

# S.B. NO. 3121

JAN 24 2024

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## A BILL FOR AN ACT

RELATING TO THE HAWAII PUBLIC HOUSING AUTHORITY.

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

1           SECTION 1. Section 356D-8, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           " [†] §356D-8 [†] **Acquisition, use, and disposition of**  
4 **property.** (a) The authority may acquire any real or personal  
5 property or interest therein by purchase, exchange, gift, grant,  
6 lease, or other means from any person or government to provide  
7 [public] housing. Exchange of real property shall be in  
8 accordance with section 171-50.

9           (b) The authority may own or hold real property. All real  
10 property owned or held by the authority shall be exempt from  
11 mechanics' or materialmen's liens and also from levy and sale by  
12 virtue of an execution, and no execution or other judicial  
13 process shall issue against the property of the authority nor  
14 shall any judgement against the authority be a charge or lien  
15 upon its real property; provided that this subsection shall not  
16 apply to nor limit the right of obligees to foreclose or  
17 otherwise enforce any mortgage of the authority or the right of  
18 obligees to pursue any remedies for the enforcement of any

S.B. NO. 3121

1 pledge or lien given by the authority on its rents, fees, or  
2 revenues. The authority and its property shall be exempt from  
3 all taxes and assessments.

4 (c) The authority may lease or rent all of a portion of  
5 any [~~public~~] housing project and establish and revise the rents  
6 or charges therefor. The authority may sell, exchange,  
7 transfer, assign, or pledge any property, real or personal, or  
8 any interest therein to any person or government.

9 (d) The authority may insure or provide for the insurance  
10 of its property or operations against risks as it deems  
11 advisable.

12 (e) For the purposes of this section, "housing project"  
13 shall have the same meaning as that term is defined in section  
14 356D-11."

15 SECTION 2. Section 356D-10, Hawaii Revised Statutes, is  
16 amended to read as follows:

17 "[~~+~~]**§356D-10**[~~+~~] **Agents, including corporations.** The  
18 authority may exercise any or all of the powers conferred upon  
19 it, either generally or with respect to any specific [~~public~~]  
20 housing project through an agent that it may designate,  
21 including any corporation that is formed under the laws of this  
22 State, and for those purposes the authority may cause one or

S.B. NO. 3121

1 more corporations to be formed under the laws of this State or  
2 may acquire the capital stock of any corporation. Any corporate  
3 agent, all of the stock of which shall be owned by the authority  
4 or its nominee, may to the extent permitted by law, exercise any  
5 of the powers conferred upon the authority in this chapter. For  
6 the purposes of this section, "housing project" shall have the  
7 same meaning as that term is defined in section 356D-11."

8 SECTION 3. Section 356D-21, Hawaii Revised Statutes, is  
9 amended to read as follows:

10 "[~~f~~]**§356D-21**[~~}]~~ **Bonds; authorization.** (a) The authority,  
11 with the approval of the governor, may issue from time to time  
12 bonds (including refunding bonds to pay, retire, or provide for  
13 the retirement of bonds previously issued by the authority) in  
14 amounts not exceeding the total amount of bonds authorized to be  
15 issued by the legislature for any of its corporate purposes.

16 (b) All bonds shall be issued pursuant to part III of  
17 chapter 39, except as provided in this part.

18 (c) The bonds shall be issued in the name of the  
19 authority, and not in the name of the State. The final maturity  
20 date of the revenue bonds may be any date not exceeding sixty  
21 years from the date of issuance.

S.B. NO. 3121

1 (d) The authority may issue bonds as it may determine,  
2 including without limitation bonds payable from and secured, in  
3 whole or in part, by:

4 (1) Income and revenues derived from the [~~publie~~] housing  
5 project or projects financed from the proceeds of  
6 bonds;

7 (2) Receipts derived from any grant from the federal  
8 government made in aid of a [~~publie~~] housing project  
9 or projects financed from the proceeds of bonds;

10 (3) Income and revenues derived from a particular  
11 designated [~~publie~~] housing project or projects  
12 whether or not financed, in whole or in part, from the  
13 proceeds of bonds;

14 (4) Income and revenues of the authority generally; or

15 (5) Any combination of paragraphs (1) through (4).

16 (e) Any pledge made by the authority shall create a  
17 perfected security interest in the revenues, moneys, or property  
18 so pledged and thereafter received by the authority from and  
19 after the time that a financing statement with respect to the  
20 revenues, moneys, or property so pledged and thereafter received  
21 shall be filed with the bureau of conveyances. Upon the filing,  
22 the revenues, moneys, or property so pledged and thereafter

S.B. NO. 3121

1 received by the authority shall immediately be subject to the  
2 lien of the pledge without any physical delivery thereof or  
3 further act, and the lien of the pledge shall be prior to the  
4 lien of all parties having claims of any kind in tort, contract,  
5 or otherwise against the authority, irrespective of whether the  
6 parties have notice thereof. This section shall apply to any  
7 financing statement heretofore or hereafter filed with the  
8 bureau of conveyances with respect to any pledge made to secure  
9 revenue bonds issued under this part.

10 (f) Any [~~public~~] housing project or projects authorized  
11 by, and undertaken pursuant to, this chapter shall constitute an  
12 "undertaking" within the meaning of that term as defined and  
13 used in part III, chapter 39. The authority shall constitute a  
14 "department" and the board shall constitute a "governing body"  
15 within the meaning of those terms as defined and used in part  
16 III, chapter 39.

17 (g) Neither the members of the board nor any person  
18 executing the bonds shall be liable personally on the bonds by  
19 reason of the issuance thereof.

20 (h) For the purposes of this section, "housing project"  
21 shall have the same meaning as that term is defined in section  
22 356D-11."

S.B. NO. 3121

1 SECTION 4. Section 356D-22, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "[~~f~~]§356D-22[~~t~~] Bonds; interest rate, price, and sale.

4 (a) The bonds shall bear interest at rates payable at times  
5 that the authority, with the approval of the governor, may  
6 determine except for deeply discounted bonds that are subject to  
7 redemption or retirement at their accreted value; provided that  
8 the discounted value of the bonds shall not exceed ten per cent  
9 of any issue; and provided further that no bonds may be issued  
10 without the approval of the director of finance and the  
11 governor. Notwithstanding any other law to the contrary, the  
12 authority may, subject to the approval of the director of  
13 finance and the governor, issue bonds pursuant to section 356D-  
14 21, in which the discounted value of the bonds exceeds ten per  
15 cent of the issue.

16 (b) The authority may include the costs of undertaking and  
17 maintaining any [~~publie~~] housing project or projects for which  
18 the bonds are issued in determining the principal amount of  
19 bonds to be issued. In determining the cost of undertaking and  
20 maintaining the [~~publie~~] housing project, the authority may  
21 include the cost of studies and surveys; insurance premiums;  
22 underwriting fees; financial consultant, legal, accounting, and

S.B. NO. 3121

1 other services incurred; reserve account, trustee, custodian,  
2 and rating agency fees; and interest on the bonds for a period  
3 determined by the authority.

4 (c) For the purposes of this section, "housing project"  
5 shall have the same meaning as that term is defined in section  
6 356D-11."

7 SECTION 5. Section 356D-23, Hawaii Revised Statutes, is  
8 amended to read as follows:

9 **"§356D-23 Trustee; designation, duties.** (a) The  
10 authority may designate a trustee for each issue of bonds  
11 secured under the same trust indenture; provided that the  
12 trustee shall be approved by the director of finance.

13 (b) The trustee shall be authorized by the authority to  
14 receive and receipt for, hold, and administer the proceeds of  
15 the bonds, and to apply the proceeds to the purposes for which  
16 the bonds are issued.

17 (c) The trustee shall also be authorized by the authority  
18 to receive and receipt for, hold, and administer the revenues  
19 derived by the authority from any [~~public~~] housing project or  
20 projects for which the bonds are issued or the projects pledged  
21 to the payment of the bonds, and to apply the revenues to the  
22 payment of the cost of administering, operating, and maintaining

S.B. NO. 3121

1 the [public] housing project or projects, to pay the principal  
2 of and the interest on the bonds, to the establishment of  
3 reserves, and to other purposes as may be authorized in the  
4 proceedings providing for the issuance of the bonds.

5 (d) Notwithstanding section 39-68, the director of finance  
6 may appoint the trustee to serve as fiscal agent for:

7 (1) The payment of the principal of and interest on the  
8 bonds; and

9 (2) The purchase, registration, transfer, exchange, and  
10 redemption of the bonds.

11 (e) The trustee shall perform additional functions with  
12 respect to the payment, purchase, registration, transfer,  
13 exchange, and redemption, as the director of finance may deem  
14 necessary, advisable, or expeditious, including the holding of  
15 the bonds and coupons, if any, that have been paid and the  
16 supervision of their destruction in accordance with law.

17 (f) Nothing in this part shall limit or be construed to  
18 limit the powers granted to the director of finance in sections  
19 36-3, 39-13, and 39-68(a), to appoint the trustee or others as  
20 fiscal agents, paying agents, and registrars for the bonds or to  
21 authorize and empower those fiscal agents, paying agents, and

S.B. NO. 3121

1 registrars to perform the functions referred to in those  
2 sections.

3 (g) For the purposes of this section, "housing project"  
4 shall have the same meaning as that term is defined in section  
5 356D-11."

6 SECTION 6. Section 356D-24, Hawaii Revised Statutes, is  
7 amended to read as follows:

8 "[~~§~~§356D-24[~~]~~] **Trust indenture.** (a) A trust indenture  
9 may contain covenants and provisions authorized by part III of  
10 chapter 39, and as deemed necessary or convenient by the  
11 authority for the purposes of this part.

12 (b) A trust indenture may allow the authority to pledge  
13 and assign to the trustee agreements related to the [~~public~~]  
14 housing project or projects and the rights of the authority  
15 thereunder, including the right to receive revenues thereunder  
16 and to enforce the provision thereof.

17 (c) Where a trust indenture provides that any bond issued  
18 under that trust indenture is not valid or obligatory for any  
19 purpose unless certified or authenticated by the trustee, all  
20 signatures of the officers of the State upon the bonds required  
21 by section 39-56 may be facsimiles of their signatures.

22 (d) A trust indenture shall also contain provisions as to:

S.B. NO. 3121

1           (1) The investment of the proceeds of the bonds, the  
2           investment of any reserve for the bonds, the  
3           investment of the revenues of the [~~public~~] housing  
4           project or system of [~~public~~] housing projects, and  
5           the use and application of the earnings from  
6           investments; and

7           (2) The terms and conditions upon which the holders of the  
8           bonds or any portion of them or any trustee thereof  
9           may institute proceedings for the enforcement of any  
10          agreement or any note or other undertaking,  
11          obligation, or property securing the payment of the  
12          bonds and the use and application of the moneys  
13          derived therefrom.

14          (e) A trust indenture may also contain provisions deemed  
15          necessary or desirable by the authority to obtain or permit, by  
16          grant, interest subsidy, or otherwise, the participation of the  
17          federal government in the [~~public~~] housing projects or in the  
18          financing of the costs of administering, operating, or  
19          maintaining the [~~public~~] housing projects.

20          (f) For the purposes of this section, "housing project"  
21          shall have the same meaning as that term is defined in section  
22          356D-11."

S.B. NO. 3121

1 SECTION 7. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 8. This Act shall take effect upon its approval.

4

5

INTRODUCED BY: 

6

BY REQUEST

# S.B. NO. 3121

**Report Title:**

Hawaii Public Housing Authority; Housing Development, Bonds

**Description:**

Makes housekeeping amendments to sections 356D-8, 356D-10, 356D-21, 356D-22, 356D-23, and 356D-24, HRS, to incorporate the definition of "housing project" in section 356D-11, HRS, to align with previous amendments to chapter 356D, HRS, under Act 251, SLH 2022.

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

JUSTIFICATION SHEET

**SB. NO. 3121**

DEPARTMENT: Human Services, Hawaii Public Housing Authority.

TITLE: A BILL FOR AN ACT RELATING TO THE HAWAII PUBLIC HOUSING AUTHORITY.

PURPOSE: To amend certain Hawaii Public Housing Authority (HPHA) statutes to incorporate the definition of "housing project" in section 356D-11, Hawaii Revised Statutes (HRS), to further its redevelopment efforts.

MEANS: Amend sections 356D-8, 356D-10, 356D-21, 356D-22, 356D-23, and 356D-24, HRS.

JUSTIFICATION: This bill would allow the HPHA to achieve its long-term goals of deconcentrating poverty and redeveloping existing public housing projects into mixed-income communities. The amendments being proposed would make changes to be consistent with Act 251, Session Laws of Hawaii 2022, amendments to further redevelopment efforts by the HPHA.

The concentration of public housing has been shown to reduce opportunities for the low-income families these projects are meant to assist. Neighborhoods with high concentrations of low-income families often struggle with higher crime rates, fewer jobs, and poorer performing schools. In recent years, the U.S. Department of Housing and Urban Development (HUD) has encouraged public housing authorities to shift their focus towards creating financially viable and socially stable, mixed-income communities.

The construction of housing projects that include HUD subsidized public housing units will not result in a reduction in the number of public housing units for low-income families. Rather, the goal is to increase the density of any redeveloped public

# SB. NO. 3121

housing projects by including units for families at higher AMI levels. Any redevelopment of an existing public housing project will produce a one-for-one replacement of all public housing units.

Impact on the public: Increased affordable housing opportunities for families earning more than 30 percent of the AMI. Deconcentrates poverty in neighborhoods where public housing projects are located.

Impact on the department and other agencies:  
None.

|                              |                                   |
|------------------------------|-----------------------------------|
| GENERAL FUND:                | None.                             |
| OTHER FUNDS:                 | None.                             |
| PPBS PROGRAM<br>DESIGNATION: | None.                             |
| OTHER AFFECTED<br>AGENCIES:  | Department of Budget and Finance. |
| EFFECTIVE DATE:              | Upon approval.                    |