

'REQUEST FOR LEGAL SERVICES

D a t e: July 31, 2025
F r o m: Tasha Kama, Chair
Housing and Land Use Committee

TRANSMITTAL

Memo to: DEPARTMENT OF THE CORPORATION COUNSEL
Attention: Nāhulu Nunokawa, Esq.

Subject: HOUSING PROJECTS UNDER CHAPTER 201H, HAWAI'I REVISED STATUTES: KAIHAHALE 'O KAHILUHILU AFFORDABLE HOUSING RENTAL PROJECT (HLU-1(1))

Background Data: Please provide guidance on the application of Act 294, Session Laws of Hawai'i 2025, effective July 3, 2025, as it relates to the Council's ability to deviate from the exemptions requested and to impose project modifications. A copy of the Act and the Conference Committee Report are attached. Please submit your response to hlu.committee@mauicounty.us with a reference to HLU-1(1).

Work Requested: FOR APPROVAL AS TO FORM AND LEGALITY
 OTHER: Request for opinion.

Requestor's signature  Tasha Kama, Chair	Contact Person <u>James Krueger or Carla Nakata</u> (Telephone Extension: <u>7761 or 5519, respectively</u>)
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ROUTINE (WITHIN 15 WORKING DAYS) RUSH (WITHIN 5 WORKING DAYS)
 PRIORITY (WITHIN 10 WORKING DAYS) URGENT (WITHIN 3 WORKING DAYS)

SPECIFY DUE DATE (IF IMPOSED BY SPECIFIC CIRCUMSTANCES): August 5, 2025, 9:00 a.m.
REASON: For consideration at the HLU Committee meeting of August 5, 2025.

FOR CORPORATION COUNSEL'S RESPONSE

ASSIGNED TO:	ASSIGNMENT NO.	BY:
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TO REQUESTOR: 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): _____

Date _____ DEPARTMENT OF THE CORPORATION COUNSEL
By _____

hlu:ltr:001(1)acc02:cmn

(Rev. 7/03)

Attachments

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



GOV. MSG. NO. 1397

EXECUTIVE CHAMBERS
KE KE'ENA O KE KIA'ĀINA

July 3, 2025

The Honorable Ronald D. Kouchi
President of the Senate,
and Members of the Senate
Thirty-Third State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

The Honorable Nadine Nakamura
Speaker, and Members of the
House of Representatives
Thirty-Third State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Aloha President Kouchi, Speaker Nakamura, and Members of the Legislature:

This is to inform you that on July 3, 2025, the following bill was signed into law:

S.B. NO. 38, S.D. 2, H.D. 2,
C.D. 1

RELATING TO HOUSING.
ACT 294

Mahalo,

A handwritten signature in black ink that reads "Josh Green M.D." in a cursive style.

Josh Green, M.D.
Governor, State of Hawai'i

on JUL 3 2025

THE SENATE
THIRTY-THIRD LEGISLATURE, 2025
STATE OF HAWAII

ACT 294
S.B. NO. 38
S.D. 2
H.D. 2
C.D. 1

A BILL FOR AN ACT

RELATING TO HOUSING.

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

1 SECTION 1. Section 201H-38, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) The corporation may develop on behalf of the State or
4 with an eligible developer, or may assist under a government
5 assistance program in the development of, housing projects that
6 shall be exempt from all statutes, charter provisions,
7 ordinances, and rules of any government agency relating to
8 planning, zoning, construction standards for subdivisions,
9 development and improvement of land, and the construction of
10 dwelling units thereon; provided that [~~either~~]:

11 (1) The housing projects meet the following conditions:

12 (A) The corporation finds the housing project is
13 consistent with the purpose and intent of this
14 chapter, [~~and~~] meets minimum requirements of
15 health and safety[+], and provides the county an
16 opportunity to comment;



1 (B) The development of the proposed housing project
2 does not contravene any safety standards,
3 tariffs, or rates and fees approved by the public
4 utilities commission for public utilities or of
5 the various boards of water supply authorized
6 under chapter 54;

7 (C) The legislative body of the county in which the
8 housing project is to be situated has approved
9 the project with or without modifications:

10 (i) The legislative body shall approve, approve
11 with modification, or disapprove the project
12 by resolution within forty-five days after
13 the corporation has submitted the
14 preliminary plans and specifications for the
15 project to the legislative body[-]; provided
16 further that the legislative body shall not
17 impose stricter conditions, impose stricter
18 median income requirements, or reduce fee
19 waivers that will increase the cost of the
20 project beyond those approved by the
21 corporation. If, on the forty-sixth day, a



1 project is not disapproved, it shall be
2 deemed approved by the legislative body;
3 (ii) No action shall be prosecuted or maintained
4 against any county, its officials, or
5 employees on account of actions taken by
6 them in reviewing, approving, modifying, or
7 disapproving the plans and specifications;
8 and
9 (iii) The final plans and specifications for the
10 project shall be deemed approved by the
11 legislative body if the final plans and
12 specifications do not substantially deviate
13 from the preliminary plans and
14 specifications. The final plans and
15 specifications for the project shall
16 constitute the zoning, building,
17 construction, and subdivision standards for
18 that project. For purposes of sections
19 501-85 and 502-17, the executive director of
20 the corporation or the responsible county
21 official may certify maps and plans of lands



1 connected with the project as having
2 complied with applicable laws and ordinances
3 relating to consolidation and subdivision of
4 lands, and the maps and plans shall be
5 accepted for registration or recordation by
6 the land court and registrar; and

7 (D) The land use commission has approved, approved
8 with modification, or disapproved a boundary
9 change within forty-five days after the
10 corporation has submitted a petition to the
11 commission as provided in section 205-4. If, on
12 the forty-sixth day, the petition is not
13 disapproved, it shall be deemed approved by the
14 commission; or

15 (2) The housing projects:

16 (A) Meet the conditions of paragraph (1);

17 (B) Do not impose stricter income requirements than
18 those adopted or established by the State; and

19 (C) For the lifetime of the project, require that one
20 hundred per cent of the units in the project be
21 exclusively for qualified residents."

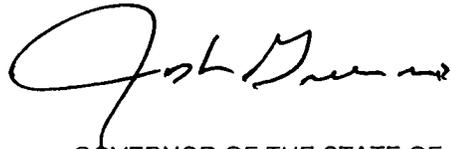


1 SECTION 2. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.
3 SECTION 3. This Act shall take effect upon its approval.



S.B. NO. 38
S.D. 2
H.D. 2
C.D. 1

APPROVED this 3rd day of July, 2025

A handwritten signature in black ink, appearing to read "Josh Green". The signature is written in a cursive style with a large initial "J".

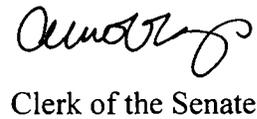
GOVERNOR OF THE STATE OF HAWAII

THE SENATE OF THE STATE OF HAWAI‘I

Date: April 30, 2025
Honolulu, Hawai‘i 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the Senate of the Thirty-Third Legislature of the State of Hawai‘i, Regular Session of 2025.


President of the Senate


Clerk of the Senate

SB No. 38, SD 2, HD 2, CD 1

THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: April 30, 2025
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the House of Representatives of the Thirty-Third Legislature of the State of Hawaii, Regular Session of 2025.



Nadine K. Nakamura
Speaker
House of Representatives



Brian L. Takeshita
Chief Clerk
House of Representatives

CONFERENCE COMMITTEE REP. NO. 77

Honolulu, Hawaii
, 2025

RE: S.B. No. 38
S.D. 2
H.D. 2
C.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-Third State Legislature
Regular Session of 2025
State of Hawaii

Honorable Nadine K. Nakamura
Speaker, House of Representatives
Thirty-Third State Legislature
Regular Session of 2025
State of Hawaii

Sir and Madam:

Your Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House of Representatives in S.B. No. 38, S.D. 2, H.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO HOUSING,"

having met, and after full and free discussion, has agreed to recommend and does recommend to the respective Houses the final passage of this bill in an amended form.

The purpose of this measure is to prohibit the legislative body of a county from imposing stricter conditions than the Hawaii Housing Finance and Development Corporation, stricter area median income requirements, or a reduction in fee waivers to housing development proposals that would increase the cost of the project.

Your Committee on Conference finds that certain exemptions for proposed housing developments under section 201H-38, Hawaii Revised Statutes, ensure that housing units developed by the Hawaii Housing Finance and Development Corporation (HHFDC) remain primarily affordable. While the legislative body of a county serves an important role in reviewing the proposed development of

certain housing units within their respective communities, the addition of stricter conditions imposed by a county's legislative body to the proposed housing development may inadvertently increase construction costs and delay completion of a project. Therefore, this measure will help to ensure the financial feasibility of housing development projects that assist the State in alleviating its housing shortage.

Your Committee on Conference has amended this measure by:

- (1) Inserting language requiring HHFDC to provide counties with an opportunity to comment on certain housing projects;
- (2) Making it effective upon its approval; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 38, S.D. 2, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 38, S.D. 2, H.D. 2, C.D. 1.

Respectfully submitted on
behalf of the managers:

ON THE PART OF THE HOUSE

ON THE PART OF THE SENATE

LUKE A. EVSLIN
Co-Chair

STANLEY CHANG
Chair

DAVID A. TARNAS
Co-Chair

KARL RHOADS
Co-Chair

HLU Committee

From: HLU Committee
Sent: Thursday, July 31, 2025 10:17 AM
To: CorpCounselRFLS@co.maui.hi.us
Cc: HLU Committee; Tasha A. Kama; Carla M. Nakata; James G. Krueger
Subject: OCS - HLU - re: KAIAHALE 'O KAHILUHILU AFFORDABLE HOUSING RENTAL PROJECT (HLU-1(1))
Attachments: 001(1)acc02 (1)_TK.pdf
Importance: High

Aloha Corporation Counsel,

Please see the attached Request for Legal Services from HLU Chair Kama, dated 07/31/2025, regarding the above-referenced matter.

Mahalo,
HLU Committee Staff