

REQUEST FOR LEGAL SERVICES

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COUNSEL
2019 APR 29 PM 1:39

Date: April 29, 2019

From: Keani Rawlins-Fernandez, Chair
Economic Development and Budget Committee

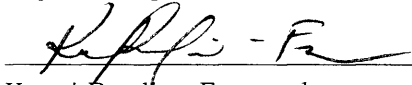
TRANSMITTAL

Memo to: DEPARTMENT OF THE CORPORATION COUNSEL
Attention: Jeffrey Ueoka, Esq.

Subject: Please revise and approve attached bill to establish a revolving fund to support the development of experimental and demonstration housing projects. (EDB-1)

Background Data: This bill is being considered in the Fiscal Year 2020 budget session.

Work Requested: [X] FOR APPROVAL AS TO FORM AND LEGALITY
[X] OTHER: Revise to delete Subsection C in proposed Maui County Code § 16.28.060.

Requestor's signature  Keani Rawlins-Fernandez	Contact Person David Raatz (Telephone Extension: 7664)
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[] ROUTINE (WITHIN 15 WORKING DAYS) [X] RUSH (WITHIN 5 WORKING DAYS)
[] PRIORITY (WITHIN 10 WORKING DAYS) [] URGENT (WITHIN 3 WORKING DAYS)

[] SPECIFY DUE DATE (IF IMPOSED BY SPECIFIC CIRCUMSTANCES): _____

REASON _____

FOR CORPORATION COUNSEL'S RESPONSE

ASSIGNED TO: <u>TU</u>	ASSIGNMENT NO. <u>2019 EDB-1</u>	BY: <u>JU</u>
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TO REQUESTOR: [X] APPROVED [] DISAPPROVED [] OTHER (SEE COMMENTS BELOW)
[] RETURNING--PLEASE EXPAND AND PROVIDE DETAILS REGARDING ITEMS AS NOTED

COMMENTS (NOTE - THIS SECTION NOT TO BE USED FOR LEGAL ADVICE): _____

DEPARTMENT OF THE CORPORATION COUNSEL

Date 4/30/19

By 

(Rev. 7/03)

ORDINANCE NO. _____

BILL NO. _____ (2019)

A BILL FOR AN ORDINANCE TO ESTABLISH THE EXPERIMENTAL AND
DEMONSTRATION HOUSING PROJECTS FUND

BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. The purpose of this ordinance is to establish a revolving fund to support the development of experimental and demonstration housing projects.

SECTION 2. Chapter 16.28, Maui County Code, is amended by adding new sections to be appropriately designated and to read as follows:

“16.28.050 Fund established. There is established and created a fund to be known as the experimental and demonstration housing projects fund.

16.28.060 Fund deposits. A. The following may be deposited into the fund:

1. All revenue received by the County from any application fee for the submission and processing of plans and specifications under this chapter.

2. Any council appropriations to the fund.

3. All cash donations to the County for experimental and demonstration housing projects.

4. All proceeds from the sale of County-owned experimental and demonstration housing projects.

5. All proceeds from the repayment of loans, including both principal and interest payments, made under this chapter.

B. Any balance remaining in the experimental and demonstration housing projects fund at the end of the fiscal year will not lapse, but will remain in the fund accumulating from year to year.

16.28.070 Fund uses. A. The revenues and unencumbered balance in the experimental and demonstration housing projects fund will be used for the provision, protection, and expansion of experimental and demonstration housing projects, including the rehabilitation of existing structures, land purchase or other acquisition of land or property entitlements, planning, design, and construction. The projects must provide housing for households with a gross annual family income of 80 percent or less of the area median income as established by the United States Department of Housing and Urban Development, or as adjusted by the department, for Hana, Lanai, and Molokai. The projects must directly advance the objective of providing affordable housing in perpetuity, under the director's supervision. Models of affordability in perpetuity include, but are not limited to: managed appreciation formulas that insulate the housing from market rate appreciation; shared equity formulas; and projects that are owned by a community land trust.

B. The revenues and unencumbered balance in the experimental and demonstration housing projects fund may not be used for any purpose except those defined in this chapter.

C. On an annual basis, no more than 3 percent of the experimental and demonstration housing projects fund will be used for administrative expenses.

D. The council may make appropriations from the experimental and demonstration housing projects fund for the following purposes:

1. To acquire interests in real property for the uses set forth above.

2. To provide grants or loans to any nonprofit organization that complies with section 501(c) of the internal revenue code and any other requirement under federal, state, and county law regulating the conduct of charitable or nonprofit organizations, provided that the purpose of any grant or loan must be consistent with the proposed uses set forth above.

16.28.080 Grant or loan requirements. A. A grant or loan agreement for distribution of funds under this chapter must contain the following conditions and restrictions:

1. Title to any real property must be held in perpetuity by the grantee or the borrower unless conveyed to the County or to a qualified nonprofit organization as approved by the council.

2. The grantee or borrower must submit annual reports to the director documenting the project's progress.

3. The subject project must not be sold, exchanged, divested, or converted to other uses that are inconsistent with the purposes set forth in this chapter without the prior approval of the council by resolution.

4. If the grantee or borrower dissolves or is adjudicated bankrupt pursuant to any applicable federal statute, title to any real property that has been funded or improved by a grant or loan issued from the fund shall be conveyed to the County or to a qualified nonprofit organization as approved by the council.

5. The grantee or borrower may not distribute or redistribute grant or loan funds to other organizations without the council's prior approval by resolution.

B. Loans from the fund must:

1. Be secured by a first mortgage lien in favor of the County.

2. Have a term set by the director.

3. Require the borrower to execute a promissory note in favor of the County.

4. Include an interest rate set at 3 percent per annum.

5. Be recorded with the bureau of conveyances or the land court.

C. In the event of a loan default or if the project is not serving the purposes as set forth in this chapter, the following may be required of the borrower:

1. Forfeit the land or property to the County.

2. Repay the loan with applicable interest.

16.28.090 Criteria for selection of grant or loan proposals. A. Grant or loan proposals submitted must include:

1. A detailed description of the proposed project and an outline of the income categories the project will serve.

2. A brief overview of a long-term management plan for the proposed project.

3. A description of all efforts to leverage or match funding from non-county sources for the subject project.

B. Grant or loan proposals must demonstrate that the subject project has the potential to facilitate the research and development of ideas that would reduce the cost of housing in the state."

SECTION 3. New material is underscored. In printing this bill, the County Clerk need not include the underscoring.

SECTION 4. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM AND LEGALITY:



Department of the Corporation Counsel
County of Maui

edb:2020 bgt:001abill01:dr
2019-0098