

FOR ACTION

I. REQUEST

Consider Authorizing the Executive Director to Initiate Rulemaking to Amend Hawaii Administrative Rules, Chapter 15-223, Ninety-Nine Year Leasehold Condominium Program, and conduct public hearings to consider adopting the amended rules pursuant to HRS, Chapter 91 and Chapter 206E, subject to the Governor's approval of S.B. 2061, C.D. 1 Relating to Residential Condominiums.

II. BACKGROUND

In May 2024, the Authority authorized the executive director to initiate administrative rulemaking for the Ninety-Nine Year Leasehold Program, as provided in Hawaii Revised Statute (HRS), 206E, Part XII, and conduct community engagement and public hearings to adopt the rules pursuant to HRS, Chapter 91 and Chapter 206E, HRS.

The Hawaii Administrative Rules ("HAR"), Chapter 15-223, Ninety-Nine Year Leasehold Condominium Program was adopted by the Authority on March 5, 2025, following public hearings conducted on February 5, 2025, and March 5, 2025. Subsequently, Governor Green approved the administrative rules on August 14, 2025.

In September 2025, staff completed the pre-development due diligence for the ninety-nine year leasehold residential condominium pilot project. Staff made a recommendation to delay the project and suggested amending some of the provisions of HRS Chapter 206E, Part XII to make the leasehold project more competitive in the market.

III. DISCUSSION

Senate Bill 2061, C.D.1 (attached as Exhibit A) of the 2026 legislative session amending HRS Chapter 206E, Part XII, Ninety-Nine Year Leasehold Program was passed by the Legislature and was enrolled to the Governor for approval. S.B. 2061, C.D.1 amends HRS Chapter 206E, Part XII by: (1) allowing the HCDA to prohibit renting, advertising for rent, or using for any other purpose other than owner-occupied residential use a residential condominium unit, by rule, rather than statutorily; (2) exempting the design, development, and construction contracts from procurement requirements, subject to prevailing wage requirements for laborers and mechanics; (3) requiring HCDA to adopt rules to implement an initial sales period during which residential condominium units are offered only to eligible buyers for owner-occupied residential use; (4) authorizing the sale of a residential condominium unit that is not subject to an income restriction and was not sold within a certain period to be sold to other buyers, as determined by rule by HCDA, without an owner-occupancy requirement; (5) requiring HCDA to adopt rules that require at least sixty per cent of residential condominium units to be income restricted; and (6) requiring HCDA to establish rules to require buyback pricing similar to other state agencies' existing pricing formulas.

The amendments included in S.B. 2061, C.D.1 provide flexibility in establishing buyers' qualifications, owner occupancy requirements, and other restrictions through administrative

rules rather than statutorily. Staff believes that the flexibility provided by these amendments will help make the leasehold residential condominium product more competitive in the market. To effectuate these amendments, it is necessary to amend the current administrative rules, HAR Chapter 15-223. Once the amendments are adopted, staff can plan on moving the project to pre-sale phase.


IV. RECOMMENDATION

Staff recommends authorizing the Executive Director to Initiate Rulemaking to Amend Hawaii Administrative Rules, Chapter 15-223, Ninety-Nine Year Leasehold Condominium Program, and conduct public hearings to consider adopting the amended rules pursuant to HRS, Chapter 91 and Chapter 206E, subject to the Governor's approval of S.B. 2061, C.D. 1 Relating to Residential Condominiums.

Attachment:

Exhibit A: S.B. 2061, C.D. 1

Prepared By: Deepak Neupane, HCDA Program Specialist V 

Reviewed By: Craig K. Nakamoto, Executive Director 

A BILL FOR AN ACT

RELATING TO RESIDENTIAL CONDOMINIUMS.

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

1 SECTION 1. Section 206E-281, Hawaii Revised Statutes, is
2 amended by amending the definition of "owner-occupied
3 residential use" to read as follows:

4 "Owner-occupied residential use" means any use currently
5 permitted in existing residential zones consistent with owner
6 occupancy. [~~"Owner-occupied residential use" does not include~~
7 ~~renting or subleasing by the owner of a residential condominium~~
8 ~~unit to any tenant or sublessee of any kind.]"~~

9 SECTION 2. Section 206E-283, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "[+]§206E-283[+] **Rules; guidelines.** [~~(a) Residential~~
12 ~~condominium units within urban redevelopment sites shall not be~~
13 ~~advertised for rent, rented, or used for any purpose other than~~
14 ~~owner-occupied residential use. The authority, by rule, shall~~
15 ~~establish penalties for violations of this subsection up to and~~
16 ~~including forced sale of a residential condominium unit within~~
17 ~~an urban redevelopment site.~~



1 ~~(b)~~ (a) The design ~~[and]~~, development, and construction
2 contracts for residential condominium units within an urban
3 redevelopment site shall not be subject to chapter 103D~~[+]~~;
4 provided that every laborer and mechanic performing work on the
5 job site for the construction of residential condominium units
6 shall be paid the prevailing wage established by the director of
7 labor and industrial relations pursuant to section 104-2.

8 ~~(e)~~ (b) Development should be revenue-neutral to the
9 greatest extent possible.

10 ~~(d)~~ (c) Urban redevelopment sites shall maximize
11 walkability."

12 SECTION 3. Section 206E-284, Hawaii Revised Statutes, is
13 amended as follows:

14 1. By amending subsection (a) to read:

15 "(a) The authority shall adopt rules pursuant to
16 chapter 91 for the sale of the leasehold interest of residential
17 condominium units under its control within urban redevelopment
18 sites; provided that each lease shall be for a term of
19 ninety-nine years. The rules shall ~~[include]~~:

20 (1) For the period within sixty days from the initial
21 offering, require residential condominium units within



1 the project to be offered only to eligible buyers
2 pursuant to this subsection for owner-occupied
3 residential use; provided that the authority:
4 (A) Shall determine the durational requirements for
5 owner-occupied residential use; and
6 (B) May include additional terms, conditions, or
7 requirements;
8 (2) Include the following requirements [~~for an eligible~~
9 buyer or owner of a residential condominium unit] to
10 be an eligible buyer for purchase of a residential
11 condominium unit within an urban redevelopment site[+]
12 set aside for owner-occupied residential use:
13 ~~[(+)]~~ (A) The person shall be a qualified resident of the
14 State, as defined in section 201H-32[+], except
15 as otherwise provided by rule;
16 ~~[(+)]~~ (B) The person shall not use a residential
17 condominium unit within an urban redevelopment
18 site for any purpose other than owner-occupied
19 residential use[~~;~~ and], except as otherwise
20 provided by rule; and



1 ~~[-3-]~~ (C) The person~~[-7]~~ or the person's spouse~~[-7]~~ ~~or any~~
2 ~~other person intending to live with the eligible~~
3 ~~buyer or owner,~~] shall not own any other real
4 property, including any residential and
5 non-residential property, beneficial ownership of
6 trusts, and co-ownership or fractional ownership,
7 while owning a residential condominium unit
8 within an urban redevelopment site; provided that
9 ~~[an eligible buyer may own real property up to~~
10 ~~six months after closing on the purchase of a~~
11 ~~residential condominium unit within an urban~~
12 ~~redevelopment site; provided further that an~~
13 ~~owner of a residential condominium unit within an~~
14 ~~urban redevelopment site in the process of~~
15 ~~selling the residential condominium unit may own~~
16 ~~other real property up to six months prior to~~
17 ~~closing on the sale of the residential~~
18 ~~condominium unit to an eligible buyer,~~] if the
19 lessee or the lessee's spouse purchases or
20 acquires any other real property, or becomes a



1 beneficiary entitled to occupy property held by a
2 trust, the eligible buyer shall either:
3 (i) Sell the leasehold interest in the
4 residential condominium unit to another
5 eligible buyer within six months from the
6 date of purchase or acquisition; or
7 (ii) Sell or otherwise dispose of the other real
8 property or divest the beneficiary interest
9 within six months from the date of purchase
10 or acquisition;
11 ~~[provided that the rules adopted pursuant to this subsection may~~
12 ~~require]~~
13 (3) Require at least [fifty] sixty per cent of the
14 residential condominium units be sold to an individual
15 or household with an income of up to one hundred forty
16 per cent of the area median income~~[. The rules shall~~
17 ~~include];~~
18 (4) Allow a residential condominium unit that is not
19 subject to an income restriction under paragraph (3)
20 and was not sold within sixty days from the initial
21 offering for sale of the unit to be sold to other



1 buyers, as determined by the authority, without an
 2 owner-occupancy requirement; and
 3 (5) Include strict enforcement of owner-occupancy, unless
 4 otherwise exempted by rule, including a prohibition on
 5 renting or subleasing a residential condominium unit
 6 within an urban redevelopment site to any tenant or
 7 sublessee.

8 The authority may also establish rules for a minimum number of
 9 days residents shall be physically present on the premises and a
 10 maximum number of days non-residents may have access to the
 11 premises."

12 2. By amending subsection (d) to read:

13 "(d) An owner of a leasehold interest in the residential
 14 condominium unit within an urban redevelopment site may sell the
 15 owner's leasehold interest in the residential condominium unit;
 16 provided that the authority shall have the right of first
 17 refusal to purchase the leasehold interest in the residential
 18 condominium unit for a certain period of time and for a buyback
 19 price to be determined by the authority~~[-]~~; provided further
 20 that the authority shall establish rules to require buyback
 21 pricing similar to other state agencies' existing pricing



1 formulas. If the authority does not exercise its right to
 2 purchase the leasehold interest in the residential condominium
 3 unit, the leasehold interest in the residential condominium unit
 4 may be sold by the owner to an eligible buyer. Upon the death
 5 of the owner of a leasehold interest in the residential
 6 condominium unit within an urban redevelopment site, the
 7 leasehold interest in the residential condominium unit may be
 8 transferred to the deceased's heir by devise or as any other
 9 real property under existing law; provided that the deceased's
 10 heir shall meet the requirements listed in subsection (a);
 11 provided further that if the deceased's heir does not meet
 12 requirements to accept transfer of the residential condominium
 13 unit, the deceased's heir shall sell the leasehold interest in
 14 the residential condominium unit to an eligible buyer."

15 SECTION 4. Section 206E-288, Hawaii Revised Statutes, is
 16 repealed.

17 ~~["~~[S206E-288]~~ ~~Construction contracts.~~ Construction~~
 18 ~~contracts for residential condominium units within an urban~~
 19 ~~redevelopment site shall be subject to chapter 103D."]~~

20 SECTION 5. Statutory material to be repealed is bracketed
 21 and stricken. New statutory material is underscored.



S.B. NO. 2061
S.D. 2
H.D. 2
C.D. 1

1 SECTION 6. This Act shall take effect upon its approval.



Report Title:

HCDA; Affordable Housing; Ninety-Nine Year Leasehold Program; Condominium Units; Owner-Occupied Residential Use

Description:

Clarifies the Ninety-Nine Year Leasehold Program by: (1) allowing the Hawaii Community Development Authority to prohibit renting, advertising for rent, or using for any other purpose other than owner-occupied residential use a residential condominium unit, by rule, rather than statutorily; (2) exempting the design, development, and construction contracts from procurement requirements, subject to prevailing wage requirements for laborers and mechanics; (3) requiring HCDA to adopt rules to implement an initial sales period during which residential condominium units are offered only to eligible buyers for owner-occupied residential use; (4) authorizing the sale of a residential condominium unit that is not subject to an income restriction and was not sold within a certain period to be sold to other buyers, as determined by rule by HCDA, without an owner-occupancy requirement; (5) requiring HCDA to adopt rules that require at least sixty per cent of residential condominium units to be income restricted; and (6) requiring HCDA to establish rules to require buyback pricing similar to other state agencies' existing pricing formulas. (CD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

