



GOV. MSG. NO. 790

EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

April 24, 2007

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fourth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

This is to inform you that on April 24, 2007, the following bill was signed into law:

HB1095 HD1

A BILL FOR AN ACT RELATING TO HOUSING.
(ACT 037)

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Lingle".

LINDA LINGLE

Approved by the Governor

on APR 24 2007

HOUSE OF REPRESENTATIVES
TWENTY-FOURTH LEGISLATURE, 2007
STATE OF HAWAII

ACT 037

H.B. NO. 1095
H.D. 1

A BILL FOR AN ACT

RELATING TO HOUSING.

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

1 SECTION 1. Section 46-15.1, Hawaii Revised Statutes, is
2 amended to read as follows:
3 "§46-15.1 Housing; county powers. (a) Any law to the
4 contrary notwithstanding, any county shall have and may exercise
5 the same powers, subject to applicable limitations, as those
6 granted the Hawaii housing finance and development corporation
7 pursuant to chapter [~~201G~~] 201H insofar as [~~such~~] those powers
8 may be reasonably construed to be exercisable by a county for
9 the purpose of developing, constructing, and providing low and
10 moderate income housing; provided that no county shall be
11 empowered to cause the State to issue general obligation bonds
12 to finance a project pursuant to this section; provided further
13 that county projects shall be granted an exemption from general
14 excise or receipts taxes in the same manner as projects of the
15 Hawaii housing finance and development corporation pursuant to
16 section [~~201G-116~~] 201H-36; and provided further that the
17 provisions of section [~~201G-15~~] 201H-16 shall not apply to this
18 section unless federal guidelines specifically provide local

HB1095 HD1 HMS 2007-2512



1 governments with that authorization and the authorization does
2 not conflict with any state laws. The powers shall include the
3 power, subject to applicable limitations, to:

- 4 (1) Develop and construct dwelling units, alone or in
5 partnership with developers;
- 6 (2) Acquire necessary land by lease, purchase, exchange,
7 or eminent domain;
- 8 (3) Provide assistance and aid to a public agency or other
9 person in developing and constructing new housing and
10 rehabilitating old housing for elders of low and
11 moderate income, other persons of low and moderate
12 income, and persons displaced by any governmental
13 action, by making long-term mortgage or interim
14 construction loans available;
- 15 (4) Contract with any eligible bidders to provide for
16 construction of urgently needed housing for persons of
17 low and moderate income;
- 18 (5) Guarantee the top twenty-five per cent of the
19 principal balance of real property mortgage loans,
20 plus interest thereon, made to qualified borrowers by
21 qualified lenders;



- 1 (6) Enter into mortgage guarantee agreements with
2 appropriate officials of any agency or instrumentality
3 of the United States [~~in order~~] to induce those
4 officials to commit to insure or insure mortgages
5 under the provisions of the National Housing Act, as
6 amended;
- 7 (7) Make a direct loan to any qualified buyer for the
8 downpayment required by a private lender to be made by
9 the borrower as a condition of obtaining a loan from
10 the private lender in the purchase of residential
11 property;
- 12 (8) Provide funds for a share, not to exceed fifty per
13 cent of the principal amount of a loan made to a
14 qualified borrower by a private lender who is unable
15 otherwise to lend the borrower sufficient funds at
16 reasonable rates in the purchase of residential
17 property; and
- 18 (9) Sell or lease completed dwelling units.

19 For purposes of this section, a limitation is applicable to
20 the extent that it may reasonably be construed to apply to a
21 county.



1 (b) Any law to the contrary notwithstanding, any county
2 may:

3 (1) Authorize and issue bonds under chapter 47 and chapter
4 49 to provide moneys to carry out the purposes of this
5 section or section 46-15.2, including the satisfaction
6 of any guarantees made by the county pursuant to this
7 section;

8 (2) Appropriate moneys of the county to carry out the
9 purposes of this section;

10 (3) Obtain insurance and guarantees from the State or the
11 United States, or subsidies from either;

12 (4) Designate, after holding a public hearing on the
13 matter and with the approval of the respective
14 council, any lands owned by it for the purposes of
15 this section;

16 (5) Provide interim construction loans to partnerships of
17 which it is a partner and to developers whose projects
18 qualify for federally assisted project mortgage
19 insurance, or other similar programs of federal
20 assistance for persons of low and moderate income; and

21 (6) Adopt ~~such~~ rules pursuant to chapter 91 as are
22 necessary to carry out the purposes of this section.



1 (c) The provisions of this section shall be construed
2 liberally so as to [~~most fully~~] effectuate the purpose of this
3 section in facilitating the development, construction, and
4 provision of low- and moderate-income housing by the various
5 counties.

6 (d) For purposes of this section, "low and moderate income
7 housing" means any housing project that meets the definition of
8 "low- and moderate-income housing project" in section 39A-281."

9 SECTION 2. Section 46-15.2, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "**§46-15.2 Housing; additional county powers.** In addition
12 and supplemental to the powers granted to counties by section
13 46-15.1, any county shall have and may exercise any of the
14 following powers:

15 (1) To provide assistance and aid to persons of low and
16 moderate income in acquiring housing by providing
17 loans secured by a mortgage, including by acquiring
18 [~~such~~] the loans from private lenders for which [~~such~~]
19 the county has made advance commitment to acquire
20 [~~such~~] the loans, and to make and execute contracts
21 with private lenders or a public agency for the



1 origination and servicing of [such] the loans and pay
2 the reasonable value of [such] the services;

3 (2) In connection with the exercise of any powers granted
4 under this section or section 46-15.1, to establish
5 one or more loan programs and to issue bonds under
6 chapter 47 or 49 to provide moneys to carry out the
7 purposes of this section or section 46-15.1; provided
8 that:

9 (A) If bonds are issued pursuant to chapter 47 to
10 finance one or more loan programs, the county may
11 establish [such] qualifications for the program
12 or programs as it deems appropriate;

13 (B) If bonds are issued pursuant to chapter 49 to
14 finance one or more loan programs, [such] the
15 loan program or programs shall comply with the
16 provisions of part III.B of chapter [~~201G,~~] 201H,
17 to the extent applicable;

18 (C) If bonds are issued pursuant to section 47-4 or
19 chapter 49, any loan program established pursuant
20 to this section or any county-owned dwelling
21 units constructed under section 46-15.1 shall be
22 and constitute an "undertaking" under section 49-



1 1 and the provisions of chapter 49 shall apply to
2 [~~such~~] the loan program or county-owned dwelling
3 units to the extent applicable;

4 (D) In connection with the establishment of any loan
5 program pursuant to this section, a county may
6 employ financial consultants, attorneys, real
7 estate counselors, appraisers, and [~~such~~] other
8 consultants as may be required in the judgment of
9 the county and fix and pay their compensation
10 from funds available to the county therefor;

11 (E) Notwithstanding any limitation otherwise
12 established by law, with respect to the rate of
13 interest on any loan made under any loan program
14 established pursuant to this section, [~~such~~] the
15 loan may bear [~~such~~] a rate or rates of interest
16 per year as the county shall determine; provided
17 that no loan made from the proceeds of any bonds
18 of the county shall be under terms or conditions
19 [~~which~~] that would cause the interest on [~~such~~]
20 the bonds to be deemed subject to income taxation
21 by the United States of America;



1 (F) Notwithstanding any limitation otherwise
 2 established by law, with respect to the amount of
 3 compensation permitted to be paid for the
 4 servicing of loans made under any loan program
 5 established pursuant to this section, a county
 6 may fix [such] any reasonable compensation as the
 7 county may determine;

8 (G) Notwithstanding the requirement of any other law,
 9 a county may establish [such] separate funds and
 10 accounts with respect to bonds issued pursuant to
 11 chapter 47 or 49 to provide moneys to carry out
 12 the purposes of this section or section 46-15.1
 13 as [such] the county may deem appropriate;

14 (H) Notwithstanding any provision of chapter 47 or 49
 15 or of any other law, but subject to the
 16 limitations of the [~~State Constitution,~~] state
 17 constitution, bonds issued to provide moneys to
 18 carry out the purposes of this section or section
 19 46-15.1 may be sold at public or private sale at
 20 [such] a price, may bear interest at [such] a
 21 rate or rates per year, may be payable at [such]
 22 the time or times, may mature at [such] the time



1 or times, may be made redeemable before maturity
2 at the option of the county, the holder, or both,
3 at [~~such~~] the price or prices and upon [~~such~~]
4 terms and conditions, and may be issued in coupon
5 or registered form, or both, all as the county
6 may determine;

7 (I) If deemed necessary or advisable, the county may
8 designate a national or state bank or trust
9 company within or without the State to serve as
10 trustee for the holders of bonds issued to
11 provide moneys to carry out the purposes of this
12 section or section 46-15.1 and enter into a trust
13 indenture, trust agreement, or indenture of
14 mortgage with [~~such~~] the trustee whereby [~~such~~]
15 the trustee may be authorized to receive and
16 receipt for, hold, and administer the proceeds of
17 [~~such~~] the bonds and to apply the proceeds to the
18 purposes for which [~~such~~] the bonds are issued,
19 or to receive and receipt for, hold, and
20 administer the revenues and other receipts
21 derived by the county from the application of the
22 proceeds of [~~such~~] the bonds and to apply [~~such~~]



1 the revenues and receipts to the payment of the
2 principal of, or interest on [~~such~~] the bonds, or
3 both. Any [~~such~~] trust indenture, trust
4 agreement, or indenture of mortgage entered into
5 with the trustee may contain any covenants and
6 provisions as may be deemed necessary,
7 convenient, or desirable by the county [~~in order~~]
8 to secure [~~such~~] the bonds. The county may
9 pledge and assign to the trustee any agreements
10 related to the application of the proceeds of
11 [~~such~~] the bonds and the rights of the county
12 thereunder, including the rights to revenues and
13 receipts derived thereunder. Upon appointment of
14 the trustee, the director of finance may elect
15 not to serve as fiscal agent for the payment of
16 the principal and interest[7] and for the
17 purchase, registration, transfer, exchange, and
18 redemption, of [~~such~~] the bonds, or may elect to
19 limit the functions the director of finance
20 performs as [~~such~~] the fiscal agent, and may
21 appoint the trustee to serve as the fiscal agent,
22 and may authorize and empower the trustee to



1 perform [~~sueh~~] the functions with respect to
2 [~~sueh~~] the payment, purchase, registration,
3 transfer, exchange, and redemption, as the
4 director of finance deems necessary, advisable,
5 or expedient, including[~~7~~] without limitation[~~7~~]
6 the holding of [~~sueh~~] the bonds and coupons
7 [~~which~~] that have been paid and the supervision
8 and conduction or the destruction thereof in
9 accordance with law;

10 (J) If a trustee is not appointed to collect, hold,
11 and administer the proceeds of bonds issued to
12 provide moneys to carry out the purposes of this
13 section or section 46-15.1, or the revenues and
14 receipts derived by the county from the
15 application of the proceeds of [~~sueh~~] the bonds,
16 all as provided in subparagraph (I), the director
17 of finance of [~~sueh~~] the county may hold [~~sueh~~]
18 the proceeds or revenues and receipts, as the
19 case may be, in a separate account in the
20 treasury of the county, to be applied solely to
21 the carrying out of the ordinance, trust
22 indenture, trust agreement, or indenture of



1 mortgage, if any, authorizing or securing ~~such~~
2 the bonds; and

3 (K) Any law to the contrary notwithstanding the
4 investment of funds held in reserves and sinking
5 funds related to bonds issued to provide moneys
6 to carry out the purposes of this section or
7 section 46-15.1 shall comply with the provisions
8 of section ~~[201G-167,]~~ 201H-77; provided that any
9 investment ~~[which]~~ that requires approval by the
10 county council pursuant to section 46-48 or 46-50
11 ~~[must]~~ shall first be approved by the county
12 council.

13 (3) To acquire ~~such~~ policies of insurance and enter into
14 ~~such~~ banking arrangements as ~~such~~ the county may
15 deem necessary ~~[in order]~~ to better secure bonds
16 issued to provide money to carry out the purposes of
17 this section or section 46-15.1, including~~[7]~~ without
18 limitation~~[7]~~ contracting for a support facility or
19 facilities as may be necessary with respect to bonds
20 issued with a right of the holders to put ~~such~~ the
21 bonds and contracting for interest rate swaps; and



1 (4) To do any and all other things necessary or
2 appropriate to carry out the purposes and exercise the
3 powers granted in section 46-15.1 and this section."

4 SECTION 3. Section 49-1, Hawaii Revised Statutes, is
5 amended by amending the definitions of "loan program" and
6 "undertaking" to read as follows:

7 "Loan program" means the activities and policies
8 undertaken by any county to provide [assistance]:

9 (1) Assistance to members of the general public who are
10 residents of the county by making loans or causing
11 loans to be made available to them for ~~[such]~~ purposes
12 as may be authorized by law~~[+]~~; or

13 (2) Loans to private nonprofit organizations or public
14 instrumentalities, or to wholly owned affiliates
15 thereof, for the development of low and moderate
16 income housing pursuant to section 46-15.1(a).

17 "Undertaking" means any public works and properties,
18 improvement, or system owned or operated by the county, and from
19 which the county may derive revenue, or with respect to which
20 the county may derive user taxes, including~~[+]~~ but not limited
21 to one or a combination of two or more of the following: water,
22 sewerage, gas or electric, heat, light or power works, solid



1 waste processing and disposal, public off-street parking
2 facilities, plants, [~~and~~] systems, and low and moderate income
3 housing projects provided pursuant to section 46-15.1, together
4 with all parts thereof and appurtenances thereto."

5 SECTION 4. Statutory material to be repealed is bracketed
6 and stricken. New statutory material is underscored.

7 SECTION 5. This Act shall take effect upon its approval.

APPROVED this 24 day of APR, 2007



GOVERNOR OF THE STATE OF HAWAII

