A BILL FOR AN ACT

RELATING TO AFFORDABLE HOUSING.

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

SECTION 1. The legislature finds that the State faces an unprecedented economic crisis due to the coronavirus disease 2019 (COVID-19) pandemic, which has decimated Hawaii's economy and caused its gross domestic product to plummet. By some measures, Hawaii's economy has been hit harder than any other state in the nation.

The legislature also finds that this drastic decline in economic activity has disproportionately affected the State's most vulnerable populations. The pandemic forced the shutdown of many sectors of the State's economy, triggering mass layoffs and furloughs and causing the State's seasonally adjusted unemployment to surge from 2.4 per cent in March 2020 to a historical high of 22.3 per cent in April 2020. Despite efforts to reopen the economy, Hawaii still had the second-highest unemployment rate in the nation as of November 2020. With the COVID-19 pandemic continuing to rage throughout the world, most countries experiencing recession, and visitor arrivals to the
State not expected to recover to pre-pandemic levels until at least 2024, the State will continue to feel the economic impacts of the pandemic for many years to come.

The legislature further finds that, even before the pandemic, renter households in the State already suffered from deleteriously high housing cost burdens, and that the economic impacts of the COVID-19 pandemic significantly exacerbated this situation. Recent data from the university of Hawaii economic research organization (UHERO) showed that more than eleven thousand Hawaii tenants have fallen behind on their rent payments and that forty per cent of rental tenants have lost their jobs. Modeling from UHERO indicates that up to seventeen thousand households may face an unsustainable change in their housing cost burden by the second quarter of 2021, even as the State's economy slowly recovers. Even in a best-case scenario, the number of individuals facing homelessness will continue to rise in the face of the pandemic. UHERO concluded that, from a policy standpoint, "doing nothing is not a viable option."

Accordingly, the legislature finds that it must take immediate action to mitigate the affordable housing crisis through legislation.
The purpose of this Act is to clarify that the exemption from the general excise tax established by section 201H-36, Hawaii Revised Statutes, shall be provided once the qualifying person or firm has filed or recorded a regulatory agreement in land court or the bureau of conveyances, or both, whichever is appropriate.

SECTION 2. Section 201H-36, Hawaii Revised Statutes, is amended to read as follows:

"$201H-36 Exemption from general excise taxes. (a) In accordance with section 237-29, the corporation may approve and certify for exemption from general excise taxes any qualified person or firm involved with a newly constructed, or a moderately or substantially rehabilitated, project that is:

(1) Developed under this part;

(2) Developed under a government assistance program approved by the corporation, including but not limited to the United States Department of Agriculture's section 502 direct loan program and Federal Housing Administration's section 235 program;

(3) Developed under the sponsorship of a private nonprofit organization providing home rehabilitation or new
homes for qualified families in need of decent, low-
cost housing;

(4) Developed by a qualified person or firm to provide
affordable rental housing where at least fifty per
cent of the available units are for households with
incomes at or below eighty per cent of the area median
family income as determined by the United States
Department of Housing and Urban Development, of which
at least twenty per cent of the available units are
for households with incomes at or below sixty per cent
of the area median family income as determined by the
United States Department of Housing and Urban
Development; or

(5) Approved or certified from July 1, 2018, to June 30,
2030, and developed under a contract described in
section 104-2(i)(2) by a qualified person or firm to
provide affordable rental housing through new
construction or substantial rehabilitation; provided
that:

(A) The allowable general excise tax and use tax
costs shall apply to contracting only and shall
not exceed $30,000,000 per year in the aggregate
for all projects approved and certified by the
corporation; and

(B) All available units are for households with
incomes at or below one hundred forty per cent of
the area median family income as determined by
the United States Department of Housing and Urban
Development, of which at least twenty per cent of
the available units are for households with
incomes at or below eighty per cent of the area
median family income as determined by the United
States Department of Housing and Urban
Development; provided that an owner shall not
refuse to lease a unit solely because the
applicant holds a voucher or certificate of
eligibility under section 8 of the United States
Housing Act of 1937, as amended.

(b) To obtain certification for exemption under this
section, rental housing projects shall, unless exempted by the
corporation, enter into a regulatory agreement with the
corporation to ensure the project's continued compliance with
the applicable eligibility requirements set forth in subsection (a), as follows:

(1) For moderate rehabilitation projects, a minimum term of five years as specified in a regulatory agreement;

(2) For substantial rehabilitation projects, a minimum term of ten years as specified in a regulatory agreement; or

(3) For new construction projects, a minimum term of thirty years from the date of issuance of the certificate of occupancy.

(c) All claims for exemption under this section shall be filed with and certified by the corporation and forwarded to the department of taxation. Any claim for exemption that is filed and approved, shall not be considered a subsidy for the purpose of this part.

(d) [For the purposes of this section:

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

"Substantial rehabilitation":

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(1) Means the improvement of a property to a decent, safe, and sanitary condition that requires more than routine or minor repairs or improvements. It may include but is not limited to the gutting and extensive reconstruction of a dwelling unit, or cosmetic improvements coupled with the curing of a substantial accumulation of deferred maintenance; and

(2) Includes renovation, alteration, or remodeling to convert or adapt structurally sound property to the design and condition required for a specific use, such as conversion of a hotel to housing for elders.

Notwithstanding any other law to the contrary, the exemption established by this section and certified by the corporation pursuant to subsection (c) shall commence upon the filing or recordation of a regulatory agreement entered into pursuant to subsection (b) in the office of the assistant registrar of the land court or in the bureau of conveyances, or both, whichever is appropriate.

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

(f) For the purposes of this section:

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

"Substantial rehabilitation":

(1) Means the improvement of a property to a safe and 
sanitary condition that requires more than routine or 
minor repairs or improvements. It may include but is 
not limited to the gutting and extensive 
reconstruction of a dwelling unit, or cosmetic 
improvements coupled with the curing of a substantial 
accumulation of deferred maintenance; and

(2) Includes renovation, alteration, or remodeling to 
convert or adapt structurally sound property to the 
design and condition required for a specific use, such 
as conversion of a hotel to housing for elders."
SECTION 3. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

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

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

INTRODUCED BY: [Signature]
JAN 22 2021
Report Title:
HHFDC; Taxation; General Excise Tax; Exemption

Description:
Provides that an exemption from the general excise tax established by section 201H-36, Hawaii Revised Statutes, that has been approved by the Hawaii housing finance and development corporation shall be provided once the qualified person or firm has filed or recorded the regulatory agreement in land court or the bureau of conveyances, whichever is appropriate.

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