state infrastructure constructed in conjunction with housing and mixed-use transit-oriented development projects, permanent primary or secondary financing, and supplementing building costs, federal guarantees required for operational losses, and all things required by any federal agency in the construction and receipt of federal funds or low-income housing tax credits for housing projects; and

(4) To fund the office of the housing ombudsman pursuant to section 18.

SECTION 18. One full-time equivalent (1.0 FTE) position within the department of business, economic development, and tourism shall be transferred to the office of the housing ombudsman established pursuant to section 16 of this part to
establish one full-time equivalent (1.0 FTE) position of the
housing ombudsman; provided that the position shall be funded by
the dwelling unit revolving fund pursuant to section 201H-191,
Hawaii Revised Statutes.

PART VI

SECTION 19. The purpose of this part is to remove the
statutory cap on the amount of conveyance tax revenues that are
deposited into the rental housing revolving fund each fiscal
year.

SECTION 20. Section 247-7, Hawaii Revised Statutes, is
amended to read as follows:

"§247-7 Disposition of taxes. All taxes collected under
this chapter shall be paid into the state treasury to the credit
of the general fund of the State, to be used and expended for
the purposes for which the general fund was created and exists
by law; provided that of the taxes collected each fiscal year:

(1) Ten per cent or $6,800,000, whichever is less, shall
be paid into the land conservation fund established
pursuant to section 173A-5; and
(2) Fifty per cent [or $38,000,000, whichever is less,] shall be paid into the rental housing revolving fund established by section 201H-202."

PART VII

SECTION 21. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 22. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 23. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 24. This Act shall take effect on July 1, 2020.

INTRODUCED BY:
HB LRB 20-0618-2.doc
H.B. NO. 2542

[Signatures]

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JAN 23 2020
Report Title:
Affordable Housing; HHFDC; Lease of State Lands; Boundary Amendments; SHPD; Historic Preservation; Counties; Condominiums; Rental Housing Revolving Fund; Appropriation

Description:
Authorizes the Hawaii Housing Finance and Development Corporation to lease real property for a period not to exceed 99 years for the development of certain projects that include affordable housing. Requires the Hawaii Housing Finance and Development Corporation to submit a report to the legislature that identifies all state lands that may be developed for multi-unit dwellings. Authorizes the issuance of $200,000,000 in general obligation bonds, with the proceeds used for the establishment of infrastructure to support the development of housing on lands near the University of Hawaii West Oahu campus. Authorizes the issuance of $75,000,000 in general obligation bonds, with the proceeds used for affordable housing infrastructure in counties with a resident population of 500,000 or less. Authorizes a state or county department or agency to petition the appropriate county land use decision-making authority, rather than the Land Use Commission, for a change in the boundary of a district involving land areas between 15 acres and 25 acres where the majority of the development will be for affordable housing. Authorizes the State Historic Preservation Division to delegate the responsibility of historic preservation project reviews to the impacted county. Establishes the Office of the Housing Ombudsman. Removes the existing statutory cap on the amount of conveyance tax revenues that are deposited into the rental housing revolving fund each fiscal year.

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