

JAN 19 2007

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 powers may be
8 reasonably construed to be exercisable by a county for the
9 purpose of developing, constructing, and providing ~~[low and~~
10 ~~moderate income]~~ low- and moderate-income housing; provided that
11 no county shall be empowered to cause the State to issue general
12 obligation bonds to finance a project pursuant to this section;
13 provided further that county projects shall be granted an
14 exemption from general excise or receipts taxes in the same
15 manner as projects of the Hawaii housing finance and development
16 corporation pursuant to section ~~[[201G-116],]~~ 201H-36; and
17 provided further that ~~[the provisions of]~~ section ~~[201G-15]~~



1 201H-16 shall not apply to this section unless federal
2 guidelines specifically provide local governments with that
3 authorization and the authorization does not conflict with any
4 state laws. The powers shall include the power, subject to
5 applicable limitations, to:

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



1 plus interest thereon, made to qualified borrowers by
2 qualified lenders;

3 (6) Enter into mortgage guarantee agreements with
4 appropriate officials of any agency or instrumentality
5 of the United States in order to induce those
6 officials to commit to insure or insure mortgages
7 under the provisions of the National Housing Act, as
8 amended;

9 (7) Make a direct loan to any qualified buyer for the
10 downpayment required by a private lender to be made by
11 the borrower as a condition of obtaining a loan from
12 the private lender in the purchase of residential
13 property;

14 (8) Provide funds for a share, not to exceed fifty per
15 cent of the principal amount of a loan made to a
16 qualified borrower by a private lender who is unable
17 otherwise to lend the borrower sufficient funds at
18 reasonable rates in the purchase of residential
19 property; and

20 (9) Sell or lease completed dwelling units.



1 For purposes of this section, a limitation is applicable to
2 the extent that it may reasonably be construed to apply to a
3 county.

4 (b) Any law to the contrary notwithstanding, any county
5 may:

6 (1) Authorize and issue bonds under chapters 47 and
7 [~~chapter~~] 49 to provide moneys to carry out the
8 purposes of this section or section 46-15.2, including
9 the satisfaction of any guarantees made by the county
10 pursuant to this section;

11 (2) Appropriate moneys of the county to carry out the
12 purposes of this section;

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

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

19 (5) Provide interim construction loans to partnerships of
20 which it is a partner and to developers whose projects
21 qualify for federally assisted project mortgage
22 insurance, or other similar programs of federal



1 assistance for persons of [~~low and moderate income,~~]
2 low- and moderate-income; and

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

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

10 (d) For purposes of this section, "low- and moderate-
11 income housing" shall have the same meaning as "low- and
12 moderate-income housing project" as defined in section 39A-281."

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

15 "**§46-15.2 Housing; additional county powers.** In addition
16 and supplemental to the powers granted to counties by section
17 46-15.1, any county shall have and may exercise any of the
18 following powers:

19 (1) To provide assistance and aid to persons of [~~low and~~
20 ~~moderate income~~] low- and moderate-income in acquiring
21 housing by providing loans secured by a mortgage,
22 including by acquiring such loans from private lenders



1 for which such county has made advance commitment to
2 acquire such loans, and to make and execute contracts
3 with private lenders or a public agency for the
4 origination and servicing of such loans and pay the
5 reasonable value of such services;

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

12 (A) If bonds are issued pursuant to chapter 47 to
13 finance one or more loan programs, the county may
14 establish such qualifications as it deems
15 appropriate;

16 (B) If bonds are issued pursuant to chapter 49 to
17 finance one or more loan programs, such loan
18 program or programs shall comply with [the
19 ~~provisions of~~] part III.B of chapter [2016+] 201H
20 to the extent applicable;

21 (C) If bonds are issued pursuant to section 47-4 or
22 chapter 49, any loan program established pursuant



1 to this section or any county-owned dwelling
2 units constructed under section 46-15.1 shall be
3 and constitute an "undertaking" under section
4 49-1 and the provisions of chapter 49 shall apply
5 to such loan program or county-owned dwelling
6 units to the extent applicable;

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

14 (E) Notwithstanding any limitation otherwise
15 established by law, with respect to the rate of
16 interest on any loan made under any loan program
17 established pursuant to this section, such loan
18 may bear such rate or rates of interest per year
19 as the county shall determine; provided no loan
20 made from the proceeds of any bonds of the county
21 shall be under terms or conditions which would
22 cause the interest on such bonds to be deemed



1 subject to income taxation by the United States
2 of America;

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

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

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



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

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



1 apply such revenues and receipts to the payment
2 of the principal of, or interest on such bonds,
3 or 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 bonds. The county may pledge and
9 assign to the trustee any agreements related to
10 the application of the proceeds of such bonds and
11 the rights of the county thereunder, including
12 the rights to revenues and receipts derived
13 thereunder. Upon appointment of the trustee, the
14 director of finance may elect not to serve as
15 fiscal agent for the payment of the principal and
16 interest, and for the purchase, registration,
17 transfer, exchange, and redemption, of such
18 bonds, or may elect to limit the functions the
19 director of finance performs as such fiscal
20 agent, and may appoint the trustee to serve as
21 the fiscal agent, and may authorize and empower
22 the trustee to perform such functions with



1 respect to such payment, purchase, registration,
2 transfer, exchange, and redemption, as the
3 director of finance deems necessary, advisable,
4 or expedient, including, without limitation, the
5 holding of such bonds and coupons which have been
6 paid and the supervision and conduction or the
7 destruction thereof in accordance with law;
8 (J) If a trustee is not appointed to collect, hold,
9 and administer the proceeds of bonds issued to
10 provide moneys to carry out the purposes of this
11 section or section 46-15.1, or the revenues and
12 receipts derived by the county from the
13 application of the proceeds of such bonds, all as
14 provided in subparagraph (I), the director of
15 finance of such county may hold such proceeds or
16 revenues and receipts, as the case may be, in a
17 separate account in the treasury of the county,
18 to be applied solely to the carrying out of the
19 ordinance, trust indenture, trust agreement, or
20 indenture of mortgage, if any, authorizing or
21 securing such bonds; and



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

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

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



1 SECTION 3. Section 49-1, Hawaii Revised Statutes, is
2 amended by amending the definition of "loan program" to read as
3 follows:

4 "Loan program" means the activities and policies
5 undertaken by any county to provide assistance to members of the
6 general public who are residents of the county by making loans
7 or causing loans to be made available to them for such purposes
8 as may be authorized by law[-], or to provide loans to private
9 nonprofit organizations, public instrumentalities, or wholly-
10 owned affiliates thereof, for the development of low- and
11 moderate-income housing pursuant to section 46-15.1(a)."

12 SECTION 4. Section 49-1, Hawaii Revised Statutes, is
13 amended by amending the definition of "undertaking" to read as
14 follows:

15 "Undertaking" means any public works and properties,
16 improvement or system owned or operated by the county, or an
17 agency, department, board, or instrumentality thereof, and from
18 which the county may derive revenue, or with respect to which
19 the county may derive user taxes, including, but not limited to
20 one or a combination of two or more of the following: water,
21 sewerage, gas or electric, heat, light or power works, solid
22 waste processing and disposal, public off-street parking

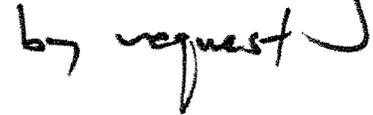


1 facilities, plants, [~~and~~] systems, and low- and moderate-income
2 housing projects provided pursuant to section 46-15.1, together
3 with all parts thereof and appurtenances thereto."

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

6 SECTION 6. This Act shall take effect upon its approval.

7

INTRODUCED BY: 
by request 



Report Title:

Housing; County Powers

Description:

Amends and adds various definitions related to county authority over housing.

