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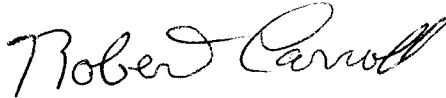
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OFFICE OF THE  
COUNTY COUNCIL

September 16, 2016

MEMO TO: PIA-4(2) File

F R O M: Robert Carroll  
Councilmember



SUBJECT: **TRANSMITTAL OF LEGISLATIVE PROPOSAL RELATING TO  
2017 MAUI COUNTY LEGISLATIVE PACKAGE** (PIA-4(2); PAF 16-011))

The attached legislative proposal pertains to Item 4(2) on the Committee's agenda.

paf:cmn:16-011d

Attachment

# Resolution

No. \_\_\_\_\_

APPROVING FOR INCLUSION IN THE 2017 MAUI  
COUNTY LEGISLATIVE PACKAGE A STATE BILL  
TO EXTEND THE TIME FOR THE COUNTY  
COUNCILS TO DECIDE ON AN AFFORDABLE  
HOUSING PROJECT, PURSUANT TO SECTION  
201H-38, HAWAII REVISED STATUTES

WHEREAS, the State Legislature established a process to expedite the development of affordable housing by exempting qualified projects from certain planning, zoning, and construction standards pursuant to Section 201H-38, Hawaii Revised Statutes; and

WHEREAS, the critical need for affordable housing in the State and the potential for 201H projects to lead to the creation of such housing favor providing the county councils with an additional fifteen days to thoroughly vet projects and approve needed modifications; and

WHEREAS, increasing the time for consideration from forty-five days to sixty days will not jeopardize the savings realized by expedited processing of the 201H application or exemptions granted to assist the developer; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That the proposed State bill, attached as Exhibit "A," to increase by fifteen days the time within which the county councils must approve, approve with modification, or disapprove a proposed project pursuant to Section 201H-38, Hawaii Revised Statutes, is approved for inclusion in the 2017 Maui County Legislative Package; and
2. That certified copies of this resolution be transmitted to the Mayor, County of Maui; the Governor, State of Hawaii; the Senate President, State of Hawaii; and the Speaker of the House of Representatives, State of Hawaii.

\_\_\_\_.B. NO.\_\_\_\_

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# A BILL FOR AN ACT

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RELATING TO AFFORDABLE HOUSING.

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

1       SECTION 1. The legislature finds that certain provisions  
2 of the State's housing law expedite the development of  
3 affordable housing by exempting qualified projects from certain  
4 planning, zoning, and construction standards. The legislature  
5 allowed counties to approve these types of housing projects with  
6 or without modifications by Act 217 (2006). The Maui County  
7 Council has on multiple occasions availed itself of the  
8 modification option, instead of disapproving an affordable  
9 housing project simply because modifications were needed. While  
10 the ability to approve a project with modifications has proven  
11 desirable, this feature and the need for thorough vetting of the  
12 project require that county councils be granted more time for  
13 their reviews.

14       Section 201H-38, Hawaii Revised Statutes, allows a mere  
15 forty-five day window for a county council to approve or  
16 disapprove a project. The legislature finds forty-five days is  
17 too short to allow meaningful discussion and decision-making,  
18 particularly where failure to act within forty-five days is

**EXHIBIT "A"**

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1 deemed approval. A sixty-day window will still provide an  
2 expedited review of qualified projects while also allowing  
3 county councils to appropriately exercise the due diligence  
4 required of an undertaking as important to the community as  
5 affordable housing.

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

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

16 (1) The corporation finds the housing project is  
17 consistent with the purpose and intent of this  
18 chapter, and meets minimum requirements of health and  
19 safety;

20 (2) The development of the proposed housing project does  
21 not contravene any safety standards, tariffs, or rates  
22 and fees approved by the public utilities commission

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1           for public utilities or of the various boards of water  
2           supply authorized under chapter 54;

3       (3) The legislative body of the county in which the  
4           housing project is to be situated shall have approved  
5           the project with or without modifications:

6       (A) The legislative body shall approve, approve with  
7           modification, or disapprove the project by  
8           resolution within [~~forty-five~~] sixty days after  
9           the corporation has submitted the preliminary  
10          plans and specifications for the project to the  
11          legislative body. If on the [~~forty-sixth~~] sixty-  
12          first day a project is not disapproved, it shall  
13          be deemed approved by the legislative body;

14       (B) No action shall be prosecuted or maintained  
15          against any county, its officials, or employees  
16          on account of actions taken by them in reviewing,  
17          approving, modifying, or disapproving the plans  
18          and specifications; and

19       (C) The final plans and specifications for the  
20          project shall be deemed approved by the  
21          legislative body if the final plans and  
22          specifications do not substantially deviate from

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1           the preliminary plans and specifications. The  
2           final plans and specifications for the project  
3           shall constitute the zoning, building,  
4           construction, and subdivision standards for that  
5           project. For purposes of sections 501-85 and  
6           502-17, the executive director of the corporation  
7           or the responsible county official may certify  
8           maps and plans of lands connected with the  
9           project as having complied with applicable laws  
10          and ordinances relating to consolidation and  
11          subdivision of lands, and the maps and plans  
12          shall be accepted for registration or recordation  
13          by the land court and registrar; and

- 14       (4) The land use commission shall approve, approve with  
15          modification, or disapprove a boundary change within  
16          forty-five days after the corporation has submitted a  
17          petition to the commission as provided in section 205-  
18          4. If, on the forty-sixth day, the petition is not  
19          disapproved, it shall be deemed approved by the  
20          commission."

21       SECTION 3. Statutory material to be deleted is bracketed  
22       and in strikethrough. New statutory material is underscored.

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1           SECTION 4.   This Act shall take effect upon its approval.

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3                           INTRODUCED BY: \_\_\_\_\_

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