



## STATE OF HAWAII

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND TOURISM

HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION

677 QUEEN STREET, SUITE 300

Honolulu, Hawaii 96813

FAX: (808) 587-0600

IN REPLY REFER TO:

# Report to the Legislature pursuant to Section 5 of Act 39, Session Laws of Hawaii 2018

Prepared by: Hawaii Housing Finance and Development Corporation  
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## INTRODUCTION

Section 5 of Act 39, Session Laws of Hawaii 2018 (hereinafter "Act 39"), requires the Hawaii Housing Finance and Development Corporation (hereinafter "HHFDC") to report to the Legislature "on its activities pursuant to section 201H-36, Hawaii Revised Statutes" and the amendments made to that section pursuant to section 3 of [Act 39] no later than six months after the effective date of this Act." The following information is intended to comply with this requirement.

## ACTIVITIES PURSUANT TO SECTION 201H-36, HAWAII REVISED STATUTES IN FISCAL YEAR 2018

The following provides information in the aggregate about GET exemptions issued in Fiscal Year 2017-2018, prior to the effective date of the amendments made in section 3 of Act 39.

## Summary of Certifications or Approvals of Eligible Housing Projects for Exemption from General Excise Tax for FY 2018

Section 201H-36, Hawaii Revised Statutes, governs HHFDC's General Excise Tax (hereinafter "GET") exemptions for certified or approved housing projects. The HHFDC may approve and certify for exemption from GET any qualified person or firm involved with an "eligible project" developed under:

1. Chapter 201H;
2. A government assistance program approved by the HHFDC;
3. The sponsorship of a private nonprofit corporation providing homes for qualified families in need of decent, low-cost housing; or
4. By a qualified person or firm providing affordable rental housing where at least 50 percent of the available units are for households with incomes at or below 80 percent of the area median income, as determined by HUD, of which at least 20 percent of the available units are for households with incomes at or below 60 percent of the area median income.

Government assistance programs recognized by HHFDC may include projects developed or assisted by HHFDC itself, the Department of Hawaiian Home Lands, and the Military Housing Privatization Initiative.

A housing project is an “eligible project,” except for rental housing meeting the criteria for number 4, above, if it meets the following income targeting criteria:

1. At least 20 percent of the units are set aside for households earning up to 50 percent of the HUD area median income;
2. At least 40 percent of the units are set aside for households earning up to 95 percent of the HUD area median income; or
3. At least 60 percent of the units are set aside for households earning up to 140 percent of the HUD area median income.

Pursuant to Act 95, Session Laws of Hawaii 2015, rental housing projects certified for exemption from GET must either enter into a regulatory agreement with HHFDC setting minimum terms of affordability, as follows:

1. For moderate rehabilitation projects, 5 years;
2. For substantial rehabilitation projects, 10 years; or
3. For new construction, 30 years;

or otherwise demonstrate the existence of a similar restriction on the project.

In Fiscal Year 2018, HHFDC certified 22 projects comprised of 11,100 units. The construction expenditures totaled \$342,620,041. This will result in an estimated \$13,705,602<sup>1</sup> in GET exemptions.

In Fiscal Year 2018, HHFDC also certified 29 rental projects comprised of 11,503 units. The affordable rental revenue totaled \$904,609,774. This will result in an estimated \$36,184,391<sup>2</sup> in GET exemptions.

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<sup>1</sup> Estimate based upon 4% GET on total GET Exemption amount. The amounts certified by HHFDC are reported when approved. The exemption may be taken at any time during the development of the eligible project.

<sup>2</sup> Estimate based upon 4% GET on total GET Exemption amount. The amounts certified by HHFDC are reported when approved. The exemption is taken during the taxable year in which the affordable rental income was received.

### **Activities Pursuant to Section 3 of Act 39, Session Laws of Hawaii 2018**

Pursuant to Act 54, Session Laws of Hawaii 2017, as amended by Act 39, Session Laws of Hawaii 2018, from July 1, 2018 through June 30, 2030, affordable rental housing projects developed through new construction or substantial rehabilitation, under a contract described in §104-2(i)(2), HRS, may be certified for exemption from GET, provided that the exemption:

1. Applies to contracting only;
2. Is capped at \$30,000,000 per year in the aggregate; and
3. Applies to projects for households at or below 140 percent of the HUD area median income, of which 20 percent is for households at or below 80 percent of the HUD area median income.

HHFDC took the following steps to implement amendments made to the GET exemption program pursuant to Act 39:

- HHFDC continued its discussions with the Department of Labor and Industrial Relations and the Department of Taxation on procedures for processing applications for GET exemptions under Act 39.
- HHFDC has also continued to work with stakeholders from the construction industry and labor unions on the implementation of this exemption program.
- HHFDC promulgated amendments to its administrative rules for the GET exemption program, Chapter 15-306, Hawaii Administrative Rules. New provisions relating to the Act 39 exemptions were added in a new subchapter to the rules. The amendments were drafted with the input of the Departments of Labor and Industrial Relations and Taxation, and were effective on October 27, 2018. They may be found on the HHFDC website at the following link: <https://dbedt.hawaii.gov/hhfdc/files/2018/10/201809261358ES-Approved-HAR-Chapter-15-306-GET-Exemptions.pdf>
- HHFDC worked with the Department of Taxation to modify the Department's Form G-37 to require taxpayers to provide the specific tax exemption amount (as opposed to the contract amount) for each GET exemption request.
- HHFDC staff has prepared internal policies and procedures for handling applicants.