



HAWAIIAN HOME LANDS  
HAWAIIAN HOMES COMMISSION  
DEPARTMENT OF HAWAIIAN HOME LANDS

P.O. Box 1879 - Honolulu, Hawaii 96805

## Department of Hawaiian Home Lands Affordable Housing Credits Policy

*Department of Hawaiian Home Lands Affordable Housing Credits Policy,  
Third Amendment, as approved by the Hawaiian Homes Commission on Dec. 13, 2011.*

### I. **Background**

The Department of Hawaiian Home Lands (Department) has become one of the largest developers 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. "Homestead 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. "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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E. “First Option” is defined as developer may have the opportunity to meet the terms set forth by the Department before the credits are made available to others.

**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. The Commission authorizes the Chairman to deposit AHC cash payments in to the Hawaiian Homes Trust Fund (T-901-I) and to transfer into any other fund for public purposes deemed by the Commission to further the purposes of the Hawaiian Homes Commission Act. Five percent (5%), unless otherwise determined by the Commission, of cash deposits shall be transferred for the purposes stated in VI.E. 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 and projects planned, designed or in construction during the effective period of Act 141.

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 may, at the option of the Chairman, be afforded the first option to negotiate with the Department for award and transfer to such developer affordable housing credits on a one-for-one basis for each housing unit.
2. Conveyance of Unimproved Land Suitable for Residential Homestead Purposes. A landowner who conveys to the Department at least one hundred (100) contiguous acres of land which is suitable for residential homestead purposes may be afforded the first option to negotiate with the Department for award and transfer to the landowner affordable housing credits, provided that the land area conveyed 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.,



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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.

3. Conveyance of Fully Improved Lots. A landowner who conveys 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, may be afforded the first option to negotiate with the Department for 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:

- v. Kauai..... 10,000.0 sq. ft.;
- vi. Oahu .....5,000.0 sq. ft.;
- vii. Maui ..... 7,500.0 sq. ft.;
- viii. Hawaii ..... 7,500.0 sq. ft.,

C. Consideration for Award and Transfer of Affordable Housing Credits

1. Valuation of credits: The value of the credits shall be determined on a project-by-project basis.

The valuation of credits is affected by the economic cycle, housing demand, developer's inventories, county requirements for affordable or workforce units, county 'fee in lieu' formula's, availability of credits from other sources, availability of future credits and other factors such as the adjusted median income levels for the area.

The negotiations with the developer for a specific project may include shared risks for financing, marketing, cost fluctuations, infrastructure construction, land acquisition and development and buyer capacity.

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 Department Credits.

1. Any and all affordable housing credits may be disposed of by public auction through competitive sealed proposals to obtain the best offer.
2. Notwithstanding the above provisions of this section, the Department may hold Department credits in a reserve to be used for consideration as well as awards for land conveyances and other activities that will generate affordable housing units for the Department. Such credits held in reserve shall not be subject to disposition by public auction.

E. Community Benefits

Five percent (5%) of the cash payments, unless otherwise determined by the Commission, deposited by the Department for affordable housing credits



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shall be transferred for purposes of supporting activities relating to educational, economic, political, social and cultural processes by which the general welfare and conditions of native Hawaiians are thereby improved and perpetuated. Under Act 141, the credits are transferable and can be applied anywhere within the same county in which the credits were earned, this same rule will apply to the 'Community Benefits' payments.

F. Conditions of Awards and Transfers of Affordable Housing Credits

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. Developer shall be solely responsible to execute agreements with the respective county on the applicability and use of such credits.