

# REQUEST FOR LEGAL SERVICES

**Date:** April 16, 2019  
**From:** Keani Rawlins-Fernandez, Chair  
Economic Development and Budget Committee

TRANSMITTAL

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

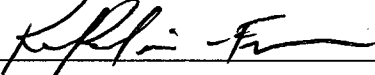
**Subject:** Bill to establish experimental and demonstration projects revolving fund

(EDB-1)

**Background Data:** This bill is to be considered in the Fiscal Year 2020 Budget session.

**Work Requested:**  FOR APPROVAL AS TO FORM AND LEGALITY

OTHER:

Requestor's signature  Keani Rawlins-Fernandez	Contact Person <u>David Raatz</u> (Telephone Extension: 7664)
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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): 04/18/2019 by 9:00 a.m.

REASON: For 4/18/19 posting deadline.

## 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): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DEPARTMENT OF THE CORPORATION COUNSEL

Date \_\_\_\_\_

By \_\_\_\_\_

(Rev. 7/03)

edb:2020 bgt:190415acc01:dr

Attachment

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 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:

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

ii. Any council appropriations to the fund.

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

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

v. 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.

c. In adopting fiscal years 2020 through 2025 annual operating budgets and capital improvement programs, the council will appropriate a minimum of one-half of one percent of the certified real property tax revenues to the experimental and demonstration housing projects fund.

**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 family income of 80 percent or less of the area median income. The projects will be subject to managed appreciation, under the director's supervision, consistent with this chapter's purposes.

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 three 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:

i. To acquire interests in real property for purposes set forth in this chapter;

ii. 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 for the purposes of this chapter.

**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:

i. 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.

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

iii. 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.

iv. 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.

v. 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:

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

ii. Have a term set by the director.

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

iv. Include an interest rate set at three percent per annum.

v. 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:

i. Forfeit the land or property to the County.

ii. Repay the loan with applicable interest.

**16.28.080 Criteria for selection of grant or loan proposals.** a.  
Grant or loan proposals submitted must include:

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

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

iii. 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:

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Department of the Corporation Counsel  
County of Maui

edb:2020 bgt:001abill01:dr