HLU Committee

From: Jeff Gilbreath <jeff@hawaiicommunitylending.com>
Sent: Tuesday, July 15, 2025 12:31 PM
To: HLU Committee
Subject: Bill 9 Comments - Hawaiʻi Community Lending
Attachments: Bill 9 Comments - Hawaiʻi Community Lending.pdf

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Aloha Housing and Land Use Committee,

Please find our comments related to Bill 9 attached.

Feel free to contact me if you have any questions or need additional information.

Mahalo for your leadership,

Jeff Gilbreath *(he/him/his)* *(what's this?)*
Executive Director
Hawaiʻi Community Lending
808-587-7653
www.HawaiiCommunityLending.com

Hawaiʻi Community Lending *is a 501c3 nonprofit Native community development financial institution that increases access to credit and capital for the economic self-sufficiency of underserved Hawaii residents with a particular focus on Native Hawaiians.*

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HAWAIʻI COMMUNITY LENDING
1315 Kalanianaʻole Avenue, Hilo, HI 96720
PO Box 210, Waimanalo, HI 96795
808-587-7656
www.hawaiicommunitylending.com

July 15, 2025

RE: Comments on Bill 9

Aloha Council Members,

I am writing on behalf of Hawaiʻi Community Lending (HCL) in my role as Executive Director to provide comments on Bill 9. More specifically, I am responding to questions from Councilmember Uʻu-Hodgins at the previous committee hearing on this bill related to mortgage financing and strategies for ensuring opportunities for local buyers.

HCL is a US Treasury certified native community development financial institution that funds the local housing ecosystem from the home builder to the home buyer to the homeowner. Our nonprofit was established as a mortgage broker in 2002 and has transitioned into a $25 million revolving loan fund specializing in construction and mortgage lending for Native Hawaiians and our local people. Over the last 23 years we have made 4,485 grants and loans helping Native Hawaiian and local families access more than $160 million in capital to build, buy, and save homes from foreclosure.

The following includes our organization's responses to Councilmember Uʻu-Hodgins questions at the previous committee meeting paraphrased below:

> *Councilmember: As I understand it, properties under litigation when it comes to mortgage lending have strict criteria and it is very difficult to get a loan on a property that is under litigation…I want [a lender's perspective] because families don't have a few extra hundred thousand dollars in cash…to buy one of the potential units…[and] I want [the lender's perspective] on what [the county] can do to ensure the properties stay locally.*

Councilmember Uʻu-Hodgins poses two questions here:

1. **What are the constraints on mortgage lending when a property is under litigation?**

   and

2. **What can the County do to ensure the properties are bought and owned by local residents?**

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<u>Question 1:</u> What are the constraints on mortgage lending when a property is under litigation?

To address question 1 related to the constraints on mortgage lending when a property is under litigation, if an owner files a lawsuit against the County for regulating use of property it could place a cloud on title.

A cloud on title can impact mortgage financing but does not make financing impossible. Whether or not a family would qualify for a mortgage loan to purchase said property will be dependent on the lender's tolerance for risk, as is always the case. In this hypothetical situation, where the current owner would pursue litigation against the County for restricting the use of the property for owner occupancy or for a long-term rental, Hawaiʻi Community Lending finds there would be little to no risk to the mortgage lender and therefore, a local family could secure a mortgage for the property regardless of the cloud on title.

The reason for this is that our local banks, credit unions, and CDFIs like HCL offer government-backed and portfolio loans for the purchase of housing units with a variety of risk criteria. The type of loan the lender would provide the buyer with would be dependent on a number of factors, including whether or not the buyer will live in the home or rent it out long-term. In underwriting, the mortgage lender would assess the risk of litigation against the County. They would likely determine that if the lawsuit were successful in overturning the County's restrictions for use of the unit, the result would be the buyer being able to use the unit for a 3rd purpose – as a short-term vacation rental – in addition to living in the unit or renting it out long-term. Therefore, the results of a successful lawsuit by the current owner against the County would not limit the use of the property, but in fact increase it. The result would be seen as a net benefit to the buyer and lender, if anything, because it would expand the use of the property, not limit it. However, it is important to note the lender may have to refinance the mortgage loan with the buyer if the buyer chose to rent out the unit as a short-term vacation rental as opposed to live in it as an owner occupant. This should be no issue as mortgage lenders offer refinances as a normal part of their business operations.

In terms of potential actions the County can take, HCL encourages the County to consider coordinating a meeting with local mortgage lenders to discuss the influx of units that may come onto the market as a result of Bill 9 so mortgage lenders understand the issue and opportunity clearly, can ensure clarity around a possible cloud on title within their underwriting divisions, and position them to be partners in financing our local people to purchase the units as opposed to the loan principal and interest being paid by the buyers going to offshore lenders and out of our local economy.

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<u>Question 2:</u> What can the County do to ensure the properties are bought and owned by local residents?

As it relates to question 2 and how the County can ensure local residents purchase the units which currently enjoy a special exemption to function as short-term vacation rentals, HCL recommends the County consider expanding its Deferred Payment Loan Program to help buy down the purchase price so the monthly payments are affordable for local residents who are low or moderate income below 120% area median income.

In 2020-21, I served as the principal overseeing the development of the Maui County Comprehensive Affordable Housing Plan that the County Council contracted Hawaiian Community Assets, our parent nonprofit, to complete. Through our work with a team of experts, it was determined in 2019 the need for housing in Maui County according to the Hawaiʻi Housing Planning Study was at 5,000 units for low-and-moderate income households under 120% AMI by 2025. According to the 2024 Hawaiʻi Housing Planning Study, the need for that same AMI range has nearly doubled to 9,859. This reality – where the need for housing is growing at an exponential rate - warrants bold and innovative solutions to increase housing opportunities for our local people, including Bill 9 and recommendations in the plan such as the development of a deferred payment loan program to help local families afford homeownership.

The County's efforts to sunset the special exemption provided to owners of housing units for short-term vacation rentals versus homes families can live in or rent out long term would ensure thousands of units become available to our local people. Getting these units into the market could be a real opportunity to reduce the demand for housing in the County without having to spend a significant amount of time and resources that new developments require. It is not a silver bullet. It would not reduce the need for new housing development targeted at the income levels of Maui County residents, but it would be a game-changer in addressing the severe housing shortage we are experiencing.

To ensure these units are available to our local people who live and work here, HCL encourages the County to consider expanding its Deferred Payment Loan Program. The program is currently active as a pilot. It has approved 13 local families for 0% interest loans totaling $1.55 million so they can purchase existing homes in the marketplace. The program requires the loans go to local residents who have resided in Maui County for at least 2 years and are low to moderate income, below 120% AMI. When the loans are made, they come with a resale restriction that requires the homes to be sold to local residents who meet the program requirements and if they don't, the funds must be paid back to the County so another local family can be funded through the program. We are working with the County to use the program model to launch a similar recoverable grant program specifically for funding gaps owner occupant homeowners in Lahaina who are trying to rebuild, but with a slight change: that if the home is not sold to a qualified local resident who meets program requirements that a right of first opportunity is provided to community land trusts or nonprofits that ensure permanent affordability so local residents do not just buy now, but have the opportunity to buy in the future and at a price they can afford.

By expanding the Deferred Payment Loan Program and including the right of first opportunity language, the County could ensure our local people are able to compete and purchase the units made available through the implementation of Bill 9 once they come online. In addition, the County would be helping our local people reduce the loan to value on a mortgage, which would further address concerns about risk that mortgage lenders may perceive when a cloud is on title.

Mahalo for the opportunity to share my comments on Bill 9. Please contact me at 808.587.7653 or jeff@hawaiicommunitylending.com should you have any questions.

Sincerely,

Jeff Gilbreath

Jeff Gilbreath
Executive Director