

Resolution

No. 16-134

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.

A BILL FOR AN ACT

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

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

____.B. NO. _____

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

____.B. NO. _____

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.

____.B. NO. ____

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

2

3 INTRODUCED BY: _____

4

5 paf:cmn:16-011a

COUNCIL OF THE COUNTY OF MAUI

WAILUKU, HAWAII 96793

CERTIFICATION OF ADOPTION

It is HEREBY CERTIFIED that RESOLUTION NO. 16-134 was adopted by the Council of the County of Maui, State of Hawaii, on the 7th day of October, 2016, by the following vote:

MEMBERS	Michael B. WHITE Chair	Donald S. GUZMAN Vice-Chair	Gladys C. BAISA	Robert CARROLL	Eleanora COCHRAN	Donald G. COUCH, JR.	S. Stacy CRIVELLO	G. Riki HOKAMA	Michael P. VICTORINO
ROLL CALL	Aye	Aye	Aye	Aye	Aye	Aye	Aye	Aye	Aye



COUNTY CLERK