

**COUNCIL OF THE COUNTY OF MAUI**  
**AGRICULTURE AND PUBLIC TRUST**  
**COMMITTEE**

November 19, 2021

**Committee**  
**Report No. \_\_\_\_\_**

Honorable Chair and Members  
of the County Council  
County of Maui  
Wailuku, Maui, Hawaii

Chair and Members:

Your Agriculture and Public Trust Committee, having met on November 2, 2021, makes reference to County Communication 21-348, from Council Vice-Chair Keani N.W. Rawlins-Fernandez, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE EXEMPTING THE DEPARTMENT OF HAWAIIAN HOME LANDS FROM THE WATER AVAILABILITY POLICY."

The purpose of the proposed bill is to amend Section 14.12.030, Maui County Code, exempting development by Department of Hawaiian Home Lands ("DHHL") from the Water Availability Policy, under Section 221 of the Hawaiian Homes Commission Act.

By correspondence dated November 1, 2021, the Director of Water Supply transmitted a revised proposed bill, entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 14.12.030, MAUI COUNTY CODE, EXEMPTING HOMESTEAD PROJECTS DEVELOPED BY THE DEPARTMENT OF HAWAIIAN HOME LANDS FROM THE WATER AVAILABILITY POLICY," with recommendations to revise the proposed exemption "H."

The proposed revisions exempt "homestead projects developed by the Department of Hawaiian Home Lands," defined as "a project or that portion of a multipurpose project, including residential, agricultural, pastoral, or aquacultural uses designed and intended for disposition to native Hawaiians under the Hawaiian Homes Commission Act, including community facilities for homestead areas," instead of exempting "development," as defined in Section 221.

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Your Committee noted the bill's intent is to explicitly exempt DHHL projects from the Water Availability Policy because they were not inherently exempted under affordable housing.

The Managing Director extended the Mayor's and the Administration's support of the revised proposed bill, noting that even though Hawaiian Home Lands are not restricted to families with specific income levels, the projects provide affordable housing opportunities to other residents by freeing up inventory.

The Managing Director also noted that the revised language would ensure projects listed under Sections 220, 220.5, and 221 would be included in the exemption.

Representatives of DHHL expressed support for the revised proposed bill. They said the bill is a meaningful and tangible way for Maui County, as an administrative subdivision of the State, to fulfill its obligations to uphold the Hawaiian Homes Commission Act, which was a condition of acceptance of a compact with the United States for Statehood.

Your Committee noted DHHL is a nonprofit entity that uses revenue generated to provide housing and carry out its responsibilities under the Congressional Act. The proposed revisions excludes commercial development by DHHL.

Following this discussion, your Committee supported the proposed revisions but added "commercial development" to the definition of "homestead projects developed by the Department of Hawaiian Home Lands."

After consulting with the Department of the Corporation Counsel, your Committee further revised the proposed bill by inserting the language, "Development by the department of Hawaiian home lands under the Hawaiian Homes Commission Act," to effectively address the concerns

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of accidentally excluding projects listed in any section of the Hawaiian Homes Commission Act.

Your Committee voted 4-2 to recommend passage of the revised proposed bill on first reading and filing of the communication. Committee Chair Sinenci, Vice-Chair Johnson, and members Paltin and Rawlins-Fernandez voted “aye.” Committee members Lee and Molina voted “no.” Committee member King was excused.

Your Committee is in receipt of a revised proposed bill, entitled “A BILL FOR AN ORDINANCE AMENDING SECTION 14.12.030, MAUI COUNTY CODE, EXEMPTING DEVELOPMENT BY THE DEPARTMENT OF HAWAIIAN HOME LANDS UNDER THE HAWAIIAN HOMES COMMISSION ACT FROM THE WATER AVAILABILITY POLICY,” approved as to form and legality by the Department of the Corporation Counsel, incorporating your Committee’s recommended revisions and nonsubstantive revisions.

Your Agriculture and Public Trust Committee RECOMMENDS the following:

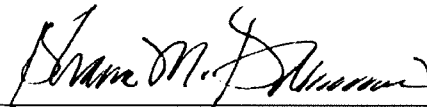
1. That Bill \_\_\_\_\_ (2021), as revised herein and attached hereto, entitled “A BILL FOR AN ORDINANCE AMENDING SECTION 14.12.030, MAUI COUNTY CODE, EXEMPTING DEVELOPMENT BY THE DEPARTMENT OF HAWAIIAN HOME LANDS UNDER THE HAWAIIAN HOMES COMMISSION ACT FROM THE WATER AVAILABILITY POLICY,” be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 21-348 be FILED.

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This report is submitted in accordance with Rule 8 of the Rules of the Council.



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SHANE M. SINENCI, Chair

apt:cr:21029aa:kmatt

ORDINANCE NO. \_\_\_\_\_

BILL NO. \_\_\_\_\_ (2021)

A BILL FOR AN ORDINANCE AMENDING SECTION 14.12.030, MAUI COUNTY CODE, EXEMPTING DEVELOPMENT BY THE DEPARTMENT OF HAWAIIAN HOME LANDS UNDER THE HAWAIIAN HOMES COMMISSION ACT FROM THE WATER AVAILABILITY POLICY

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

SECTION 1. The purpose of this Ordinance is to exempt development by the Department of Hawaiian Home Lands under the Hawaiian Homes Commission Act from the Water Availability Policy.

SECTION 2. Section 14.12.030, Maui County Code, is amended to read as follows:

**“14.12.030 Exemptions.** This chapter [shall] does not apply to:

A. Building permits as described in chapter 18.28 [of this code,] or other ministerial construction permits that do not require new or additional water services;

B. Subdivisions that do not require water service, such as[, but not limited to,] family subdivisions as defined in section 18.20.280 [of this code], consolidations and concurrent re-subdivisions that do not create additional developable lots, road widening lots, utility lots, or easements for access or utility purposes;

C. Subdivisions that will not be regulated as a public water system [pursuant to] under department of health rules, [provided] except that this exemption [shall] does not apply to any subsequent subdivision of any of the resulting parcels;

D. Infill development, [provided] except that this exemption [shall] does not apply to any subsequent development or subdivision of any resulting parcels;

E. Residential workforce housing units developed by a qualified housing provider [pursuant to] under chapter 2.96 [of this

code,] and are within the service area of the department's central or west Maui water system;

F. Residential development projects with [one hundred] 100 percent affordable housing units and are within the service area of the department's central or west Maui water system; [or]

G. Public or quasi-public development projects as defined in section 19.04.040 [of this code] and related subdivisions that are within the service area of the department's central or west Maui water system[.]; or

H. Development by the department of Hawaiian home lands under the Hawaiian Homes Commission Act."

SECTION 3. 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 4. This Ordinance takes effect upon its approval.

APPROVED AS TO FORM AND LEGALITY:



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JENNIFER M.P.E. OANA

Department of the Corporation Counsel

County of Maui

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LF#2021-0010/2021-1120

APT-29 2021-11-08 Ord Amd 14.12.030