

**Department of Hawaiian Home Lands  
Affordable Housing Credits Policy**

**I. Background**

The Department of Hawaiian Home Lands (Department) has become the largest developer of affordable housing throughout the state of Hawaii. The Department's homestead projects are often developed in phases and increments due to the size of, and financing required for, such projects. The Hawaiian Homes Commission Act of 1920, as amended (HHCA), authorizes the Department to enter into project developer agreements to develop available lands for homestead projects. Developer-financed projects allow the Department to award and deliver homesteads to beneficiaries at an accelerated rate. The Department will utilize affordable housing credits to attract more affordable homestead development opportunities.

**II. Purpose**

The following policies have been established to provide guidelines for determining the value of credits, clarifying terms and conditions under which affordable housing credits will be applied and subsequently transferred to other entities pursuant to Act 141, Session Laws of Hawai'i (SLH) 2009, which will be codified into the Hawaii Revised Statutes (HRS) under section 46-15.1(b). Act 141 is effective from July 1, 2009, until June 30, 2015.

Under Act 141, counties are directed to issue credits on a one-for one basis to DHHL for existing and future projects. Under the law, the credits are transferable and can be applied anywhere within the same county in which the credits were earned.

**III. Effective Date**

These Policies shall take effect immediately upon approval and authorization by the Hawaiian Homes Commission.

**IV. Definitions**

- A. "Credits" are affordable housing credits.
- B. "Hawaiian home lands projects" are projects undertaken by the Department, where a "project" is as defined in HHCA §220.5(g).
- C. "Existing projects" are projects that were on-going at the time Act 141 became effective on July 1, 2009, and shall include:
  - 1. All contiguous phases and increments of construction within the project;
  - 2. All infrastructure construction for the benefit of the housing units within the project; and
  - 3. All types of house construction for which the Department has provided on-site infrastructure in an effort to make the house construction affordable.
- D. "Future projects" are projects initiated and undertaken by the Department after Act 141 became effective on July 1, 2009.
- E. "Affordable housing credits" are credits issued by the various counties that may be applied toward the respective county's affordable or residential workforce housing requirements for a development.

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F. "Unclaimed credits" are affordable housing credits that are available as a result of an entity's completion of an eligible activity, but are unclaimed by such entity; such affordable housing credits shall be deemed as unclaimed credits and disposed of as provided in these policies.

**V. Authority Granted to the Chairman; Ratification by the Commission**

The Commission authorizes the Chairman of the Hawaiian Homes Commission (also the Director of the Department) to implement these policies and further authorizes the Chairman to enter into negotiations with public and private entities in furtherance of these policy objectives. Agreements are subject to ratification by the Hawaiian Homes Commission and the Department will provide the Commission with periodic reports.

**VI. Policies**

The following policies establish fair and transparent methods by which the Department will request affordable housing credits from the counties and by which the Department will award and transfer such credits to other entities.

**A. Requests to Counties for Affordable Housing Credits**

The Department shall request affordable housing credits for the completed phases and/or increments (as of the date of enactment of Act 141) of existing projects.

**B. Award and Transfer of Affordable Housing Credits**

**Activities Eligible for Requests for Affordable Housing Credits**

1. Development of Housing Units for the Department. A developer who assumes the risk of financing, designing, marketing, and constructing the housing units within a project shall be afforded the first option to request that the Department award and transfer to such developer affordable housing credits on a one-for-one basis for each housing unit.

2. Donation of Unimproved Land Suitable for Residential Homestead Purposes. A landowner who donates to the Department at least one hundred (100) contiguous acres of land which is suitable for residential homestead purposes shall be afforded the first option to request that the Department award and transfer to the landowner affordable housing credits, provided that the land area donated can be designed and subdivided to provide at least 1.5 times more lots than the amount of credits requested, with the number of lots determined according to the corresponding minimum lot size for each respective county as follows:

- i. Kauai ..... 10,000.0 sq. ft.;
- ii. Oahu ..... 5,000.0 sq. ft.;
- iii. Maui ..... 7,500.0 sq. ft.;
- iv. Hawaii ..... 7,500.0 sq. ft.,

provided that if the respective county's sewer system is not available to service the future lots, the minimum lot size shall be 10,000 sq. ft.

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3. Donation of Fully Improved Lots. A landowner who donates to the Department at least twenty-five (25) fully improved lots; provided that such lots have received final subdivision approval by the county, and the lots are free and clear of all liens, impact fees, and utility fees, shall be afforded the first option to request that the Department award and transfer to the landowner affordable housing credits on a one-for-one basis for each lot which meets the corresponding minimum lot size for each respective county as follows:

- i. Kauai.....10,000.0 sq. ft.;
- ii. Oahu.....5,000.0 sq. ft.;
- iii. Maui.....7,500.0 sq. ft.;
- iv. Hawaii.....7,500.0 sq. ft.,

C. Consideration for Award and Transfer of Affordable Housing Credits

- 1. Valuation of credits. The value of the credit shall be a percentage of the market value of the housing unit which the developer or landowner intends to develop in place of the affordable housing unit. The value of the credits shall be determined on a project-by-project basis.
- 2. Commission May Establish Additional Factors. The Commission may establish additional factors that may be considered in adjusting the consideration to be received by the Department for the award and transfer of affordable housing credits.

D. Public Auction of Unclaimed and Department Credits.

- 1. Any and all affordable housing credits eligible for request by a developer or landowner, but unclaimed after one (1) year has passed since the project or the land donation was completed, thus deemed as unclaimed credits, as well as credits issued to the Department for housing units developed by the Department, shall be disposed of by public auction through competitive sealed proposals to obtain the best offer.
- 2. A public auction for the credits may commence immediately upon written notification by a developer or landowner who indicates that they do not desire the credits.
- 3. The Department is expressly authorized to negotiate with native Hawaiians or entities or organizations owned or controlled by native Hawaiians before negotiating with the general public.

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E. Community Benefits

A portion of the cash payments received by the Department for affordable housing credits shall be deposited into the Native Hawaiian rehabilitation fund for use pursuant to that fund as provided in section 213(i) of the HHCA.

F. Conditions of Awards and Transfers of Affordable Housing Credits

1. Any developer, landowner, or offeror which receives credits from the Department may not sell or transfer the credits to any other entity other than an entity in which it is a principal.
2. Any agreement between the Department and a third party to transfer affordable housing credits shall be subject to the Department receiving the necessary number of credits from the respective county.