

ORDINANCE NO. _____

BILL NO. 100 (2020)

A BILL FOR AN ORDINANCE AMENDING CHAPTER 3.35, MAUI COUNTY
CODE, RELATING TO GRANT OR LOAN REQUIREMENTS

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

SECTION 1. Section 3.35.050, Maui County Code, is amended by
amending subsection A to read as follows:

“A. [Ownership housing units financed by the affordable
housing fund shall be subject to the restrictions of subsection
2.96.060(B) of this code. Rental housing units financed by the
affordable housing fund shall be subject to the restrictions of
subsection 2.96.070(C) of this code.] Unless otherwise approved by
the council by resolution:

1. Ownership housing units financed by the
affordable housing fund must be subject to the restrictions of
subsection 2.96.060(B) of this code.

2. Rental housing units financed by the affordable
housing fund must be subject to the restrictions of subsection
2.96.070(B) of this code.”

SECTION 2. Section 3.35.060, Maui County Code, is amended to
read as follows:

“3.35.060 Criteria for selection of grant or loan proposals.

A. Grant or loan proposals [submitted shall] 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 [; and].

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

B. Grant or loan proposals [shall] must meet the following
criteria [for approval]:

1. Demonstrate [that] the [subject] project is
consistent with the requirements set forth in section 3.35.010
[of this chapter;].

2. Demonstrate [that] the [subject] project can be effectively managed and maintained as affordable and significantly contribute to the creation of affordable housing units [; and].

3. Demonstrate [that] the [subject] project directly advances the objective of providing affordable housing in perpetuity[.]; however, a request for exemption from this provision may be approved by the council by resolution if:

a. All of the dwelling units are offered as affordable, with the exception of any managers' units.

b. The dwelling units remain affordable for not less than thirty years."

SECTION 3. Section 3.35.070, Maui County Code, is amended to

read as follows:

"3.35.070 Grant or loan requirements. A. A grant or loan agreement for distribution of funds [shall] must contain the following conditions and restrictions[.]; unless otherwise approved by the council by resolution:

1. Title to any real property [shall] must be held in perpetuity by [grantee/borrower] the grantee or borrower unless conveyed to the County[,] or to a qualified nonprofit or community land trust[.].

2. The [grantee/borrower shall] grantee or borrower must submit annual reports to the department of housing and human concerns documenting the progress toward implementing long-term management of the affordable housing project[.].

3. The [subject] project [shall] 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. [In the event that the grantee/borrower] If the grantee or borrower dissolves or is adjudicated bankrupt [pursuant to any applicable federal statute], title to any real property [which] that has been funded or improved by a grant or loan issued from the fund [shall] must be conveyed to the County[,] or to a qualified nonprofit or community land trust as approved by the council[;and] by resolution.

5. The [grantee/borrower shall] grantee or borrower must not distribute or redistribute grant or loan funds to other [third-party] organizations [without the prior approval of the council].

B. [Loans] Unless otherwise approved by council by resolution, loans from the fund [shall:] must:

1. Be secured by a first mortgage lien in favor of the County[,] or, subject to council approval[,] by resolution, be secured by a second mortgage lien in favor of the County[.].

2. Have a term set by the director[;] of housing and human concerns.

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

4. Include an interest rate set at [three per cent] 3 percent per annum[; and].

5. Be recorded with the bureau of conveyances or the land court of the [state.] State.”

C. [In the event of a loan default,] If a borrower defaults or the [subject] project is not serving the affordable housing needs as set forth in this chapter, the following may be required of the borrower:

1. Forfeit the land or property to the County[; and].

2. Full repayment of the principal balance at an annual interest rate equal to two times the prime rate at the time of default.”

SECTION 4. Material to be repealed is bracketed. New material is underscored. In printing this bill, the County Clerk need not include the brackets, the bracketed material, or the underscoring.

SECTION 5. This Ordinance takes effect upon its approval.

APPROVED AS TO FORM AND
LEGALITY:

/s/ Mimi Desjardins

MIMI DESJARDINS
Deputy Corporation Counsel

LF 2020-1280 2020-09-30 revised

DIGEST

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This bill proposes to amend Chapter 3.35, Maui County Code, to allow flexibility in Affordable Housing Fund grant and loan requirements.

I, KATHY L. KAOHU, County Clerk of the County of Maui, State of Hawaii, DO
HEREBY CERTIFY that the foregoing BILL NO. 100 (2020) was passed on First Reading
by the Council of the County of Maui, State of Hawaii, on the 9th day of October, 2020,
by the following vote:

AYES: Councilmembers G. Riki Hokama, Natalie A. Kama, Kelly T. King,
Michael J. Molina, Tamara A. M. Paltin, Shane M. Sinenci,
Yuki Lei K. Sugimura, Vice-Chair Keani N. W. Rawlins-Fernandez,
and Chair Alice L. Lee.

NOES: None.

DATED at Wailuku, Maui, Hawaii, this 15th of October, 2020.



KATHY L. KAOHU, COUNTY CLERK
COUNTY OF MAUI, STATE OF HAWAII

Copies of the foregoing Bill, in full, are on file in the Office of the County Clerk,
County of Maui, for use and examination by the public.