

JAN 20 2012

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# A BILL FOR AN ACT

RELATING TO THE PUBLIC LAND DEVELOPMENT CORPORATION.

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

**PART I**

SECTION 1. Chapter 171C, Hawaii Revised Statutes, is amended by adding two new parts to read as follows:

**"PART II. HOUSING FINANCE AND DEVELOPMENT**

A. General Provisions

**§171C-A Definitions.** The following terms, wherever used or referred to in this part, shall have the following respective meanings, unless a different meaning clearly appears from the context:

"Bonds" means any bonds, interim certificates, notes, debentures, participation certificates, pass-through certificates, mortgage-backed obligations, or other evidences of indebtedness of the corporation issued pursuant to this part.

"Community facilities" includes real and personal property; buildings, equipment, lands, and grounds for recreational or social assemblies, or educational, health, or welfare purposes; and necessary or convenient utilities, when designed primarily



1 for the benefit and use of the corporation or the occupants of  
2 the dwelling.

3 "Contract" means any agreement of the corporation with an  
4 obligee or a trustee for the obligee, whether contained in a  
5 resolution, trust indenture, mortgage, lease, bond, or other  
6 instrument.

7 "Dwelling", "dwelling unit", or "unit" means any structure  
8 or room for sale, lease, or rent, that provides shelter.

9 "Elderly housing project" means a housing project that is  
10 intended and operated as housing that satisfies the definition  
11 of housing for older persons under 42 United States Code section  
12 3607(b)(2).

13 "Federal government" includes the United States and any  
14 agency or instrumentality, corporate or otherwise, of the United  
15 States.

16 "Government" or "government agency" includes the State and  
17 the United States and any political subdivision, agency, or  
18 instrumentality, corporate or otherwise, of either of them.

19 "Household member" means a person who:

20 (1) Is a co-applicant; or

21 (2) Will reside in the dwelling unit purchased or leased  
22 from the corporation.



1 "Housing project" or "project":

2 (1) Includes all real and personal property, buildings and  
3 improvements, commercial spaces, lands for farming and  
4 gardening, and community facilities acquired or  
5 constructed or to be acquired or constructed, and all  
6 tangible or intangible assets held or used in  
7 connection with the housing project; and

8 (2) May also be applied to the planning of the buildings  
9 and improvements, the acquisition of property by  
10 purchase, lease, or otherwise, the demolition of  
11 existing structures, the construction, reconstruction,  
12 alteration, and repair of the improvements, and all  
13 other work in connection therewith.

14 "Land" or "property" includes vacant land or land with site  
15 improvements, whether partially or entirely finished in  
16 accordance with governmental subdivision standards, or with  
17 complete dwellings.

18 "Mortgage holder" includes the United States Department of  
19 Housing and Urban Development, Federal Housing Administration,  
20 the United States Department of Agriculture, or other federal or  
21 state agency engaged in housing activity, United States  
22 Department of Veterans Affairs, Federal National Mortgage



1 Association, Government National Mortgage Association, Federal  
2 Home Loan Mortgage Corporation, private mortgage lender, private  
3 mortgage insurer, and their successors, grantees, and assigns.

4 "Mortgage lender" means any bank, trust company, savings  
5 bank, national banking association, savings and loan  
6 association, building and loan association, mortgage banker,  
7 credit union, insurance company, or any other financial  
8 institution, or a holding company for any of the foregoing,  
9 that:

- 10 (1) Is authorized to do business in the State;
- 11 (2) Customarily provides service or otherwise aids in the  
12 financing of mortgages on single-family or multifamily  
13 residential property; and
- 14 (3) Is a financial institution whose accounts are  
15 federally insured or is an institution that is an  
16 approved mortgagee for the Federal Housing  
17 Administration, an approved lender for the United  
18 States Department of Veterans Affairs or the United  
19 States Department of Agriculture, or an approved  
20 mortgage loan servicer for the Federal National  
21 Mortgage Association or the Federal Home Loan Mortgage  
22 Corporation.



1 "Nonprofit organization" means a corporate entity,  
2 association, or other duly chartered entity that is registered  
3 with the State and has received a written determination from the  
4 Internal Revenue Service that it is exempt under either section  
5 501(c)(3), section 501(c)(4), or so much of section 501(c)(2) as  
6 applied to title holding entities that turn over their income to  
7 organizations that are exempt under either section 501(c)(3) or  
8 501(c)(4), of the Internal Revenue Code of 1986, as amended.

9 "Obligee of the corporation" or "obligee" includes any  
10 bondholder, trustee or trustees for any bondholders, any lessor  
11 demising property to the corporation used in connection with a  
12 housing project, or any assignee or assignees of the lessor's  
13 interest or any part thereof, and the United States, when it is  
14 a party to any contract with the corporation.

15 "Real property" includes lands, land under water,  
16 structures, and any and all easements, franchises, and  
17 incorporeal hereditaments and every estate and right therein,  
18 legal and equitable, including terms for years and liens by way  
19 of judgment, mortgage, or otherwise.

20 **§171C-B Fair housing law to apply.** Notwithstanding any  
21 other law to the contrary, the provisions of chapter 515 shall  
22 apply in administering this part.



1           §171C-C Housing advocacy and information system. (a) The  
2 corporation, with the assistance of other agencies of the State  
3 and counties with related responsibilities, shall develop and  
4 maintain a housing advocacy and information system to aid the  
5 corporation in meeting the needs and demands of housing  
6 consumers.

7           (b) In establishing and maintaining the housing advocacy  
8 and information system, the corporation shall conduct market  
9 studies, engage in community outreach, and solicit  
10 recommendations from, and statistics and research developed by,  
11 agencies of the United States, the State, the counties, private  
12 research organizations, nonprofit community groups, trade  
13 associations, including those of the construction and real  
14 estate industries, departments, individuals at the University of  
15 Hawaii, and housing consumers.

16           (c) The corporation shall analyze the information received  
17 and make recommendations to the appropriate agencies and  
18 developers.

19           (d) The corporation, through the housing advocacy and  
20 information system, shall act as a clearinghouse for information  
21 relating to housing conditions, needs, supply, demand,



1 characteristics, developments, trends in federal housing  
2 programs, and housing laws, ordinances, rules, and regulations.

3 (e) The housing advocacy and information system may be  
4 used by housing researchers, planners, administrators, and  
5 developers and shall be coordinated with other housing research  
6 efforts. The corporation shall maintain a current supply of  
7 information, including means to gather new information through  
8 surveys, contracted research, and investigations.

9 (f) The corporation, through the housing advocacy and  
10 information system, shall develop and maintain an affordable  
11 housing inventory registry to identify:

- 12 (1) Affordable housing projects developed by the  
13 corporation utilizing moneys in the rental housing  
14 trust fund established by section 171C-AAAAH or the  
15 dwelling unit revolving fund established by section  
16 171C-AAAAE;
- 17 (2) State and federal public housing projects identified  
18 by the Hawaii public housing authority;
- 19 (3) United States Department of Housing and Urban  
20 Development Region 9 federally supported and privately  
21 managed housing projects; and



1 (4) State and county lands that may be developed for  
2 affordable housing, as defined in section 171C-AS(b).

3 **§171C-D Housing research.** (a) The corporation may study  
4 the plans of any government regarding the clearing, replanning,  
5 or reconstruction of an area where unsafe or unsanitary dwelling  
6 or housing conditions exist.

7 (b) The corporation may purchase materials for the  
8 development of land and the construction of dwelling units in  
9 the manner it concludes to be most conducive to lower costs,  
10 including purchase from other states or from foreign countries  
11 for drop shipment in the State or on cost-plus contracts for  
12 materials with persons or firms doing business in the State, or  
13 otherwise.

14 (c) The corporation may conduct, or cause to be conducted,  
15 research on housing needs, materials, design, or technology, and  
16 apply the findings of the investigation to housing projects,  
17 including the following:

18 (1) Sociocultural investigation of housing and community  
19 utilization, preferences, or needs of residents within  
20 the housing need classification of the housing  
21 functional plan;



- 1           (2) Development of technology for the application of
- 2           innovative building systems or materials, to provide
- 3           energy or resource conservation or cost savings in the
- 4           construction or operation of a housing project;
- 5           (3) Investigation of the applicability of locally-produced
- 6           building materials and systems to dwelling unit
- 7           construction;
- 8           (4) Investigation of new forms of project construction,
- 9           maintenance, operation, financing, or ownership,
- 10          involving tenants, homeowners, financing agencies, and
- 11          others; or
- 12          (5) Other necessary or appropriate research that may lower
- 13          the long-term costs of housing, conserve resources, or
- 14          create communities best suited to the needs of
- 15          residents.
- 16          (d) In the development and construction of a housing
- 17          project, the corporation may provide for an on-the-job training
- 18          program or other projects as it may deem justifiable, including
- 19          innovative projects to develop a larger qualified work force in
- 20          the State.

21           **§171C-E Housing counseling.** The corporation may provide

22          the following services for the programs it administers:



- 1 (1) Listing and referral services to tenants seeking to  
2 rent homes;
- 3 (2) Counseling to tenants on matters such as financial  
4 management and budgeting, basic housekeeping,  
5 communicating effectively and getting along with  
6 others, and other matters as may be desirable or  
7 necessary;
- 8 (3) Counseling to prospective homeowners on the rudiments  
9 of owning a home;
- 10 (4) Assistance to any person or government agency  
11 regarding the nature and availability of federal  
12 assistance for housing development and community  
13 development or redevelopment;
- 14 (5) Counseling and guidance services to aid: any person  
15 or government agency in securing the financial aid or  
16 cooperation of the federal government in undertaking,  
17 constructing, maintaining, operating, or financing any  
18 housing designated for elders; persons displaced by  
19 governmental action; university and college students  
20 and faculty; and any other persons; and
- 21 (6) Assistance to a county agency upon request from the  
22 agency in the development of programs to correct or



1           eliminate blight and deterioration and to effect  
2           community development.

3           **§171C-F Acquisition, use, and disposition of property.**

4           (a) The corporation may acquire any real or personal property  
5           or interest therein by purchase, exchange, gift, grant, lease,  
6           or other means from any person or government to provide housing.  
7           Exchange of real property shall be in accordance with section  
8           171-50.

9           (b) The corporation may own or hold real property. All  
10          real property owned or held by the corporation shall be exempt  
11          from mechanic's or materialman's liens and also from levy and  
12          sale by virtue of an execution, and no execution or other  
13          judicial process shall issue against the same nor shall any  
14          judgment against the corporation be a charge or lien upon its  
15          real property; provided that this subsection shall not apply to  
16          or limit the right of obligees to foreclose or otherwise enforce  
17          any mortgage of the corporation or the right of obligees to  
18          pursue any remedies for the enforcement of any pledge or lien  
19          given by the corporation on its rents, fees, or revenues. The  
20          corporation and its property shall be exempt from all taxes and  
21          assessments.



1 (c) The corporation may lease or rent all or a portion of  
2 any housing project and establish and revise the rents or  
3 charges therefor. The corporation may sell, exchange, transfer,  
4 assign, or pledge any property, real or personal, or any  
5 interest therein to any person or government.

6 (d) The corporation may insure or provide for the  
7 insurance of its property or operations against risks as it  
8 deems advisable.

9 **§171C-G Cooperative agreements with other governmental**  
10 **agencies.** (a) The corporation may:

11 (1) Obtain the aid and cooperation of governmental  
12 agencies in the planning, construction, and operation  
13 of housing projects and enter into agreements and  
14 arrangements as it deems advisable to obtain aid and  
15 cooperation;

16 (2) Arrange or enter into agreements with any governmental  
17 agency for the acquisition of property, options, or  
18 property rights or for the furnishing, installing,  
19 opening, or closing of streets, roads, alleys,  
20 sidewalks, or other places, or for the furnishing of  
21 property, services, parks, sewage, water, and other  
22 facilities in connection with housing projects, or for



1 the changing of the map of a political subdivision or  
2 the planning, replanning, zoning, or rezoning of any  
3 part of a political subdivision;

4 (3) Procure insurance or guarantees from any governmental  
5 agency for the payment of any debts or parts thereof  
6 incurred by the corporation, including the power to  
7 pay premiums on any such insurance; and

8 (4) Agree to make payments to any state or county agency,  
9 if the agency is authorized to accept payments, as the  
10 corporation deems consistent with the maintenance of  
11 the character of housing projects or the purposes of  
12 this part.

13 (b) For the purpose of aiding and cooperating in the  
14 planning, construction, and operation of housing projects  
15 located within their respective territorial boundaries, any  
16 state or county agency, upon those terms, with or without  
17 consideration, as it determines, may:

18 (1) Dedicate, grant, sell, convey, or lease any of its  
19 property or grant easements, licenses, or any other  
20 rights or privileges therein to the corporation or to  
21 the federal government;



- 1           (2) To the extent that it is within the scope of the  
2           agency:
- 3           (A) Cause the services customarily provided by the  
4           agency to be rendered for the benefit of housing  
5           projects and the occupants thereof;
- 6           (B) Provide and maintain parks, sewage, water,  
7           lights, and other facilities adjacent to or in  
8           connection with housing projects;
- 9           (C) Open, close, pave, install, or change the grade  
10          of streets, roads, roadways, alleys, sidewalks,  
11          or other related facilities; and
- 12          (D) Change the map of a political subdivision or  
13          plan, replan, zone, or rezone any part of a  
14          political subdivision;
- 15          (3) Enter into agreements with the corporation with  
16          respect to the exercise of their powers relating to  
17          the repair, closing, or demolition of unsafe,  
18          unsanitary, or unfit dwellings;
- 19          (4) Employ, notwithstanding any other law as to what  
20          constitutes legal investments, any available funds  
21          belonging to them or within their control, including  
22          funds derived from the sale or furnishing of property



1 or facilities to the corporation, in the purchase of  
2 bonds or other obligations of the corporation; and  
3 exercise all the rights of any holder of the bonds or  
4 other obligations;

5 (5) Do any and all things necessary or convenient to aid  
6 and cooperate in the planning, undertaking, and  
7 construction of those housing projects; and

8 (6) Enter into contracts with the corporation or the  
9 federal government for any period agreeing to exercise  
10 any of the powers conferred hereby or to take any  
11 other action in aid of those housing projects.

12 In connection with the exercise of this power, any  
13 political subdivision may incur the entire expense of any public  
14 improvements located within its territorial boundaries without  
15 assessment against abutting property owners.

16 For the purpose of aiding and cooperating in the planning,  
17 construction, and operation of housing projects, the department  
18 of land and natural resources, the Hawaiian homes commission,  
19 and any other agency of the State having power to manage or  
20 dispose of its public lands, with the approval of the governor  
21 and with or without consideration, may grant, sell, convey, or  
22 lease, for any period, any parts of those public lands, without



1 limit as to area, to the corporation or to the federal  
2 government.

3 Any law to the contrary notwithstanding, any gift, grant,  
4 sale, conveyance, lease, or agreement provided for in this  
5 section may be made by the state or county government without  
6 appraisal, public notice, advertisement, or public bidding.

7 If at any time title to, or possession of, any housing  
8 project is held by any governmental agency authorized by law to  
9 engage in the development or administration of low-income  
10 housing or slum clearance projects, any agreement made under  
11 this part relating to the project shall inure to the benefit of  
12 and may be enforced by that governmental agency.

13 Insofar as this subsection is inconsistent with the  
14 provisions of any other law, this subsection shall be  
15 controlling.

16 (c) Any county in which a housing project is located or is  
17 about to be located may make donations or advances to the  
18 corporation in sums as the county in its discretion may  
19 determine. The advances or donations shall be made for the  
20 purpose of aiding or cooperating in the construction and  
21 operation of the housing project. The corporation, when it has



1 money available therefor, shall reimburse the county for all  
2 advances made by way of a loan to it.

3       **§171C-H Agents, including corporations.** The corporation  
4 may exercise any or all of the powers conferred upon it, either  
5 generally or with respect to any specific housing project  
6 through an agent that it may designate, including any  
7 corporation that is formed under the laws of this State, and for  
8 those purposes the corporation may cause one or more  
9 corporations to be formed under the laws of this State or may  
10 acquire the capital stock of any corporation. Any corporate  
11 agent, all of the stock of which shall be owned by the  
12 corporation or its nominee, to the extent permitted by law, may  
13 exercise any of the powers conferred upon the corporation in  
14 this part.

15       **§171C-I Development of property.** (a) The corporation, in  
16 its own behalf or on behalf of any federal, state, or county  
17 agency, may:

- 18       (1) Clear, improve, and rehabilitate property;
- 19       (2) Plan, develop, construct, and finance housing  
20       projects; and
- 21       (3) In cooperation with the department of education and  
22       department of accounting and general services, plan



1 educational facilities and related infrastructure as a  
2 necessary and integral part of its housing projects,  
3 using all of its innovative powers toward achieving  
4 that end expeditiously and economically; provided that  
5 the educational facilities comply with the department  
6 of education's educational specifications, timelines,  
7 and siting requirements.

8 (b) The corporation may develop public land in an  
9 agricultural district subject to the prior approval of the land  
10 use commission, when developing lands greater than fifteen acres  
11 in size, and public land in a conservation district subject to  
12 the prior approval of the board of land and natural resources.  
13 The corporation shall not develop state monuments, historical  
14 sites, or parks. When the corporation proposes to develop  
15 public land, it shall file with the department of land and  
16 natural resources a petition setting forth the purpose for the  
17 development. The petition shall be conclusive proof that the  
18 intended use is a public use superior to that which the land has  
19 been appropriated.

20 (c) The corporation may develop or assist in the  
21 development of federal lands with the approval of appropriate  
22 federal authorities.



1           (d) The corporation shall not develop any public land  
2 where the development may endanger the receipt of any federal  
3 grant, impair the eligibility of any government agency for a  
4 federal grant, prevent the participation of the federal  
5 government in any government program, or impair any covenant  
6 between the government and the holder of any bond issued by the  
7 government.

8           (e) The corporation may contract or sponsor with any  
9 county, housing authority, or person, subject to the  
10 availability of funds, an experimental or demonstration housing  
11 project designed to meet the needs of elders; the disabled;  
12 displaced or homeless persons; low- and moderate-income persons;  
13 teachers or other government employees; or university and  
14 college students and faculty.

15           **§171C-J Eminent domain, exchange or use of public**  
16 **property.** (a) The corporation may acquire any real property,  
17 including fixtures and improvements, or interest therein:  
18 through voluntary negotiation; through exchange of land in  
19 accordance with section 171-50, provided that the public land to  
20 be exchanged need not be of like use to that of the private  
21 land; or by the exercise of the power of eminent domain which it  
22 deems necessary by the adoption of a resolution declaring that



1 the acquisition of the property described therein is in the  
2 public interest and required for public use. The corporation  
3 shall exercise the power of eminent domain granted by this  
4 section in the same manner and procedure as is provided by  
5 chapter 101 and otherwise in accordance with all applicable  
6 provisions of the general laws of the State; provided that  
7 condemnation of parcels greater than fifteen acres shall be  
8 subject to legislative disapproval expressed in a concurrent  
9 resolution adopted by majority vote of the senate and the house  
10 of representatives in the first regular or special session  
11 following the date of condemnation.

12 (b) The corporation may acquire by the exercise of the  
13 power of eminent domain property already devoted to a public  
14 use; provided that no property belonging to any government may  
15 be acquired without its consent, and that no property belonging  
16 to a public utility corporation may be acquired without the  
17 approval of the public utilities commission, and subject to  
18 legislative disapproval expressed in a concurrent resolution  
19 adopted by majority vote of the senate and the house of  
20 representatives in the first regular or special session  
21 following the date of condemnation.



1           §171C-K **Contracts with the federal government.** (a) The  
2 corporation may:

3           (1) Borrow money or accept grants from the federal  
4 government for or in aid of any housing project that  
5 the corporation is authorized to undertake;

6           (2) Take over any land acquired by the federal government  
7 for the construction or operation of a housing project  
8 with the approval of the federal government or at the  
9 request of the federal government;

10          (3) Procure insurance or guarantees from the federal  
11 government for the payment of any debts or parts  
12 thereof secured by mortgages made or held by the  
13 corporation on any property included in any housing  
14 project;

15          (4) Comply with any conditions required by the federal  
16 government in any contract for financial assistance;  
17 and

18          (5) Execute contracts with the federal government.

19          (b) It is the purpose and intent of this part to authorize  
20 the corporation to do any and all things necessary to secure the  
21 financial aid and the cooperation of the federal government in



1 the undertaking, construction, maintenance, and operation of any  
2 housing project that the corporation is empowered to undertake.

3 **§171C-L Administration of low-income housing credit**

4 **allowed under section 235-110.8.** (a) The corporation is  
5 designated as a state housing credit agency to carry out section  
6 42(h) (with respect to limitation on aggregate credit allowable  
7 with respect to a project located in a state) of the Internal  
8 Revenue Code of 1986, as amended. As a state housing credit  
9 agency, the corporation shall determine the eligibility basis  
10 for a qualified low-income building, make the allocation of  
11 housing credit dollar amounts within the State, and determine  
12 the portion of the State's housing credit ceiling set aside for  
13 projects involving qualified nonprofit organizations. The  
14 corporation shall file any certifications and annual reports  
15 required by section 42 (with respect to low-income housing  
16 credit) of the Internal Revenue Code of 1986, as amended.

17 (b) The state aggregate housing credit dollar amount shall  
18 be allocated annually as required by section 42 of the Internal  
19 Revenue Code of 1986, as amended, by the corporation in an  
20 amount equal to \$1.25 multiplied by the state population in the  
21 calendar year or such greater or lesser amount as provided by  
22 section 42(h) of the Internal Revenue Code of 1986, as amended.



1           (c) The corporation shall adopt rules under chapter 91  
2 necessary to comply with federal and state requirements for  
3 determining the amount of the tax credit allowed under section  
4 42 of the Internal Revenue Code of 1986, as amended, and section  
5 235-110.8. The corporation may establish and collect reasonable  
6 fees for administrative expenses incurred in providing the  
7 services required by this section, including fees for processing  
8 developer applications for the credit. All fees collected for  
9 administering these provisions, including developer application  
10 fees, shall be used to cover the administrative expenses of the  
11 corporation.

12           (d) All claims for allocation of the low-income housing  
13 credit under section 235-110.8 shall be filed with the  
14 corporation. The corporation shall determine the amount of the  
15 credit allocation, if necessary, and return the claim to the  
16 taxpayer. The taxpayer shall file the credit allocation with  
17 the taxpayer's tax return with the department of taxation.

18           **§171C-M Administration of federal programs.** (a) The  
19 corporation may carry out federal programs designated to be  
20 carried out by a housing finance or housing development entity.

21           (b) The corporation shall adopt necessary rules in  
22 accordance with chapter 91, including the establishment and



1 collection of reasonable fees for administering the program, to  
2 carry out any federal program in subsection (a).

3 (c) All fees collected for administering the program may  
4 be deposited into an appropriate special fund of the corporation  
5 and may be used to cover the administrative expenses of the  
6 corporation.

7 **§171C-N Federal funds outside of state treasury.**

8 Notwithstanding chapter 38, the corporation may establish and  
9 manage federal funds outside of the state treasury to be used  
10 for federal housing programs. The corporation shall invest  
11 those funds in permitted investments in accordance with chapter  
12 36.

13 **§171C-O Public works contracts.** The corporation may make,  
14 execute, and carry out contracts for, or in connection with, any  
15 housing project in the manner provided under chapter 103D and  
16 section 103-53; provided that with regard to the contracts, the  
17 term "officers", as used in chapter 103D, shall mean the  
18 corporation or officer authorized by the corporation to act as  
19 its contracting officer. Unless made and executed in the name  
20 of the State, each contract made and executed as authorized in  
21 this section shall state therein that it is so made and  
22 executed.



1           §171C-P Remedies of an obligee: mandamus; injunction;  
2   **possessory action; receiver; accounting; etc.** An obligee of the  
3   corporation shall have the right, in addition to all other  
4   rights that may be conferred on the obligee subject only to any  
5   contractual restrictions binding upon the obligee, and subject  
6   to the prior and superior rights of others:

7           (1) By mandamus, suit, action, or proceeding in law or  
8           equity to compel the corporation, and the members,  
9           officers, agents, or employees thereof to perform each  
10          and every item, provision, and covenant contained in  
11          any contract of the corporation, and to require the  
12          carrying out of any or all covenants and agreements of  
13          the corporation and the fulfillment of all duties  
14          imposed upon the corporation by this part;

15          (2) By suit, action, or proceeding in equity to enjoin any  
16          acts or things that may be unlawful, or the violation  
17          of any of the rights of the obligee of the  
18          corporation;

19          (3) By suit, action, or proceeding in any court of  
20          competent jurisdiction to cause possession of any  
21          housing project or any part thereof to be surrendered



1 to any obligee having the right to possession pursuant  
2 to any contract of the corporation;

3 (4) By suit, action, or proceeding in any court of  
4 competent jurisdiction, upon the happening of an event  
5 of default (as defined in a contract of the  
6 corporation), to obtain the appointment of a receiver  
7 of any housing project of the corporation or any part  
8 or parts thereof, and if the receiver is appointed,  
9 the receiver may enter and take possession of the  
10 housing project or any part or parts thereof and  
11 operate and maintain same, and collect and receive all  
12 fees, rents, revenues, or other charges thereafter  
13 arising therefrom in the same manner as the  
14 corporation itself might do and shall keep the moneys  
15 in a separate account or accounts and apply the same  
16 in accordance with the obligations of the corporation  
17 as the court shall direct; and

18 (5) By suit, action, or proceeding in any court of  
19 competent jurisdiction to require the corporation and  
20 the members thereof to account as if it and they were  
21 the trustees of an express trust.



1           **§171C-Q Subordination of mortgage to agreement with**  
2 **government.** The corporation may agree in any mortgage made by  
3 it that the mortgage shall be subordinate to a contract for the  
4 supervision by a governmental agency of the operation and  
5 maintenance of the mortgaged property and the construction of  
6 improvements thereon. In that event, any purchaser or  
7 purchasers at a sale of the property of the corporation pursuant  
8 to a foreclosure of the mortgage or any other remedy in  
9 connection therewith shall obtain title subject to the contract.

10           **§171C-R Duty to make reports.** Except as otherwise  
11 provided by law, the corporation shall:

12           (1) Report to the state comptroller on moneys deposited in  
13 depositories other than the state treasury under  
14 section 40-81 and rules adopted thereunder; and

15           (2) As part of its report required under section 171C-20,  
16 submit a report on all corporation program areas and  
17 funds organized by program area, and by fund within  
18 each program area, which shall provide the following  
19 information on the status of its programs and  
20 finances:

21           (A) A description of programs being developed in the  
22 current fiscal biennium, including a summary



- 1 listing of the programs, the status of each  
2 program, the methods of project financing or  
3 loans, and other information deemed significant;
- 4 (B) A description of programs planned for development  
5 during the two ensuing fiscal bienniums,  
6 including a summary listing of the proposed  
7 programs, the methods of project financing or  
8 loans, and other information deemed significant;
- 9 (C) A status report of actual expenditures made in  
10 the prior completed fiscal year from each fund  
11 established under this part, estimated  
12 expenditures anticipated for the current fiscal  
13 year, and projected expenditures for the ensuing  
14 fiscal years to be described in relation to  
15 specific projects developed to implement the  
16 purposes of any program or fund established under  
17 this part;
- 18 (D) A financial audit and report conducted on an  
19 annual basis by a certified public accounting  
20 firm; and



1           (E) Recommendations with reference to any additional  
2           legislation or other action that may be necessary  
3           to carry out the purposes of this part.

4           **§171C-S Quitclaim deeds.** Unless otherwise provided by  
5 law, the corporation shall issue quitclaim deeds and leases  
6 whenever it conveys, transfers, sells, or assigns any property  
7 developed, constructed, or sponsored under this part.

8           **§171C-T For-sale developments.** Any law to the contrary  
9 notwithstanding, new multifamily for-sale housing condominium  
10 developments of seventy-five units or more per acre on privately  
11 owned lands and privately financed without federal, state, or  
12 county financing assistance or subsidies, including tax credits,  
13 shall:

14           (1) Be exempt from the corporation's shared appreciation  
15 equity program;

16           (2) Be subject to three-year occupancy requirements and  
17 transfer restrictions; provided that the three-year  
18 occupancy requirement shall begin upon the sale of  
19 each unit; and

20           (3) Not be subject to the ten-year occupancy requirements  
21 and transfer restrictions in sections 171C-AL and  
22 171C-AN, respectively;



1 provided that, in order for paragraphs (1), (2), and (3) to  
 2 apply, the primary purpose of constructing the new multifamily  
 3 for-sale housing condominium development of seventy-five units  
 4 or more per acre shall be to augment the existing affordable  
 5 housing unit inventory in the State and not for the purpose of  
 6 satisfying any affordable housing or reserved housing  
 7 requirement under this chapter, section 171C-4(a)(17), or any  
 8 other law or ordinance.

9 As used in this section:

10 "Affordable housing" means the same as defined under  
 11 section 171C-AS.

12 "Reserved housing" means the same as defined under section  
 13 171C-AAAAAP.

14 B. Housing Development Programs

15 **§171C-U Criteria.** In administering this part and other  
 16 laws of the State applicable to the supplying of housing or the  
 17 assistance in obtaining housing, the corporation shall give  
 18 preference to those applicants most in need of assistance in  
 19 obtaining housing, in light of the amount of moneys available  
 20 for the various programs. In doing so, the corporation shall  
 21 take into consideration the applicant's household income and  
 22 number of dependents; the age of the applicant; the physical



1 disabilities of the applicant or those living with the  
2 applicant; whether or not the present housing of the applicant  
3 is below standard; whether or not the applicant's need for  
4 housing has arisen by reason of displacement of the applicant by  
5 governmental actions; and other factors as it may deem  
6 pertinent.

7       **§171C-V Definitions.** The following terms, wherever used  
8 or referred to in this subpart, shall have the following  
9 respective meanings unless a different meaning clearly appears  
10 from the context:

11       "Develop" or "development" means the planning, financing  
12 and acquisition of real and personal property; demolition of  
13 existing structures and clearance of real property;  
14 construction, reconstruction, alteration, or repairing of  
15 approaches, streets, sidewalks, utilities, and services, or  
16 other site improvements; construction, reconstruction, repair,  
17 remodeling, extension, equipment, or furnishing of buildings or  
18 other structures; or any combination of the foregoing, of any  
19 housing project. It also includes any and all undertakings  
20 necessary therefor, and the acquisition of any housing, in whole  
21 or in part.



1 "Eligible bidder" means a person, partnership, firm, or  
2 corporate entity determined by the corporation:

3 (1) To be qualified by experience and financial  
4 responsibility to construct housing of the type  
5 proposed to be contracted; and

6 (2) To have submitted the lowest acceptable bid.

7 "Eligible developer" means any person, partnership,  
8 cooperative including a limited-equity housing cooperative as  
9 defined in chapter 421H, firm, nonprofit or for-profit entity,  
10 or public agency determined by the corporation:

11 (1) To be qualified by experience, financial  
12 responsibility, and support to construct housing of  
13 the type described and of the magnitude encompassed by  
14 the given project;

15 (2) To have submitted plans for a housing project  
16 adequately meeting the objectives of this part, the  
17 maintenance of aesthetic values in the locale of the  
18 project, and the requirements of all applicable  
19 environmental statutes and rules; and

20 (3) To meet all other requirements the corporation deems  
21 to be just and reasonable, and all requirements  
22 stipulated in this part.



1 "Purchaser's equity" means the difference between the  
2 original cost of the dwelling unit to the purchaser, and the  
3 principal amount of any mortgages, liens, or notes outstanding.

4 "Qualified resident" means a person who:

5 (1) Is a citizen of the United States or a resident alien;

6 (2) Is at least eighteen years of age;

7 (3) Is domiciled in the State and physically resides in  
8 the dwelling unit purchased or rented under this part;

9 (4) In the case of the purchase of real property in fee  
10 simple or leasehold, has a gross income sufficient to  
11 qualify for the loan to finance the purchase; or in  
12 the case of a rental, demonstrates an ability to pay  
13 rent as determined by the corporation and meets any  
14 additional criteria established by the corporation for  
15 the respective rental housing development for which  
16 the applicant is applying; and

17 (5) Meets the following qualifications:

18 (A) Is a person who either by the person's self, or  
19 together with spouse or household member, does  
20 not own a majority interest in fee simple or  
21 leasehold lands suitable for dwelling purposes or  
22 a majority interest in lands under any trust



1 agreement or other fiduciary arrangement in which  
2 another person holds the legal title to the land;  
3 and

4 (B) Is a person whose spouse or household member does  
5 not own a majority interest in fee simple or  
6 leasehold lands suitable for dwelling purposes or  
7 more than a majority interest in lands under any  
8 trust agreement or other fiduciary arrangement in  
9 which another person holds the legal title to the  
10 land, except when husband and wife are living  
11 apart under a decree of separation from bed and  
12 board issued by the family court pursuant to  
13 section 580-71;

14 provided that for purchasers of market-priced units in an  
15 economically integrated housing project, the term "qualified  
16 resident" means a person who is a citizen of the United States  
17 or a resident alien; is domiciled in the State and shall  
18 physically reside in the dwelling unit purchased; is at least  
19 eighteen years of age; and meets other qualifications as  
20 determined by the developer.

21 "Short-term project notes" means evidences of indebtedness  
22 issued by the State for specified housing projects and secured



1 by the projects, the terms of which call for complete repayment  
2 by the State of the face amount in not less than two nor more  
3 than ten years.

4       **§171C-W Powers and duties, generally.** (a) The  
5 corporation may develop fee simple or leasehold property,  
6 construct dwelling units thereon, including condominiums,  
7 planned units, and cluster developments, and sell, lease, or  
8 rent or cause to be leased or rented, at the lowest possible  
9 price to qualified residents, nonprofit organizations, or  
10 government agencies, with an eligible developer or in its own  
11 behalf:

12       (1) Fully completed dwelling units with the appropriate  
13 interest in the land on which the dwelling unit is  
14 located;

15       (2) Dwelling units that are substantially complete and  
16 habitable with the appropriate interest in the land on  
17 which the dwelling unit is located; or

18       (3) The land with site improvements (other than the  
19 dwelling unit) either partially or fully developed.

20       (b) The corporation shall require all applicants for the  
21 purchase of dwelling units to make application therefor under  
22 oath, and may require additional testimony or evidence under



1 oath in connection with any application. The determination of  
2 any applicant's eligibility under this part by the corporation  
3 shall be conclusive as to all persons thereafter dealing with  
4 the property; provided that the making of any false statement  
5 knowingly by the applicant or other person to the corporation in  
6 connection with any application shall constitute perjury and be  
7 punishable as such. The corporation shall establish a system to  
8 determine preferences by lot in the event that it receives more  
9 qualified applications than it has dwelling units available.

10 (c) The corporation shall adopt, pursuant to chapter 91,  
11 rules on health, safety, building, planning, zoning, and land  
12 use that relate to the development, subdivision, and  
13 construction of dwelling units in housing projects in which the  
14 State, through the corporation, shall participate. The rules  
15 shall not contravene any safety standards or tariffs approved by  
16 the public utilities commission, and shall follow existing law  
17 as closely as is consistent with the production of lower cost  
18 housing with standards that meet minimum requirements of good  
19 design, pleasant amenities, health, safety, and coordinated  
20 development.

21 When adopted, the rules shall have the force and effect of  
22 law and shall supersede, for all housing projects in which the



1 State, through the corporation, shall participate, all other  
2 inconsistent laws, ordinances, and rules relating to the use,  
3 zoning, planning, and development of land, and the construction  
4 of dwelling units thereon. The rules, before becoming  
5 effective, shall be presented to the legislative body of each  
6 county in which they will be effective and the legislative body  
7 of any county may within forty-five days approve or disapprove,  
8 for that county, any or all of the rules by a majority vote of  
9 its members. On the forty-sixth day after submission, any rules  
10 not disapproved shall be deemed to have been approved by the  
11 county.

12 (d) The corporation may acquire, by eminent domain,  
13 exchange, or negotiation, land or property required within the  
14 foreseeable future for the purposes of this part. Whenever land  
15 with a completed or substantially complete and habitable  
16 dwelling or dwellings thereon is acquired by exchange or  
17 negotiation, the exchange value or purchase price for each  
18 dwelling, including land, shall not exceed its appraised value.  
19 Land or property acquired in anticipation of future use may be  
20 leased for the interim period by the corporation for the term  
21 and rent as it deems appropriate.



1           (e) Upon authorization by the legislature, the corporation  
2 shall cause the State to issue general obligation bonds to  
3 finance:

4           (1) Land acquisition;

5           (2) The development and improvement of land;

6           (3) The construction of dwelling units;

7           (4) The purchase, lease, or rental of land and dwelling  
8 units by qualified residents, nonprofit organizations,  
9 or government agencies under this part;

10          (5) Payment for any services contracted for under this  
11 part, including profit or recompense paid to partners,  
12 and including community information and advocacy  
13 services deemed necessary by the corporation to  
14 provide for citizen participation in the development  
15 of housing projects, the implementation of this part,  
16 and the staffing of any citizen advisory committee the  
17 corporation may establish;

18          (6) The cost of the repurchase of units under section  
19 171C-AL;

20          (7) Loans for the rehabilitation and renovation of  
21 existing housing; and



1           (8) Any other moneys required to accomplish the purposes  
2                   of this part.

3           (f) The corporation shall do all other things necessary  
4 and convenient to carry out the purposes of this part.

5           **§171C-X Additional powers; development.** Notwithstanding  
6 section 103-7, but with the approval of the governor, the  
7 corporation may enter into and carry out agreements and  
8 undertake projects or participate in projects authorized by this  
9 part.

10           **§171C-Y Authority to modify and amend development**  
11 **agreements with eligible developers.** The corporation is  
12 authorized to amend, delete, restate, and otherwise modify the  
13 terms, conditions, plans, specifications, and all other matters  
14 relating, directly or indirectly, to any housing project that  
15 was previously approved by the corporation, including the terms,  
16 covenants, and conditions of any development agreement for a  
17 housing project between the corporation and an eligible  
18 developer.

19           **§171C-Z Bond financing.** The director of finance may issue  
20 general obligation bonds and short-term project notes of the  
21 State in an aggregate amount not to exceed \$105,000,000 for the  
22 dwelling unit revolving fund established by section 171C-AAAAE.



1 Pending the receipt of funds from the issuance and sale of the  
2 bonds and notes, the amount required for the purposes of this  
3 part shall be advanced from the general fund of the State. Upon  
4 the receipt of the bond or note funds, the general fund shall be  
5 reimbursed. The director of finance may sequester and separate  
6 the proceeds from the sale of the bonds and notes into separate  
7 funds and the amounts in either fund may be used for any of the  
8 purposes set forth in this part.

9 **§171C-AA Exemption from general excise taxes.** (a) In  
10 accordance with section 237-29, the corporation may approve and  
11 certify for exemption from general excise taxes any qualified  
12 person or firm involved with a newly constructed, or moderately  
13 or substantially rehabilitated project:

- 14 (1) Developed under this subpart;
- 15 (2) Developed under a government assistance program  
16 approved by the corporation, including but not limited  
17 to the United States Department of Agriculture 502  
18 program and Federal Housing Administration 235  
19 program;
- 20 (3) Developed under the sponsorship of a private nonprofit  
21 organization providing home rehabilitation or new



1 homes for qualified families in need of decent, low-  
2 cost housing; or

3 (4) Developed by a qualified person or firm to provide  
4 affordable rental housing where at least fifty per  
5 cent of the available units are for households with  
6 incomes at or below eighty per cent of the area median  
7 family income as determined by the United States  
8 Department of Housing and Urban Development, of which  
9 at least twenty per cent of the available units are  
10 for households with incomes at or below sixty per cent  
11 of the area median family income as determined by the  
12 United States Department of Housing and Urban  
13 Development.

14 (b) All claims for exemption under this section shall be  
15 filed with and certified by the corporation and forwarded to the  
16 department of taxation. Any claim for exemption that is filed  
17 and approved, shall not be considered a subsidy for the purpose  
18 of this subpart.

19 (c) For the purposes of this section:

20 "Moderate rehabilitation" means rehabilitation to upgrade a  
21 dwelling unit to a decent, safe, and sanitary condition, or to



1 repair or replace major building systems or components in danger  
2 of failure.

3 "Substantial rehabilitation":

4 (1) Means the improvement of a property to a decent, safe,  
5 and sanitary condition that requires more than routine  
6 or minor repairs or improvements. It may include but  
7 is not limited to the gutting and extensive  
8 reconstruction of a dwelling unit, or cosmetic  
9 improvements coupled with the curing of a substantial  
10 accumulation of deferred maintenance; and

11 (2) Includes renovation, alteration, or remodeling to  
12 convert or adapt structurally sound property to the  
13 design and condition required for a specific use, such  
14 as conversion of a hotel to housing for elders.

15 (d) The corporation may establish, revise, charge, and  
16 collect a reasonable service fee, as necessary, in connection  
17 with its approvals and certifications under this section. The  
18 fees shall be deposited into the dwelling unit revolving fund.

19 **§171C-AB Exemption from tax on income and obligations.**

20 Income earned and obligations issued by a nonprofit entity  
21 determined to constitute a "public housing agency" pursuant to  
22 section 3(6) of the United States Housing Act of 1937, as



1 amended, and which income and obligations are declared by the  
2 United States Department of Housing and Urban Development to be  
3 exempt from all taxation imposed by the United States pursuant  
4 to section 11(b) of the Act, shall be exempt from all taxation  
5 now or hereafter imposed by the State.

6       **§171C-AC Housing development; exemption from statutes,**  
7 **ordinances, charter provisions, and rules.** (a) The corporation  
8 may develop on behalf of the State or with an eligible  
9 developer, or may assist under a government assistance program  
10 in the development of, housing projects that shall be exempt  
11 from all statutes, ordinances, charter provisions, and rules of  
12 any government agency relating to planning, zoning, construction  
13 standards for subdivisions, development and improvement of land,  
14 and the construction of dwelling units thereon; provided that:  
15       (1) The corporation finds the housing project is  
16             consistent with the purpose and intent of this part,  
17             and meets minimum requirements of health and safety;  
18       (2) The development of the proposed housing project does  
19             not contravene any safety standards, tariffs, or rates  
20             and fees approved by the public utilities commission  
21             for public utilities or of the various boards of water  
22             supply authorized under chapter 54;



1           (3) The legislative body of the county in which the  
2           housing project is to be situated shall have approved  
3           the project with or without modifications:

4           (A) The legislative body shall approve, approve with  
5           modification, or disapprove the project by  
6           resolution within forty-five days after the  
7           corporation has submitted the preliminary plans  
8           and specifications for the project to the  
9           legislative body. If on the forty-sixth day a  
10          project is not disapproved, it shall be deemed  
11          approved by the legislative body;

12          (B) No action shall be prosecuted or maintained  
13          against any county, its officials, or employees  
14          on account of actions taken by them in reviewing,  
15          approving, modifying, or disapproving the plans  
16          and specifications; and

17          (C) The final plans and specifications for the  
18          project shall be deemed approved by the  
19          legislative body if the final plans and  
20          specifications do not substantially deviate from  
21          the preliminary plans and specifications. The  
22          final plans and specifications for the project



1 shall constitute the zoning, building,  
2 construction, and subdivision standards for that  
3 project. For purposes of sections 501-85 and  
4 502-17, the executive director of the corporation  
5 or the responsible county official may certify  
6 maps and plans of lands connected with the  
7 project as having complied with applicable laws  
8 and ordinances relating to consolidation and  
9 subdivision of lands, and the maps and plans  
10 shall be accepted for registration or recordation  
11 by the land court and registrar; and

12 (4) The land use commission shall approve, approve with  
13 modification, or disapprove a boundary change within  
14 forty-five days after the corporation has submitted a  
15 petition to the commission as provided in section 205-  
16 4. If, on the forty-sixth day, the petition is not  
17 disapproved, it shall be deemed approved by the  
18 commission.

19 (b) For the purposes of this section, "government  
20 assistance program" means a housing program qualified by the  
21 corporation and administered or operated by the corporation or



1 the United States or any of their political subdivisions,  
2 agencies, or instrumentalities, corporate or otherwise.

3       **§171C-AD Starter homes; design standards; applicant**  
4 **eligibility; authority to incorporate starter homes into housing**  
5 **projects of the corporation.** (a) The corporation shall adopt  
6 rules in accordance with chapter 91 to establish design and  
7 construction standards for starter homes configured to expand  
8 incrementally over time. For the purposes of this section,  
9 "starter home" means a dwelling unit that is designed to meet  
10 the basic living capacity requirements of homebuyers with  
11 families of limited size by eliminating unnecessary design and  
12 space amenities, but which nonetheless enables future expansion,  
13 modification, and improvement by the owner to accommodate  
14 increased occupancy over time as may be necessary. The rules  
15 shall include building, setback, minimum lot size,  
16 infrastructure, and architectural standards for the construction  
17 and development of starter homes.

18       (b) In addition to the requirements of subsection (a), the  
19 corporation shall adopt rules in accordance with chapter 91 to  
20 establish the basic requirements for families eligible to  
21 purchase starter homes under this section. The rules shall  
22 include guidelines and restrictions on occupancy standards



1 initially permitted in a starter home, as well as the income  
2 ranges of families eligible to qualify for purchases under this  
3 section.

4 (c) The corporation may incorporate starter homes into any  
5 affordable housing project developed by the corporation under  
6 this part. The corporation shall determine on a project-by-  
7 project basis the number of starter home units to be included in  
8 each particular project.

9 (d) The corporation shall include in its annual report to  
10 the legislature a report on the number of starter homes  
11 constructed and developed by the corporation in accordance with  
12 the authorization provided in this section.

13 **§171C-AE Housing projects; construction and sponsorship.**

14 (a) The corporation, on behalf of the State or with eligible  
15 developers and contractors, shall develop real property and  
16 construct dwelling units thereon; provided that not less than  
17 ten per cent of the total number of units in single-family  
18 projects consisting of fifty units or more sponsored by the  
19 corporation shall be first offered to owner-builders or to  
20 nonprofit organizations assisting owner-builders in the  
21 construction of units thereon. Qualifications for developers  
22 and contractors shall be provided by rules adopted by the



1 corporation in accordance with chapter 91. Any person, if  
2 qualified, may act as both the developer and the contractor.

3 (b) In selecting the eligible developers or in contracting  
4 any services or materials for the purposes of this part, the  
5 corporation shall not be subject to the competitive bidding  
6 laws.

7 (c) If working in partnership with an eligible developer,  
8 the corporation shall have sole control of the partnership,  
9 shall keep all books of the partnership, and shall ascertain all  
10 costs of the partnership, including the cost of services  
11 performed by any other partners, and the corporation shall audit  
12 the same. The other partners shall perform services for the  
13 partnership under the direction of the corporation and shall be  
14 reimbursed for all costs relating to the project as certified by  
15 the corporation, including administrative and overhead costs.  
16 Additionally, the other partners, upon transfer of title by the  
17 corporation to the purchaser, shall be entitled to a guaranteed  
18 gross share if the actual cost of the project does not exceed  
19 the original project cost. The gross share shall not exceed  
20 fifteen per cent of the original project cost prorated to the  
21 dwelling units, less any amount subsidized by the State.  
22 Subsidies shall include unrecovered development and land costs



1 and any other subsidized items as defined in rules adopted by  
2 the corporation pursuant to chapter 91. The percentage of the  
3 share shall be determined by the corporation by contract with  
4 the partners based upon the nature of the services rendered by  
5 them. For purposes of this subsection, "original project cost"  
6 means the original budget of a project as approved by the  
7 corporation without modification at a later date.

8 (d) The corporation may require that performance bonds be  
9 posted to the benefit of the State with surety satisfactory to  
10 the corporation guaranteeing performance by the other partners,  
11 or the State may act as a self-insurer requiring security, if  
12 any, from the other partners, as the corporation shall deem  
13 necessary.

14 **§171C-AF Independent development of projects.** (a) In any  
15 county, the corporation may develop or may enter into agreements  
16 to develop housing projects with an eligible developer if in the  
17 corporation's reasonable judgment a project is primarily  
18 designed for lower income housing. The agreement may provide  
19 for the housing to be placed under the control of the  
20 corporation, or to be sold by the corporation, or to be sold to  
21 the corporation as soon as the units are completed and shall  
22 contain terms, conditions, and covenants as the corporation, by



1 rules, deems appropriate. Every agreement shall provide for the  
2 developer to furnish a performance bond in favor of the  
3 corporation, assuring the timely and complete performance of the  
4 housing project. Sureties on the bond shall be satisfactory to  
5 the corporation.

6 (b) The plans and specifications for the housing project  
7 shall:

8 (1) Provide for economically integrated housing by  
9 stipulation and design;

10 (2) Provide for the sale of all dwelling units in fee  
11 simple or in leasehold either to the corporation or to  
12 the purchaser and in all cases subject to all of the  
13 provisions of sections 171C-AL, 171C-AN, and 171C-AO  
14 excepting units sold at market price; and

15 (3) Encompass the use of lands adequately suited to the  
16 size, design, and types of occupancies designated in  
17 subsection (a), properly located for occupancy by the  
18 group for which the project was primarily designed,  
19 properly districted for the use intended prior to the  
20 agreement, and appropriately zoned within an urban  
21 land use district or appropriate in its situation and  
22 surroundings for more intensive or denser zoning.



1 (c) The corporation may accept and approve housing  
2 projects independently initiated by private developers that  
3 fully comply with subsections (a) and (b). The corporation may  
4 review the plans, specifications, districting, and zoning of the  
5 project for the purpose of exempting the project from all  
6 statutes, ordinances, charter provisions, and rules of any  
7 government agency relating to zoning and construction standards  
8 for subdivisions, development, and improvement of land and the  
9 construction, improvement, and sale of dwelling units thereon;  
10 provided that the procedures in section 171C-AC(a)(1), (2), and  
11 (3) have been satisfied.

12 **§171C-AG Private development of projects.** (a) The  
13 corporation may enter into contracts with any eligible bidder to  
14 provide for the construction of a housing project or projects.  
15 Each contract shall provide that the housing project or projects  
16 shall be placed under the control of the corporation as soon as  
17 the unit is available for occupancy. Each contract also shall  
18 provide that the capital stock of the mortgagor (where the  
19 mortgagor is a corporate entity) be transferred to the  
20 corporation when the housing project or projects have been  
21 completed. Each contract shall contain terms and conditions  
22 that the corporation may determine to be necessary to protect



1 the interests of the State. Each contract shall provide for the  
2 furnishing by the contractor of a performance bond and a payment  
3 bond with sureties satisfactory to the corporation, and the  
4 furnishings of the bonds shall be deemed a sufficient compliance  
5 with the provisions of law and no additional bonds shall be  
6 required. Before the corporation shall enter into any contract  
7 as authorized by this section for the construction of a housing  
8 project or projects, it shall invite the submission of  
9 competitive bids after giving public notice in the manner  
10 prescribed by law.

11 (b) Notwithstanding any other law to the contrary, the  
12 corporation may:

13 (1) Acquire the capital stock of mortgagors holding  
14 property covered by a mortgage guarantee under this  
15 part and established by this section; to exercise the  
16 rights as holder of the capital stock during the life  
17 of the mortgage and, upon the termination of the  
18 mortgage, to dissolve the mortgagor;

19 (2) Guarantee the payment of notes or other legal  
20 instruments of the mortgagors; and

21 (3) Make payments thereon.



1 All housing projects placed under the control of the corporation  
2 pursuant to this section shall be deemed to be housing projects  
3 under the jurisdiction of the State.

4 (c) On request by the corporation, the attorney general  
5 shall furnish to the corporation an opinion as to the  
6 sufficiency of title to any property on which a housing project  
7 is proposed for construction, or on which housing projects have  
8 been constructed, under this section. If the opinion of the  
9 attorney general is that the title to the property is good and  
10 sufficient, the corporation is authorized to guarantee, or enter  
11 into a commitment to guarantee, the mortgagee against any losses  
12 that may thereafter arise from adverse claims to the title.  
13 None of the proceeds of any mortgage loan hereafter insured  
14 shall be used for title search and title insurance costs;  
15 provided that, if the corporation determines in the case of any  
16 housing project that the financing of the construction of the  
17 project is impossible unless title insurance is provided, the  
18 corporation may provide for the payment of the reasonable costs  
19 necessary for obtaining title search and title insurance. Any  
20 determination by the corporation under this subsection shall be  
21 set forth in writing, together with the reasons therefor.



1           (d) The State shall be authorized to guarantee the  
2 repayment of one hundred per cent of the principal and interest  
3 of loans from commercial lenders for the purposes of this  
4 section pursuant to rules adopted by the corporation which shall  
5 conform as closely as is possible to the practices of the  
6 Federal Housing Administration in insuring loans under sections  
7 203 and 207 of the United States Housing Act of 1937, as  
8 amended; provided that at no time shall the State's liability,  
9 contingent or otherwise, on the guarantees exceed \$10,000,000.

10           **§171C-AH Interim financing of projects.** (a) The  
11 corporation may provide interim construction loans to eligible  
12 developers. In addition to the rate of interest charged on  
13 interim loans, the corporation may charge loan commitment fees  
14 to be determined by rules adopted by the corporation.

15           (b) The interim loans shall be secured by a duly recorded  
16 primary or secondary mortgage upon the fee simple or leasehold  
17 interest in the land upon which the dwelling units are  
18 constructed, or the corporation may require other security  
19 interests and instruments as it deems necessary to secure the  
20 indebtedness and any other conditions consistent with the  
21 production and marketing of dwelling units at the lowest  
22 possible prices. The corporation may also set the conditions of



1 a loan in a building and loan agreement between the eligible  
2 developer and the corporation to secure the loan and the  
3 performance of the developer to complete the project.

4       **§171C-AI Commercial, industrial, and other uses.** (a) In  
5 connection with the development of any dwelling units under this  
6 part, the corporation may also develop commercial, industrial,  
7 and other properties if it determines that the uses can be an  
8 integral part of the development and can help to preserve the  
9 lifestyles of the purchasers of dwelling units in the  
10 development. The corporation may designate any portions of the  
11 development for commercial, industrial, or other use and shall  
12 have all the powers granted under this part with respect  
13 thereto, including the power to bypass statutes, ordinances,  
14 charter provisions, and rules of any government agency pursuant  
15 to section 171C-AC. For this purpose, the corporation may use  
16 any of the funds authorized under this part.

17       (b) The corporation shall adopt rules that shall provide  
18 the manner in which the uses of properties shall be designated,  
19 and shall provide that any commercial, industrial, or other  
20 properties so developed shall be sold or leased at cost or at  
21 economic rents or sales prices. Sale or lease shall be made at  
22 cost to owners of commercial, industrial, or other facilities



1 displaced by the corporation. All other leases or sales shall  
2 be at economic rents or sales prices determined by the  
3 corporation, after appraisal, to be consistent with rents or  
4 sales prices in similar locations or with similar terms. The  
5 net proceeds of all such sales or leases, less costs to the  
6 corporation, shall be deposited in the dwelling unit revolving  
7 fund.

8 The rules may also provide that during the first twenty  
9 years after its purchase, any commercial, industrial, or other  
10 property so developed and sold may be resold or assigned only to  
11 the corporation at the original purchase price plus the cost of  
12 any improvements made by the purchaser together with simple  
13 interest on all of the purchaser's equity in the property at the  
14 rate of seven per cent a year. Rules may also provide that  
15 ownership of the commercial, industrial, or other property  
16 cannot be separated from ownership of the residential property  
17 in connection with which it was sold or leased.

18 **§171C-AJ Sale; mortgage, agreement of sale, and other**  
19 **instruments.** (a) The corporation shall sell completed dwelling  
20 units or dwelling units that are substantially completed and  
21 habitable, developed and constructed hereunder, to qualified  
22 residents in fee simple, or shall cause them to be leased or



1 rented to qualified residents at a price or rental based on  
2 costs as determined by the corporation. The gross share to the  
3 other partners or contract payments and any amounts subsidized  
4 by the State, including but not limited to the land, need not be  
5 counted as cost so as to increase the price. These costs may be  
6 borne by the State, pursuant to rules adopted by the corporation  
7 subject to reimbursement upon sale as provided in section 171C-  
8 AL.

9 (b) If a qualified purchaser is unable to obtain  
10 sufficient funds at reasonable rates from private lenders, the  
11 corporation, by way of mortgage, agreement of sale, or other  
12 instrument to secure the indebtedness, may loan to the purchaser  
13 up to one hundred per cent of the purchase price. The purchaser  
14 in that event shall execute with the corporation an agreement of  
15 sale, mortgage, or other instrument under the terms of which the  
16 unpaid principal and the interest thereon shall be paid in  
17 monthly installments over a period of not more than forty years.

18 (c) Every mortgage, agreement of sale, other instrument to  
19 secure the indebtedness, or instrument of indebtedness executed  
20 by the corporation may contain other provisions as are usually  
21 found in such instruments and shall provide that the purchaser  
22 may repay the whole or any part of the unpaid balance of the



1 purchase price plus accrued interest at any time without  
2 prepayment penalty.

3 (d) If the purchaser defaults on the payment of any loan,  
4 the corporation shall take all necessary action to collect the  
5 delinquent principal and interest on the loan and may take all  
6 actions allowed to holders of obligations, including the power  
7 to repossess, lease, rent, repair, renovate, modernize, and sell  
8 the property foreclosed, subject to the restrictions described  
9 in this section.

10 (e) The mortgages, agreements of sale, and other  
11 instruments of indebtedness, at the direction of the  
12 corporation, may be assigned to and serviced by commercial banks  
13 and other lending institutions doing business in the State at a  
14 fee of not more than one-half of one per cent of the amount  
15 loaned to the purchaser.

16 (f) Subsections (a) to (e) need not apply to market-priced  
17 dwelling units in an economically integrated housing project,  
18 except as otherwise determined by the developer of the units;  
19 provided that preference shall be given to qualified residents  
20 in the initial sale of market-priced units.

21 **§171C-AK Co-mortgagor.** For purposes of qualifying for a  
22 mortgage loan to finance the purchase of a dwelling unit under



1 this part, a "qualified resident" as defined in section 171C-V  
2 may be assisted by a co-mortgagor who is a family member as  
3 defined by the corporation, who may own other lands in fee  
4 simple or leasehold suitable for dwelling purposes, whose  
5 interest in the dwelling unit to be purchased is limited to no  
6 more than one per cent, and who certifies that the co-mortgagor  
7 does not intend to reside in the dwelling unit. The income and  
8 assets of the co-mortgagor shall not be counted in determining  
9 the eligibility of the "qualified resident" under this part.

10 **§171C-AL Real property; restrictions on transfer; waiver**  
11 **of restrictions.** (a) The following restrictions shall apply to  
12 the transfer of real property developed and sold under this  
13 part, whether in fee simple or leasehold:

14 (1) For a period of ten years after the purchase, whether  
15 by lease, assignment of lease, deed, or agreement of  
16 sale, if the purchaser wishes to transfer title to the  
17 real property, the corporation shall have the first  
18 option to purchase the real property at a price that  
19 shall not exceed the sum of:

20 (A) The original cost to the purchaser, as defined in  
21 rules adopted by the corporation;



1 (B) The cost of any improvements added by the  
2 purchaser, as defined in rules adopted by the  
3 corporation; and

4 (C) Simple interest on the original cost and capital  
5 improvements to the purchaser at the rate of one  
6 per cent a year;

7 (2) The corporation may purchase the real property either:

8 (A) By conveyance free and clear of all mortgages and  
9 liens; or

10 (B) By conveyance subject to existing mortgages and  
11 liens.

12 If the real property is conveyed in the manner  
13 provided in subparagraph (A), it shall be conveyed to  
14 the corporation only after all mortgages and liens are  
15 released. If the real property is conveyed in the  
16 manner provided in subparagraph (B), the corporation  
17 shall acquire the property subject to any first  
18 mortgage created for the purpose of securing the  
19 payment of a loan of funds expended solely for the  
20 purchase of the real property by the seller; and any  
21 mortgage or lien created for any other purpose



1 provided that the corporation has previously consented  
2 to it in writing.

3 The corporation's interest created by this  
4 section shall constitute a statutory lien on the real  
5 property and shall be superior to any other mortgage  
6 or lien except for:

7 (i) Any first mortgage created for the purpose  
8 of securing the payment of a loan of funds  
9 expended solely for the purchase of the real  
10 property by the seller;

11 (ii) Any mortgage insured or held by a federal  
12 housing agency; and

13 (iii) Any mortgage or lien created for any other  
14 purpose; provided that the corporation has  
15 previously consented to it in writing.

16 The amount paid by the corporation to the seller shall  
17 be the difference, if any, between the purchase price  
18 determined by paragraph (1) (A) to (C), and the total  
19 of the outstanding principal balances of the mortgages  
20 and liens assumed by the corporation;

21 (3) A purchaser may refinance real property developed and  
22 sold under this part; provided that the purchaser



1 shall not refinance the real property within ten years  
2 from the date of purchase for an amount in excess of  
3 the purchase price as determined by paragraph (1) (A)  
4 to (C); provided further that the purchaser shall  
5 obtain the corporation's written consent if any  
6 restriction on the transfer of the real property  
7 remains applicable;

8 (4) After the end of the tenth year from the date of  
9 initial purchase or execution of an agreement of sale,  
10 the purchaser may sell the real property and sell or  
11 assign the property free from any price restrictions;  
12 provided that the purchaser shall be required to pay  
13 to the corporation the sum of:

14 (A) The balance of any mortgage note, agreement of  
15 sale, or other amount owing to the corporation;

16 (B) Any subsidy or deferred sales price made by the  
17 corporation in the acquisition, development,  
18 construction, and sale of the real property, and  
19 any other amount expended by the corporation not  
20 counted as costs under section 171C-AJ but  
21 charged to the real property by good accounting  
22 practice as determined by the corporation whose



1 books shall be prima facie evidence of the  
2 correctness of the costs;

3 (C) Interest on the subsidy or deferred sales price,  
4 if applicable, and any other amount expended at  
5 the rate of seven per cent a year computed as to  
6 the subsidy or deferred sales price, if  
7 applicable, from the date of purchase or  
8 execution of the agreement of sale, and as to any  
9 amount expended, from the date of expenditure;  
10 provided that the computed interest shall not  
11 extend beyond thirty years from the date of  
12 purchase or execution of the agreement of sale of  
13 the real property. If any proposed sale or  
14 transfer will not generate an amount sufficient  
15 to pay the corporation the sum as computed under  
16 this paragraph, the corporation shall have the  
17 first option to purchase the real property at a  
18 price that shall not exceed the sum as computed  
19 under paragraphs (1) and (2); and

20 (D) The corporation's share of appreciation in the  
21 real property as determined under rules adopted  
22 pursuant to chapter 91, when applicable;



- 1           (5) Notwithstanding any provision in this section to the  
2           contrary, pursuant to rules adopted by the  
3           corporation, the subsidy or deferred sales price  
4           described in paragraph (4)(B) and any interest accrued  
5           pursuant to paragraph (4)(C) may be paid, in part or  
6           in full, at any time; and
- 7           (6) Notwithstanding any provision in this section to the  
8           contrary, the corporation's share of appreciation in  
9           the real property described in paragraph (4)(D):
- 10           (A) Shall apply when the sales price of the real  
11           property that is developed and sold under this  
12           part is less than the then-current, unencumbered,  
13           fair market value of the real property as  
14           determined by a real property appraisal obtained  
15           prior to the closing of the sale;
- 16           (B) Shall be a restriction that runs with the land  
17           until it is paid in full and released by the  
18           corporation, or extinguished pursuant to  
19           subsection (e); and
- 20           (C) May be paid, in part or in full, at any time  
21           after recordation of the sale.



1           (b) For a period of ten years after the purchase, whether  
2 by lease, assignment of lease, deed, or agreement of sale, if  
3 the purchaser wishes to transfer title to the real property, and  
4 if the corporation does not exercise the option to purchase the  
5 real property as provided in subsection (a), then the  
6 corporation shall require the purchaser to sell the real  
7 property to a "qualified resident" as defined in section 171C-V,  
8 and upon the terms that preserve the intent of this section and  
9 sections 171C-AN and 171C-AO, and in accordance with rules  
10 adopted by the corporation.

11           (c) The corporation may waive the restrictions prescribed  
12 in subsection (a) or (b) if:

13           (1) The purchaser wishes to transfer title to the real  
14 property by devise or through the laws of descent to a  
15 family member who would otherwise qualify under rules  
16 established by the corporation;

17           (2) The sale or transfer of the real property would be at  
18 a price and upon terms that preserve the intent of  
19 this section without the necessity of the State  
20 repurchasing the real property; provided that, in this  
21 case, the purchaser shall sell the real property and  
22 sell or assign the real property to a person who is a



1 "qualified resident" as defined in section 171C-V; and  
2 provided further that the purchaser shall pay to the  
3 corporation its share of appreciation in the real  
4 property as determined in rules adopted pursuant to  
5 chapter 91, when applicable; or

6 (3) The sale or transfer is of real property subject to a  
7 sustainable affordable lease as defined in section  
8 516-1.

9 (d) The corporation may release the restrictions  
10 prescribed in subsection (a) or (b) if the real property is  
11 financed under a federally subsidized mortgage program and the  
12 restrictions would jeopardize the federal government's ability  
13 to recapture any interest credit subsidies provided to the  
14 homeowner.

15 (e) The restrictions prescribed in this section and  
16 sections 171C-AN to 171C-AP shall be automatically extinguished  
17 and shall not attach in subsequent transfers of title when a  
18 mortgage holder or other party becomes the owner of the real  
19 property pursuant to a mortgage foreclosure, foreclosure under  
20 power of sale, or a conveyance in lieu of foreclosure after a  
21 foreclosure action is commenced; provided that the mortgage is  
22 the initial purchase money mortgage, or that the corporation



1 consented to and agreed to subordinate the restrictions to the  
2 mortgage when originated, if the mortgage is not the initial  
3 purchase money mortgage; or when a mortgage is assigned to a  
4 federal housing agency. Any law to the contrary  
5 notwithstanding, a mortgagee under a mortgage covering real  
6 property or leasehold interest encumbered by the first option to  
7 purchase in favor of the corporation, prior to commencing  
8 mortgage foreclosure proceedings, shall notify the corporation  
9 in writing of:

- 10 (1) Any default of the mortgagor under the mortgage within  
11 ninety days after the occurrence of the default; and  
12 (2) Any intention of the mortgagee to foreclose the  
13 mortgage under chapter 667 forty-five days prior to  
14 commencing mortgage foreclosure proceedings;

15 provided that the mortgagee's failure to provide written notice  
16 to the corporation shall not affect the mortgage holder's rights  
17 under the mortgage. The corporation shall be a party to any  
18 foreclosure action, and shall be entitled to its share of  
19 appreciation in the real property as determined under this part  
20 in lien priority when the payment is applicable, and if  
21 foreclosure occurs within the ten-year period after the  
22 purchase, the corporation shall also be entitled to all proceeds



1 remaining in excess of all customary and actual costs and  
2 expenses of transfer pursuant to default, including liens and  
3 encumbrances of record; provided that the person in default  
4 shall be entitled to an amount that shall not exceed the sum of  
5 amounts determined pursuant to subsection (a)(1)(B) and (C).

6 (f) The provisions of this section shall be incorporated  
7 in any deed, lease, agreement of sale, or any other instrument  
8 of conveyance issued by the corporation. In any sale by the  
9 corporation of real property for which a subsidy or deferred  
10 sales price was made by the corporation, the amount of the  
11 subsidy or deferred sales price described in subsection  
12 (a)(4)(B), a description of the cost items that constitute the  
13 subsidy or deferred sales price, and the conditions of the  
14 subsidy or deferred sales price shall be clearly stated at the  
15 beginning of the contract document issued by the corporation.  
16 In any sale in which the corporation's share of appreciation in  
17 real property is a restriction, the terms of the shared  
18 appreciation equity program shall be clearly stated and included  
19 as an exhibit in any deed, lease, agreement of sale, or any  
20 other instrument of conveyance.

21 (g) This section need not apply to market-priced units in  
22 an economically integrated housing project, except as otherwise



1 determined by the developer of the units; provided that  
2 preference shall be given to qualified residents in the initial  
3 sale of market-priced units.

4 (h) The corporation is authorized to waive any of the  
5 restrictions set forth in this section in order to comply with  
6 or conform to requirements set forth in federal law or  
7 regulations governing mortgage insurance or guarantee programs  
8 or requirements set forth by federally chartered secondary  
9 mortgage market participants.

10 **§171C-AM Exception of current owners in corporation**  
11 **projects.** The corporation may allow a person who is a current  
12 owner of a dwelling unit in a multifamily housing project  
13 sponsored by the corporation to apply for the purchase of a  
14 larger dwelling unit in a project sponsored by the corporation  
15 if the applicant's current family size exceeds the permissible  
16 family size for the applicant's current dwelling unit, as  
17 determined by prevailing county building or housing codes. The  
18 applicant shall be required to sell the applicant's current  
19 dwelling unit back to the corporation. Notwithstanding any law  
20 to the contrary, any applicant, as it pertains to for-sale  
21 housing, shall be a "qualified resident" who:

22 (1) Is a citizen of the United States or a resident alien;



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- 1           (2) Is at least eighteen years of age;
- 2           (3) Is domiciled in the State and shall physically reside
- 3                 in the dwelling unit purchased under this section;
- 4           (4) In the case of purchase of real property in fee simple
- 5                 or leasehold, has a gross income sufficient to qualify
- 6                 for the loan to finance the purchase; and
- 7           (5) Except for the applicant's current residence, meets
- 8                 the following qualifications:
  - 9                 (A) Is a person who either oneself or together with
  - 10                     the person's spouse or a household member, does
  - 11                     not own a majority interest in fee simple or
  - 12                     leasehold lands suitable for dwelling purposes,
  - 13                     or a majority interest in lands under any trust
  - 14                     agreement or other fiduciary arrangement in which
  - 15                     another person holds the legal title to the land;
  - 16                     and
  - 17                 (B) Is a person whose spouse or a household member
  - 18                     does not own a majority interest in fee simple or
  - 19                     leasehold lands suitable for dwelling purposes,
  - 20                     or a majority interest in lands under any trust
  - 21                     agreement or other fiduciary arrangement in which
  - 22                     another person holds the legal title to the land,



1                   except when husband and wife are living apart  
2                   under a decree of separation from bed and board  
3                   issued by the family court pursuant to section  
4                   580-71.

5           **§171C-AN Real property; restrictions on use.** (a) Real  
6 property purchased under this part shall be occupied by the  
7 purchaser at all times during the ten-year restriction period  
8 set forth in section 171C-AL, except in hardship circumstances  
9 where the inability to reside on the property arises out of  
10 unforeseeable job or military transfer, a temporary educational  
11 sabbatical, serious illness of the person, or in other hardship  
12 circumstances as determined by the corporation on a case-by-case  
13 basis.

14           The corporation may waive the owner-occupancy requirement  
15 for a total of not more than ten years after the purchase of the  
16 dwelling, during which time the dwelling unit may be rented or  
17 leased. Waivers may be granted only to qualified residents who  
18 have paid resident state income taxes during all years in which  
19 they occupied the dwelling, who continue to pay resident state  
20 income taxes during the waiver period, and whose inability to  
21 reside on the property does not stem from a natural disaster.  
22 The ten-year owner-occupancy requirement shall be extended by



1 one month for every month or fraction thereof that the owner-  
2 occupancy requirement is waived.

3 The corporation shall adopt rules under chapter 91 to  
4 implement the letter and spirit of this subsection and to  
5 prescribe necessary terms and conditions. The rules shall  
6 include:

- 7 (1) Application and approval procedures for the waivers;
- 8 (2) Exceptions authorized by this subsection;
- 9 (3) The amounts of rents that may be charged by persons  
10 allowed to rent or lease a dwelling unit; and
- 11 (4) Schedules of fees needed to cover administrative  
12 expenses and attorneys' fees.

13 No qualified resident who fails to reoccupy a dwelling unit  
14 after any waiver period shall receive more than the maximum to  
15 which the person would be entitled under section 171C-AL. Any  
16 person who disagrees with the corporation's determination under  
17 this section shall be entitled to a contested case proceeding  
18 under chapter 91.

19 (b) From time to time the corporation may submit a  
20 verification of owner-occupancy form to the purchaser. Failure  
21 to respond to the verification in a timely manner or violation  
22 of subsection (a) shall be sufficient reason for the



1 corporation, at its option, to purchase the unit as provided in  
2 section 171C-AL(a)(1), (2), or (4), as applicable.

3 (c) Any deed, lease, agreement of sale, or other  
4 instrument of conveyance issued by the corporation shall  
5 expressly contain the restrictions on use prescribed in this  
6 section.

7 (d) The restrictions prescribed in subsection (a) shall  
8 terminate and shall not attach in subsequent transfers of title  
9 if the corporation releases the restrictions when the real  
10 property is financed under a federally subsidized mortgage  
11 program.

12 (e) Subsections (a) to (c) need not apply to market-priced  
13 units in an economically integrated housing project, except as  
14 otherwise determined by the developer of the units; provided  
15 that preference shall be given to qualified residents in the  
16 initial sale of market-priced units.

17 (f) The corporation shall be authorized to waive any of  
18 the restrictions set forth in this section in order to comply  
19 with or conform to requirements set forth in federal law or  
20 regulations governing mortgage insurance or guarantee programs  
21 or requirements set forth by federally chartered secondary  
22 mortgage market participants.



1           §171C-AO Restrictions on use, sale, and transfer of real  
2 **property; effect of amendment or repeal.** (a) Restrictions on  
3 the use, sale, and transfer of real property shall be made as  
4 uniform as possible in application to purchasers of all real  
5 property, and restrictions shall be conformed with agreement of  
6 the purchaser to reflect change or repeal made by any subsequent  
7 legislative act, ordinance, rule, or regulation. Purchasers  
8 shall be permitted at their election to sell or transfer real  
9 property subject to restrictions in effect at the time of their  
10 sale or transfer; provided that the corporation is paid its  
11 share of appreciation in the real property as determined by  
12 rules adopted pursuant to chapter 91, as applicable.

13           (b) The corporation, any department of the State, or any  
14 county housing agency maintaining restrictions, through  
15 contract, deed, other instrument, or by rule, shall notify  
16 purchasers of any substantial change in restrictions made by  
17 law, ordinance, rule, or regulation not more than one hundred  
18 eighty days after a change in restrictions. The notice shall  
19 clearly state the enacted or proposed new provisions, the date  
20 or dates upon which they are to be effective, and offer to each  
21 purchaser of real property constructed and sold prior to the  
22 effective date an opportunity to modify the existing contract or



1 other instrument to incorporate the most recent provisions.  
2 Public notice shall also be given at least three times in the  
3 State for state agencies and at least three times in a county  
4 for county agencies.

5 (c) For all purchasers of real property prior to June 25,  
6 1990, where the restrictions on use and transfer of property  
7 apply for a period of time, the period of time shall not be  
8 increased beyond the date calculated from the date of original  
9 purchase.

10 (d) No purchaser shall be entitled to modify the  
11 restrictions on use, transfer, or sale of the real property,  
12 without the written permission of the holder of a duly-recorded  
13 first mortgage on the dwelling unit and the owner of the fee  
14 simple or leasehold interest in the land underlying the unit,  
15 unless the holder of the first mortgage or the owner is an  
16 agency of the State or its political subdivisions.

17 (e) This section shall apply to all real property  
18 developed, constructed, and sold pursuant to this part and  
19 similar programs in the State or its political subdivisions and  
20 which are sold on the condition that the purchaser accepts  
21 restrictions on the use, sale, or transfer of interest in the  
22 real property purchased.



1 (f) The provisions of this section shall be incorporated  
2 in any deed, lease, instrument, rule, or regulation relating to  
3 restrictions on use, sale, or transfer of dwelling units,  
4 entered into after June 20, 1977.

5 (g) The restrictions of this section shall terminate as to  
6 a particular real property and shall not attach in subsequent  
7 transfers of title of that real property if the corporation  
8 releases the restrictions when the real property is financed  
9 under a federally subsidized mortgage program.

10 **§171C-AP Corporation's right to repurchase or rent real**  
11 **property; authority to seek recovery.** (a) Notwithstanding any  
12 provisions to the contrary, during the period in which the  
13 restrictions in section 171C-AL are in effect, the following  
14 provisions shall apply when dwelling units developed,  
15 constructed, financed, purchased, or sold pursuant to Act 105,  
16 Session Laws of Hawaii 1970, as amended, are found to have a  
17 substantial construction defect, or when vacant lands developed,  
18 financed, purchased, or sold pursuant to Act 105, Session Laws  
19 of Hawaii 1970, as amended, are found to have a substantial soil  
20 defect:

21 (1) The corporation shall have the right, but not the  
22 obligation, to repurchase a dwelling unit or land that



1 has a defect, regardless of whether or not the owner  
2 wishes to sell; provided that those repurchases shall  
3 be in accordance with the following provisions:

4 (A) The corporation may repurchase a dwelling unit or  
5 land if:

6 (i) The dwelling unit or land is deemed unsafe  
7 by the county building department;

8 (ii) The defects are irreparable; or

9 (iii) In the opinion of the corporation, the  
10 defect is of such magnitude that it will  
11 take longer than one year to repair;

12 (B) The corporation's purchase price shall be based  
13 on the formula set forth in section 171C-  
14 AL(a)(1);

15 (C) After repairs to the unit or land are completed,  
16 the former owner shall have the first right of  
17 refusal to repurchase the real property;

18 (D) The corporation shall give preference in all  
19 other projects of the corporation to all owners  
20 whose real property is repurchased by the  
21 corporation under this subsection, and the



1 corporation may waive certain eligibility  
2 requirements for these owners; and  
3 (E) If the corporation exercises its right to  
4 repurchase defective real property against an  
5 owner's wishes pursuant to this paragraph, the  
6 corporation shall provide relocation assistance  
7 to that owner as provided in chapter 111;

8 (2) If the corporation does not opt to repurchase  
9 defective real property, the corporation shall also  
10 have the right, but not the obligation, to enter into  
11 a contract to repair a dwelling unit which has a  
12 construction defect or land which has a soil defect.  
13 During the period that the real property is being  
14 repaired, the corporation shall rent that real  
15 property from the owner for an amount not to exceed  
16 the owner's present mortgage payments; and

17 (3) If the corporation does not execute either a contract  
18 to repurchase the real property or an agreement to  
19 repair and rent the real property within ninety days  
20 after written notice is given to the corporation of a  
21 construction defect, the owner may pursue any other  
22 available legal remedies.



1 For the purposes of this section:

2 "Substantial construction defect" includes but is not  
3 limited to:

4 (1) Structural defects such as shifting foundations and  
5 bearing walls;

6 (2) Structural deficiencies due to the use of defective or  
7 undersized materials; and

8 (3) Defects affecting the health and safety of occupants.

9 "Substantial soil defect" means shifting, sliding, or  
10 sinking ground of such degree as to affect the dwelling unit on  
11 the land or the health and safety of the occupants of the land.

12 (b) If moneys are expended by the corporation pursuant to  
13 subsection (a)(1) and (2), the corporation shall have the  
14 authority to take necessary legal action against the developer,  
15 co-developer, general contractor, and their subcontractors,  
16 consultants, and other parties notwithstanding chapter 657.

17 (c) If real property developed, constructed, financed,  
18 purchased, or sold pursuant to Act 105, Session Laws of Hawaii  
19 1970, as amended, is found to have a substantial construction or  
20 soil defect, the corporation shall have the right, but not the  
21 obligation, to file or cause to be filed a legal action on  
22 behalf of or by the owner or lessee of the real property for the



1 recovery of damages or for injunctive relief against the  
2 developer, co-developer, general contractor, and their  
3 subcontractors, consultants, and other parties notwithstanding  
4 chapter 657. Additionally, notwithstanding any provision of  
5 rule 23 of the Hawaii rules of civil procedure, the corporation  
6 may file or cause to be filed a legal action brought under this  
7 subsection as a class action on behalf of or by at least two  
8 owners or lessees of real property that have similar substantial  
9 construction or soil defects.

10 (d) Nothing in this chapter shall be construed to diminish  
11 the rights or remedies of the corporation otherwise provided  
12 under common law, by law, or by contract.

13 (e) The corporation shall adopt rules pursuant to chapter  
14 91 necessary for the purposes of this section.

15 (f) This section shall not apply to a particular real  
16 property and shall not apply after subsequent transfers of title  
17 of that real property if the corporation releases the  
18 restrictions when the real property is financed under a  
19 federally subsidized mortgage program.

20 (g) If any subsection, sentence, clause, or phrase of this  
21 section, or its application to any person or transaction or  
22 other circumstances, is for any reason held to be



1 unconstitutional or invalid, the remaining subsections,  
2 sentences, clauses, and phrases of this section, or the  
3 application of this section to other persons or transactions or  
4 circumstances, shall not be affected. The legislature hereby  
5 declares that it would have passed this section and each  
6 subsection, clause, or phrase thereof, irrespective of the fact  
7 that any one or more subsections, sentences, clauses, or phrases  
8 of this section, or its application to any person or transaction  
9 or other circumstance, may be declared unconstitutional or  
10 invalid.

11 **§171C-AQ Nonprofit organizations and government agencies.**

12 (a) The corporation may retain dwelling units in a project to  
13 the extent it determines necessary and appropriate, for sale,  
14 lease, or rental to nonprofit organizations and government  
15 agencies. The dwelling units shall be used by the nonprofit  
16 organizations and government agencies to provide housing  
17 opportunities and related support services to special needs  
18 individuals or families. These purposes include but are not  
19 limited to the use of dwelling units for group homes and  
20 congregate living facilities and for government employees in  
21 special situations. The corporation, in consultation with other  
22 appropriate government agencies, shall adopt rules pursuant to



1 chapter 91 necessary to implement this subsection, including but  
2 not limited to rules relating to the eligibility and  
3 qualifications of nonprofit organizations and government  
4 agencies; the eligibility and qualifications of clients of  
5 nonprofit organizations and government agencies to whom housing  
6 opportunities may be made available; and restrictions on the  
7 use, sale, or transfer of, and authorizing repurchase of,  
8 dwelling units sold, leased, or rented pursuant to this  
9 subsection.

10 The corporation, to the extent appropriate, shall have the  
11 same powers with respect to nonprofit organizations and  
12 government agencies purchasing, leasing, or renting dwelling  
13 units as the corporation has with respect to qualified residents  
14 purchasing, leasing, or renting dwelling units.

15 (b) In connection with the development of any residential  
16 units under this part, the corporation may provide for the  
17 development of appropriate community facilities. The  
18 corporation may:

19 (1) Sell, lease, or rent vacant land or land with site  
20 improvements to nonprofit organizations or government  
21 agencies to develop community facilities; or



1           (2) Develop, on behalf of the State or with an eligible  
2           developer, the community facilities and then sell,  
3           lease, rent, or otherwise transfer or make available  
4           these facilities to nonprofit organizations or  
5           government agencies.

6           The corporation shall adopt rules pursuant to chapter 91  
7           necessary to implement this subsection.

8           **§171C-AR Rate of wages for laborers and mechanics.** The  
9           corporation shall require an eligible bidder or eligible  
10          developer of a housing project developed under this part to  
11          comply with the requirements of section 104-2 for those laborers  
12          and mechanics hired to work on that housing project; provided  
13          that this section shall not apply to a housing project developed  
14          under this subpart if the entire cost of the project is less  
15          than \$500,000 and the eligible bidder or eligible developer is a  
16          private nonprofit organization.

17          **§171C-AS Land leases to nonprofit organizations providing**  
18          **affordable housing.** (a) Notwithstanding any provision to the  
19          contrary, the corporation, pursuant to section 171C-4(a)(29),  
20          may lease land to any qualified nonprofit organization providing  
21          affordable housing, under the following terms and conditions:



- 1 (1) Leases shall be for ninety-nine years at \$1 per year  
2 per parcel; and
- 3 (2) The instrument of lease shall include provisions,  
4 enforceable by the corporation, that the land shall:
- 5 (A) Be used only for providing affordable housing  
6 through long-term, renewable, and transferable  
7 leases or other means that are in accordance with  
8 rules adopted by the corporation under chapter  
9 91; and
- 10 (B) Revert back to the corporation if:
- 11 (i) The land is used for any purpose other than  
12 as provided under subparagraph (A); or
- 13 (ii) The qualified nonprofit organization ceases  
14 operations.
- 15 (b) For the purposes of this section:
- 16 "Affordable housing" means housing that is affordable to  
17 households with incomes at or below one hundred forty per cent  
18 of the median family income as determined by the United States  
19 Department of Housing and Urban Development.
- 20 "Qualified nonprofit organization" means any private entity  
21 that is organized and operated:



1 (1) In accordance with section 501(c)(3) of the Internal  
2 Revenue Code of 1986, as amended; and

3 (2) For the purpose of providing affordable housing  
4 through long-term, renewable, and transferable leases.

5 **§171C-AT Leases; self-help housing.** (a) The corporation  
6 may lease parcels that it deems suitable for affordable housing  
7 at \$1 per year for up to fifty years to organizations or  
8 community trusts to develop the parcel with ownership units  
9 through self-help development.

10 (b) The corporation may extend or modify the fixed rental  
11 period of the lease or extend the term of the lease.

12 (c) Parcels leased under this section may be transferred  
13 or assigned by devise, bequest, or intestate succession, and may  
14 be sublet with the approval of the corporation.

15 **§171C-AU Affordable rental housing development program.**

16 (a) There is established the affordable rental housing  
17 development program under the corporation.

18 (b) The purpose of this program shall be to preserve  
19 affordable rental housing units.

20 (c) For the purposes of this section, activities eligible  
21 for assistance from the affordable rental housing development  
22 program shall include rehabilitation, acquisition, or



1 preservation of multifamily rental housing units for persons and  
2 families with incomes at or below eighty per cent of the median  
3 family income, as determined by the United States Department of  
4 Housing and Urban Development.

5 (d) The corporation shall identify properties whose  
6 contracts with either the United States Department of Housing  
7 and Urban Development or the United States Department of  
8 Agriculture are set to expire on or before January 1, 2014, and  
9 the corporation shall contact the project owners to initiate  
10 negotiations to renew or preserve the existing subsidy  
11 contracts; provided that:

12 (1) Nonprofit organizations shall be given priority to  
13 take over expiring subsidy contracts; and

14 (2) Nonprofit organizations shall be given priority over  
15 for-profit organizations, if federal government funds  
16 are needed for the acquisition or rehabilitation of a  
17 project.

18 **§171C-AV Additional powers.** The powers conferred upon the  
19 corporation by this subpart shall be in addition and  
20 supplemental to the powers conferred by any other law, and  
21 nothing in this subpart shall be construed as limiting any  
22 powers, rights, privileges, or immunities so conferred.



1 C. Financing Programs

2 1. General Provisions

3 **§171C-AW Bonds; authorization.** (a) The corporation, with

4 the approval of the governor, may issue from time to time bonds  
5 (including refunding bonds to pay, retire, or provide for the  
6 retirement of bonds previously issued by the corporation) in  
7 amounts not exceeding the total amount of bonds authorized to be  
8 issued by the legislature for any of its corporate purposes.

9 Bonds may also be issued in connection with any program whose  
10 primary purpose is to provide housing for active or retired  
11 United States military personnel, their families, and other  
12 persons authorized by any branch of the United States military  
13 to reside in the housing; provided that the aggregate principal  
14 amount of all outstanding bonds issued by the corporation for  
15 military housing projects shall total no more than  
16 \$2,000,000,000.

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

19 (c) The bonds shall be issued in the name of the  
20 corporation, and not in the name of the State. The final



1 maturity date of the revenue bonds may be any date not exceeding  
2 sixty years from the date of issuance.

3 (d) The corporation may issue such types of bonds as it  
4 may determine, including without limitation bonds payable from  
5 and secured, in whole or in part, by:

6 (1) Income and revenues derived from the housing project  
7 or projects financed from the proceeds of bonds;

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

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

15 (4) Receipts derived from any payment for "eligible  
16 loans", "eligible improvement loans", or "eligible  
17 project loans", as the terms are defined in  
18 subdivision 2, or any other agreement or agreements  
19 entered into for a "housing loan program", as the term  
20 is defined in subdivision 2 or 4, or any other loan  
21 program administered by the corporation and financed  
22 from the proceeds of bonds;



1 (5) Receipts derived from loans to mortgage lenders or  
2 from the payment on account of principal of or  
3 interest on loans purchased from mortgage lenders, as  
4 provided in subdivision 2 which loans to mortgage  
5 lenders or loans purchased are financed from the  
6 proceeds of bonds;

7 (6) Moneys in any funds or accounts established in  
8 connection with the issuance of bonds, and any  
9 earnings thereon;

10 (7) Proceeds derived from any insurance;

11 (8) Income and revenues of the corporation generally; or

12 (9) Any combination of paragraphs (1) through (8).

13 The term "income and revenues" includes income and revenues  
14 derived from the sale of land or from both land and improvements  
15 thereon serviced from infrastructure financed from the proceeds  
16 of bonds as permitted by this subpart. The provisions of this  
17 subsection are in addition and supplemental to part III of  
18 chapter 39.

19 (e) Any of the bonds may be additionally secured by a  
20 pledge of any revenues or a mortgage of any housing project,  
21 other property of the corporation, the pledge or assignment of  
22 any loans or other agreements, or any note or other undertaking,



1 obligation, or property held by or on behalf of the corporation  
2 to secure loans made from the proceeds of bonds for any "housing  
3 loan program", as the term is defined in subdivision 2 or 4, or  
4 any other loan program administered by the corporation and  
5 financed from the proceeds of bonds.

6 (f) Any pledge made by the corporation shall create a  
7 perfected security interest in the revenues, moneys, or property  
8 so pledged and thereafter received by the corporation from and  
9 after the time that a financing statement with respect to the  
10 revenues, moneys, or property so pledged and thereafter received  
11 shall be filed with the bureau of conveyances. Upon the filing,  
12 the revenues, moneys, or property so pledged and thereafter  
13 received by the corporation shall immediately be subject to the  
14 lien of the pledge without any physical delivery thereof or  
15 further act, and the lien of any such pledge shall be prior to  
16 the lien of all parties having claims of any kind in tort,  
17 contract, or otherwise against the corporation, irrespective of  
18 whether the parties have notice thereof. This section shall  
19 apply to any financing statement heretofore or hereafter filed  
20 with the bureau of conveyances with respect to any pledge made  
21 to secure revenue bonds issued under this subpart.



1           (g) Any housing project or projects authorized by, and  
2 undertaken pursuant to, this part shall constitute an  
3 "undertaking" within the meaning of that term as defined and  
4 used in part III, chapter 39. Any loan program authorized by,  
5 and undertaken pursuant to, this part, including without  
6 limitation "housing loan programs" defined in and authorized by  
7 subdivisions 2 and 4, shall constitute a "loan program" within  
8 the meaning of that term as defined and used in part III,  
9 chapter 39. The corporation shall constitute a "department" and  
10 the board shall constitute a "governing body" within the meaning  
11 of those terms as defined and used in part III, chapter 39.

12           (h) Neither the members of the board nor any person  
13 executing the bonds shall be liable personally on the bonds by  
14 reason of the issuance thereof.

15           **§171C-AX Issuance of bonds for the development of**  
16 **infrastructure.** Without limiting section 171C-AW, the  
17 corporation, pursuant to and in accordance with this  
18 subdivision, is hereby authorized to issue bonds for the purpose  
19 of financing the development of infrastructure on land owned by  
20 the corporation.

21           **§171C-AY Issuance of bonds for the preservation of**  
22 **low-income housing projects.** The corporation, pursuant to and



1 in accordance with this subdivision, may issue bonds to purchase  
2 low-income housing projects financed by the United States  
3 Department of Housing and Urban Development to preserve these  
4 projects. Upon the payment of all interest and principal  
5 stemming from the issuance of these bonds, the corporation may  
6 transfer title to these projects to qualified nonprofit  
7 organizations. Nothing in this section shall be construed to:

8 (1) Prohibit qualified nonprofit or for-profit  
9 organizations from operating these projects on behalf  
10 of the corporation, or providing for the repair and  
11 maintenance of these projects, before the payment of  
12 all interest and principal stemming from the issuance  
13 of these bonds; or

14 (2) Prohibit the corporation from transferring title to  
15 these projects to qualified nonprofit or for-profit  
16 organizations if these bonds can be secured to the  
17 satisfaction of the bondholders.

18 As used in this section, "qualified nonprofit organization"  
19 includes community-based nonprofit organizations and resident  
20 councils.

21 **§171C-AZ Bonds; interest rate, price, and sale.** (a) The  
22 bonds shall bear interest at rates payable at times that the



1 corporation, with the approval of the governor, may determine  
2 except for deeply discounted bonds that are subject to  
3 redemption or retirement at their accreted value; provided that  
4 the discounted value of the bonds shall not exceed ten per cent  
5 of any issue; and provided further that no bonds may be issued  
6 without the approval of the director of finance and the  
7 governor. Notwithstanding any other law to the contrary, the  
8 corporation, subject to the approval of the director of finance  
9 and the governor, may issue bonds pursuant to section 171C-AX,  
10 in which the discounted value of the bonds exceeds ten per cent  
11 of the issue.

12 (b) The corporation may include the costs of undertaking  
13 and maintaining any housing project or projects or loan program  
14 for which the bonds are issued in determining the principal  
15 amount of bonds to be issued. In determining the costs of  
16 undertaking and maintaining the housing projects, the  
17 corporation may include the cost of studies and surveys;  
18 insurance premiums; underwriting fees; financial consultant,  
19 legal, accounting, and other services incurred; reserve account,  
20 trustee, custodian, and rating agency fees; and interest on the  
21 bonds for a period determined by the corporation, or the



1 estimated expenditure of borrowed funds for any loan program for  
2 which the bonds are issued.

3       **§171C-AAA Trustee; designation, duties.** (a) The  
4 corporation may designate a trustee for each issue of bonds  
5 secured under the same trust indenture; provided that the  
6 trustee shall be approved by the director of finance.

7       (b) The trustee shall be authorized by the corporation to  
8 receive and receipt for, hold, and administer the proceeds of  
9 the bonds, and to apply the proceeds to the purposes for which  
10 the bonds are issued.

11       (c) The trustee shall also be authorized by the  
12 corporation to hold and administer any housing project bond  
13 special funds and housing loan program revenue bond special  
14 funds established pursuant to section 171C-AAF. The trustee may  
15 receive and receipt for, hold, and administer the revenues  
16 derived by the corporation from any housing project or projects  
17 or loan program for which the bonds are issued or the projects  
18 or loan programs pledged to the payment of the bonds. The  
19 trustee shall apply the revenues to the payment of the cost of  
20 administering, operating, and maintaining the housing project or  
21 projects or loan program; to pay the principal of and the  
22 interest on the bonds; to the establishment of reserves; and to



1 other purposes as may be authorized in the proceedings providing  
2 for the issuance of the bonds.

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

5 (1) The payment of the principal of and interest on the  
6 bonds; and

7 (2) The purchase, registration, transfer, exchange, and  
8 redemption of the bonds.

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

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



1           **§171C-AAB Trust indenture.** (a) A trust indenture may  
2 contain covenants and provisions authorized by part III of  
3 chapter 39, and as deemed necessary or convenient by the  
4 corporation for the purposes of this subpart.

5           (b) A trust indenture may allow the corporation to pledge  
6 and assign to the trustee agreements related to the housing  
7 project or projects or loan program and the rights of the  
8 corporation thereunder, including the right to receive revenues  
9 thereunder and to enforce the provision thereof.

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

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

16           (1) The investment of the proceeds of the bonds, the  
17 investment of any reserve for the bonds, the  
18 investment of the revenues of the housing project or  
19 system of housing projects or the loan program, and  
20 the use and application of the earnings from  
21 investments; and



1           (2) The terms and conditions upon which the holders of the  
2           bonds or any portion of them or any trustee thereof  
3           may institute proceedings for the enforcement of any  
4           agreement or any note or other undertaking,  
5           obligation, or property securing the payment of the  
6           bonds and the use and application of the moneys  
7           derived therefrom.

8           (e) A trust indenture may also contain provisions deemed  
9           necessary or desirable by the corporation to obtain or permit,  
10          by grant, interest subsidy, or otherwise, the participation of  
11          the federal government in the housing projects or loan programs  
12          or in the financing of the costs of administering, operating, or  
13          maintaining the housing projects or loan programs.

14          **§171C-AAC Investment of reserves, etc.** The corporation  
15          may invest any funds held in reserves or sinking funds or any  
16          funds not required for immediate disbursement, including the  
17          proceeds of bonds, in property or securities in which the  
18          director of finance may legally invest, as provided in section  
19          36-21, except that funds held outside the state treasury may be  
20          invested for terms not to exceed thirty-five years. No  
21          provisions with respect to the acquisition, operation, or  
22          disposition of property by other government agencies shall be



1 applicable to the corporation unless the legislature shall  
2 specifically so state.

3 **§171C-AAD Security for funds deposited by the corporation.**

4 The corporation may by resolution provide that all moneys  
5 deposited by it shall be secured by:

6 (1) Any securities by which funds deposited by the  
7 director of finance may be legally secured as provided  
8 in section 38-3; or

9 (2) An undertaking with sureties as are approved by the  
10 corporation faithfully to keep and pay over upon the  
11 order of the corporation any deposits and agreed  
12 interest thereon, and all banks and trust companies  
13 are authorized to give any such security for those  
14 deposits.

15 **§171C-AAE Arbitrage provisions, interest rate.** (a) Any  
16 other provision of law to the contrary notwithstanding, neither  
17 the corporation nor the director of finance shall make loans or  
18 purchase mortgages with the proceeds of general obligation bonds  
19 of the State or from a revolving fund established or maintained  
20 from the proceeds of bonds, at a rate of interest or upon terms  
21 and conditions that would cause any general obligation bond of  
22 the State or any bond to be an "arbitrage bond" within the



1 meaning of that term as defined in the Internal Revenue Code of  
2 1986, as amended, and the regulations of the Internal Revenue  
3 Service promulgated pursuant thereto.

4 (b) The rate of interest on loans made under this part  
5 from the proceeds of general obligation bonds of the State shall  
6 be established by the corporation, with the approval of the  
7 director of finance, after each sale of general obligation bonds  
8 of the State, the proceeds of which are to be used for the  
9 purposes of making loans or purchasing mortgages under this  
10 part. If no sale of general obligation bonds of the State  
11 intervenes in a twelve-month period after the last rate fixing,  
12 the corporation may review the then existing rates on loans or  
13 mortgages made under this part from the proceeds of general  
14 obligation bonds of the State and retain the existing rate or,  
15 with the approval of the director of finance, establish  
16 different rates.

17 (c) The director of finance shall approve those rates so  
18 as to produce up to, but not in excess of, the maximum yield to  
19 the State or the corporation permitted under the Internal  
20 Revenue Code of 1986, as amended, and the regulations of the  
21 Internal Revenue Service promulgated pursuant thereto, on the  
22 assumption that the general obligation bonds of the State, the



1 proceeds of which have been or are to be used for the purposes  
2 of making loans or purchasing mortgages under this part, would  
3 otherwise be "arbitrage bonds" under the Internal Revenue Code  
4 of 1986, as amended, and the regulations of the Internal Revenue  
5 Service promulgated pursuant thereto, were the maximum yield to  
6 be exceeded. The establishment of the rates of interest shall be  
7 exempt from chapter 91.

8       **§171C-AAF Housing finance revolving fund; bond special**  
9 **funds.** (a) There is established a housing finance revolving  
10 fund to be administered by the corporation. Notwithstanding  
11 sections 36-21 and 171C-AAAAE, the proceeds in the fund shall be  
12 used for long-term and other special financings of the  
13 corporation and for the necessary expenses in administering this  
14 subpart.

15       (b) All moneys received and collected by the corporation,  
16 not otherwise pledged or obligated nor required by law to be  
17 placed in any other special fund, shall be deposited in the  
18 housing finance revolving fund.

19       (c) A separate special fund shall be established for each  
20 housing project or system of housing projects or loan program  
21 financed from the proceeds of bonds secured under the same trust  
22 indenture. Each fund shall be designated "housing project bond



1 special fund" or "housing loan program revenue bond special  
 2 fund", as appropriate, and shall bear any additional designation  
 3 as the corporation deems appropriate to properly identify the  
 4 fund.

5 (d) Notwithstanding any other law to the contrary, all  
 6 revenues, income, and receipts derived from a housing project or  
 7 system of projects or loan program financed from the proceeds of  
 8 bonds or pledged to the payment of the principal of and interest  
 9 and premium on bonds, shall be paid into the housing project  
 10 bond special fund or housing loan program revenue bond special  
 11 fund established for the housing project or system of projects  
 12 or loan program and applied as provided in the proceedings  
 13 authorizing the issuance of the bonds.

14 **§171C-AAG Kikala-Keokea housing revolving fund;**  
 15 **established.** (a) There is established in the state treasury  
 16 the Kikala-Keokea housing revolving fund to provide low interest  
 17 loans for home construction for Kikala-Keokea leaseholders who  
 18 have been denied loans from traditional financial institutions.  
 19 The revolving fund shall be administered by the corporation.

20 (b) The rate of interest on loans executed pursuant to  
 21 this section shall not exceed three per cent per year and  
 22 interest earnings on loans made pursuant to this section may be



1 used for administrative and other expenses necessary for  
2 administering the loan program. Guidelines shall be established  
3 by the corporation with respect to loan terms and loan  
4 qualification criteria. Moneys appropriated for the purposes of  
5 this section shall be deposited into the Kikala-Keokea housing  
6 revolving fund; provided that upon fulfillment of the purposes  
7 of this section, all unencumbered moneys shall lapse into the  
8 general fund.

9 (c) The corporation shall adopt rules in accordance with  
10 chapter 91 to effectuate the purposes of this section.

11 **§171C-AAH Rate of wages for laborers and mechanics.** The  
12 corporation shall require an eligible bidder or eligible  
13 developer of a housing project developed under this subpart to  
14 comply with the requirements of section 104-2 for those laborers  
15 and mechanics hired to work on that housing project; provided  
16 that this section shall not apply to a housing project developed  
17 under this part if the entire cost of the project is less than  
18 \$500,000 and the eligible bidder or eligible developer is a  
19 private nonprofit organization.

20 **§171C-AAI Pineapple workers and retirees housing**  
21 **assistance fund; established.** (a) There is established in the  
22 state treasury the pineapple workers and retirees housing



1 assistance fund to provide mortgage payments or rent subsidies  
2 for eligible Del Monte Fresh Produce pineapple workers and  
3 retirees and their families who are displaced or affected by the  
4 closure of Del Monte Fresh Produce. The pineapple workers and  
5 retirees housing assistance fund shall be administered by the  
6 corporation.

7 (b) Moneys appropriated for the purposes of this section  
8 shall be deposited into the pineapple workers and retirees  
9 housing assistance fund; provided that, upon fulfillment of the  
10 purposes of this section, all unencumbered moneys shall lapse  
11 into the general fund. The corporation shall establish  
12 guidelines with respect to eligible Del Monte Fresh Produce  
13 pineapple workers and retirees and mortgage payments or rental  
14 assistance payments under this section.

15 (c) The corporation shall adopt rules in accordance with  
16 chapter 91 to effectuate the purposes of this section.

17 **§171C-AAJ Low-income housing tax credit loan.** (a) The  
18 corporation may provide a no-interest low-income housing tax  
19 credit loan to an owner of a qualified low-income building that  
20 has been awarded federal tax credits that are subject to the  
21 state housing credit ceiling under section 42(h)(3)(C) of the  
22 Internal Revenue Code, federal credits that are allocated



1 pursuant to section 42(h)(4) of the Internal Revenue Code, or a  
2 subaward under section 1602 of the American Recovery and  
3 Reinvestment Act of 2009, Public Law 111-5. The loan shall be  
4 in an amount equal to seventy per cent of the cash value of the  
5 amount of the low-income housing tax credit that would otherwise  
6 have been claimable with respect to the qualified low-income  
7 building under section 235-110.8 for each taxable year in the  
8 ten-year credit period, discounted to present day value and  
9 capitalized at the rate of interest on the taxable general  
10 obligation bonds used to fund the loan.

11 (b) An owner who is provided a low-income housing tax  
12 credit loan under this section shall not be eligible for the  
13 state income tax credit under section 235-110.8.

14 (c) The corporation shall impose conditions or  
15 restrictions on the low-income housing tax credit loan,  
16 including:

17 (1) A requirement providing for acceleration and repayment  
18 on any no-interest loan under this section to assure  
19 that the building with respect to which the loan is  
20 made remains a qualified low-income building under  
21 section 42 of the Internal Revenue Code or section  
22 1602 of the American Recovery and Reinvestment Act of



1           2009, Public Law 111-5. Any such repayment shall be  
2           payable to the housing finance revolving fund and may  
3           be enforced by means of liens or other methods as the  
4           corporation deems appropriate;

5           (2) The same limitations on rent, income, and use  
6           restrictions as applied under an allocation of a  
7           housing credit dollar amount allocated under section  
8           42 of the Internal Revenue Code; and

9           (3) The payment of reasonable fees for the corporation to  
10          perform or cause to be performed asset management  
11          functions to ensure compliance with section 42 of the  
12          Internal Revenue Code and the long-term viability of  
13          buildings funded by any no-interest loan under this  
14          section.

15          (d) The corporation shall perform asset management  
16          functions to ensure compliance with section 42 of the Internal  
17          Revenue Code or section 1602 of the American Recovery and  
18          Reinvestment Act of 2009, Public Law 111-5, to sustain the long-  
19          term viability of buildings funded by a no-interest loan under  
20          this section.

21          (e) The corporation may collect reasonable fees from the  
22          owner of a qualified low-income building to cover expenses



1 associated with the performance of the corporation's duties  
2 under this section and may retain an agent or other private  
3 contractor to satisfy the requirements of this section.

4 (f) If the owner is not in default, the corporation may  
5 forgive the amount remaining under the no-interest loan to the  
6 owner of the qualified low-income building after thirty years.

7 (g) For purposes of this section, "qualified low-income  
8 building" shall have the same meaning as used in section  
9 42(c)(2) of the Internal Revenue Code.

10 **§171C-AAK Additional powers.** The powers conferred upon  
11 the corporation by this subdivision shall be in addition and  
12 supplemental to the powers conferred by any other law, and  
13 nothing in this subdivision shall be construed as limiting any  
14 powers, rights, privileges, or immunities so conferred.

15 2. Housing Loan and Mortgage Program

16 **§171C-AAL Definitions.** The following words or terms as  
17 used in this subdivision shall have the following meanings  
18 unless a different meaning clearly appears from the context:

19 "Eligible borrower" means a person or family, without  
20 regard to race, creed, national origin, or sex, who:

21 (1) Is a citizen of the United States or a resident alien;

22 (2) Is a bona fide resident of the State;



- 1           (3) Is at least eighteen years of age;
- 2           (4) Does not personally, or whose spouse does not if the
- 3           person is married, own any interest in a principal
- 4           residence within or without the State and who has not
- 5           owned a principal residence within the three years
- 6           immediately prior to the application for an eligible
- 7           loan under this subdivision, except this requirement
- 8           shall not apply to any eligible loan for a targeted
- 9           area residence as defined in the Mortgage Subsidy Bond
- 10          Tax Act of 1980, Public Law 96-499, which residence is
- 11          to replace a housing unit that has been declared
- 12          structurally unsalvageable by a governmental board or
- 13          agency having the power to make the declaration; and
- 14          provided further that this requirement shall not apply
- 15          to up to ten per cent of eligible loans of a bond
- 16          issue made to single parent household borrowers. No
- 17          loans, however, shall be made if they adversely affect
- 18          the tax-exempt status of the bonds issued. For the
- 19          purpose of this section, "single parent household"
- 20          means a household headed by a single person who has
- 21          legal custody of one or more dependent children;



- 1           (5) Has never before obtained a loan under this subpart;
- 2                   and
- 3           (6) Meets other qualifications as established by rules
- 4                   adopted by the corporation.

5           "Eligible improvement" means alterations, repairs, or  
6 improvements to an existing dwelling unit that substantially  
7 protect or improve the basic livability of the unit.

8           "Eligible improvement loan" means a loan to finance an  
9 eligible improvement to the owner of the dwelling unit, which  
10 may be a condominium unit, where the eligible improvement is to  
11 be made; provided that the owner meets the requirements of an  
12 eligible borrower, except that the requirements of paragraph (4)  
13 of the definition of "eligible borrower" shall not apply, the  
14 unit to be financed is located in the State, the unit will be  
15 occupied as the principal place of residence of the borrower,  
16 and meets other requirements as established by rules adopted by  
17 the corporation.

18           "Eligible loan" means a loan to an eligible borrower for  
19 the permanent financing of a dwelling unit, including a  
20 condominium unit; provided that the property financed is located  
21 in the State, will be occupied as the principal place of



1 residence by the eligible borrower, and meets other requirements  
2 as established by rules adopted by the corporation.

3 "Eligible project loan" means an interim or permanent loan,  
4 which may be federally insured or guaranteed, made to a  
5 qualified sponsor for the financing of a rental housing project,  
6 and which meets other requirements as established by rules  
7 adopted by the corporation.

8 "Housing loan programs" includes all or any part of the  
9 loans to lenders program, the purchase of existing loans  
10 program, the advance commitments program, and the loan funding  
11 programs authorized under this subdivision.

12 "Qualified sponsor" means any person or entity determined  
13 by the corporation:

- 14 (1) To be qualified by experience, financial  
15 responsibility, and support to construct a housing  
16 project of the type and magnitude described;
- 17 (2) To have submitted plans for a housing project  
18 adequately meeting the objectives of this part, the  
19 maintenance of aesthetic values in the locale of the  
20 project, and the requirements of all applicable  
21 environmental statutes and rules; and



1           (3) To meet other qualifications as established by rules  
2           adopted by the corporation pursuant to chapter 91.

3           **§171C-AAM Owner-occupancy requirement.** (a) An eligible  
4 borrower shall use the dwelling unit purchased under this  
5 subdivision as the eligible borrower's permanent and primary  
6 residence.

7           (b) From time to time, the corporation may submit a  
8 verification of owner-occupancy form to the eligible borrower.  
9 Failure to respond to this verification in a timely manner may  
10 result in an immediate escalation of the interest rate or  
11 acceleration of the eligible loan.

12           (c) For eligible borrowers in the process of selling or  
13 transferring title to their property, the corporation may grant  
14 a waiver of subsection (a) for a period not to exceed three  
15 years and for reasons set forth in section 171C-AN on a case-by-  
16 case basis.

17           **§171C-AAN Eligible borrowers.** (a) The corporation shall  
18 establish the qualifications of the eligible borrower, and may  
19 consider the following:

20           (1) The proportion of income spent for shelter;

21           (2) Size of the family;



1 (3) Cost and condition of housing available to the total  
2 housing market; and

3 (4) Ability of the person to compete successfully in the  
4 normal housing market and to pay the amounts on which  
5 private enterprise is providing loans for safe,  
6 decent, and sanitary housing in the State.

7 (b) The family income of an eligible borrower shall not  
8 exceed the income requirements of section 143(f) of the Internal  
9 Revenue Code of 1986, as amended.

10 (c) For the purpose of determining the qualification of an  
11 eligible borrower for an eligible improvement loan:

12 (1) The dwelling unit for which the eligible improvement  
13 loan is to be made and the property on which the  
14 dwelling unit is situated shall not be included in the  
15 calculation of the eligible borrower's assets; and

16 (2) The mortgage secured by the dwelling unit and property  
17 shall not be included in the calculation of the  
18 eligible borrower's liabilities.

19 (d) For the purpose of determining the qualification of an  
20 eligible borrower for an eligible loan for a targeted area  
21 residence:



1           (1) The dwelling unit being replaced and the property on  
2           which the dwelling unit is situated shall not be  
3           included in the calculation of the eligible borrower's  
4           assets; and

5           (2) The mortgage secured by the dwelling unit and the  
6           property shall not be included in the calculation of  
7           the eligible borrower's liabilities.

8           **§171C-AAO Eligible loans.** (a) The corporation shall  
9           establish requirements for property financed by an eligible  
10          loan, and may consider the location, age, condition, and other  
11          characteristics of the property.

12          (b) The corporation shall establish restrictions on the  
13          terms, maturities, interest rates, collateral, and other  
14          requirements for eligible loans.

15          (c) All eligible loans made shall comply with applicable  
16          state and federal laws.

17          **§171C-AAP Eligible project loans.** (a) The corporation  
18          shall establish requirements for rental housing projects to be  
19          financed by an eligible project loan, and may consider the  
20          location, age, condition, and other characteristics of the  
21          project.



1 (b) The corporation shall establish restrictions on the  
2 terms, maturities, interest rates, and other requirements for  
3 eligible project loans.

4 (c) The corporation shall establish restrictions on the  
5 prepayment of eligible project loans and on the transfer of  
6 ownership of the projects securing eligible project loans.

7 (d) The corporation shall require that any sums deferred  
8 on land leased at nominal rates by the corporation to the owner  
9 of a rental housing project shall be recovered by the  
10 corporation at the time an eligible project loan is prepaid,  
11 whether as a result of refinancing of the eligible project loan  
12 or otherwise, to the extent that funds are available from the  
13 refinancing or other method by which the eligible project loan  
14 is paid in full prior to its due date.

15 (e) The corporation shall enter into an agreement with the  
16 owner of a rental housing project to be financed with an  
17 eligible project loan which shall provide that in the event that  
18 the eligible project loan is at any time prepaid for the purpose  
19 of converting the rental units of such project to ownership  
20 units, all tenants at the time of the proposed conversion shall  
21 have the first option to purchase their units.



1 (f) All eligible project loans shall comply with  
2 applicable state and federal laws.

3 **§171C-AAQ Eligible improvement loans.** (a) The  
4 corporation shall establish requirements for property financed  
5 by an eligible improvement loan, and may consider the location,  
6 age, condition, value, and other characteristics of the  
7 property.

8 (b) The corporation shall establish restrictions on the  
9 terms, maturities, interest rates, collateral, and other  
10 requirements for eligible improvement loans.

11 (c) All eligible improvement loans made shall comply with  
12 applicable state and federal laws.

13 **§171C-AAR Housing loan programs; procedures and**  
14 **requirements.** (a) The corporation shall establish procedures  
15 for:

- 16 (1) The submission of requests or the invitation of  
17 proposals for loans to mortgage lenders;
- 18 (2) The purchase of existing loans by auction, invitation  
19 of tenders, or negotiation;
- 20 (3) The making of advance commitments to purchase and the  
21 purchasing of eligible loans, eligible improvement  
22 loans, or eligible project loans to be made by



1 mortgage lenders by auction, invitation of tenders, or  
2 negotiation; and

3 (4) Loan applications made through mortgage lenders to  
4 eligible borrowers or qualified sponsors.

5 (b) The corporation shall establish standards and  
6 requirements for:

7 (1) The allocation of loans to mortgage lenders;

8 (2) The allocation of funds to purchase existing loans  
9 from mortgage lenders;

10 (3) The making of advance commitments and allocation of  
11 funds to purchase eligible loans, eligible improvement  
12 loans, or eligible project loans from mortgage  
13 lenders; and

14 (4) The participation by mortgage lenders as originators  
15 and processors of eligible loans, eligible improvement  
16 loans, or eligible project loans on behalf of the  
17 corporation.

18 (c) The standards and requirements for the allocation of  
19 funds to mortgage lenders shall be adopted by the corporation  
20 and shall be designed to include the maximum number of qualified  
21 mortgage lenders as participants in the housing loan programs.



1           **§171C-AAS Housing loan programs; general powers.** (a) The  
2 corporation may make, enter into, and enforce all contracts or  
3 agreements that are necessary, convenient, or desirable in the  
4 performance of its duties in executing the housing loan  
5 programs.

6           (b) The corporation may require representations and  
7 warranties as it determines necessary to secure its loans.

8           **§171C-AAT Housing loan programs; self-supporting.** The  
9 interest rate, fees, charges, premiums, and other terms of the  
10 loans made under the housing loan programs shall be at least  
11 sufficient to pay the cost of administering and maintaining the  
12 portion of the specific housing loan programs for which the  
13 bonds have been issued, and to assure payment of the principal  
14 of and interest on the bonds as they become due.

15           **§171C-AAU Housing loan programs; fees.** The corporation  
16 may establish, revise, charge, and collect fees, premiums, and  
17 charges as necessary, reasonable, or convenient, for its housing  
18 loan programs. The fees, premiums, and charges shall be  
19 deposited into the housing loan program revenue bond special  
20 fund established for the particular housing loan program or part  
21 thereof from which the fees, premiums, and charges are derived  
22 as determined by the corporation.



1           **§171C-AAV Housing loan programs; evidence of eligible**  
2 **loan, eligible improvement loan, or eligible project loan.** (a)  
3 Each mortgage lender who participates in any housing loan  
4 program shall submit evidence, as deemed satisfactory by the  
5 corporation, that eligible loans, eligible improvement loans, or  
6 eligible project loans have been made from the proceeds of the  
7 bonds.

8           (b) The corporation may inspect the books and records of  
9 the mortgage lenders as may be necessary for the purposes of  
10 this section.

11           **§171C-AAW Loans to lenders program.** (a) The corporation  
12 may make loans to mortgage lenders under terms and conditions  
13 requiring that the loan proceeds be used within a time period  
14 prescribed by the corporation to make eligible loans, eligible  
15 improvement loans, and eligible project loans in an aggregate  
16 principal amount substantially equal to the amount of the loan.

17           (b) The loan made to a mortgage lender shall be a general  
18 obligation of the respective mortgage lender.

19           (c) The loan as determined by the corporation shall:

20           (1) Bear a date or dates;

21           (2) Mature at a time or times;



1 (3) Be evidenced by a note, bond, or other certificate of  
2 indebtedness;

3 (4) Be subject to prepayment; and

4 (5) Contain other provisions consistent with this subpart.

5 (d) Subject to any agreement with the holders of its  
6 bonds, the corporation may consent to any modification to the  
7 rate of interest, time and payment of any installment of  
8 principal or interest, security, or any other term of any loan  
9 to a mortgage lender or any bond, note, contract, or agreement  
10 of any kind to which the corporation is a party.

11 **§171C-AAX Loans to lenders program; collateral security.**

12 (a) Loans made to mortgage lenders shall be additionally  
13 secured by a pledge of a lien upon collateral security in an  
14 amount as the corporation deems necessary to assure the payment  
15 of the principal of and interest on the loans as they become  
16 due.

17 (b) The corporation shall determine the nature and type of  
18 collateral security required.

19 (c) A statement designating the collateral security  
20 pledged, the mortgage lender pledging the collateral, and the  
21 corporation's interest in the pledged collateral may be filed  
22 with the bureau of conveyances. Where a statement has been



1 filed, no possession, further filing, or other action under any  
2 state law shall be required to perfect any security interest  
3 which may be deemed to have been created in favor of the  
4 corporation. The mortgage lender shall be deemed the trustee of  
5 an express trust for the benefit of the corporation in all  
6 matters relating to the pledged collateral.

7 (d) Subject to any agreement with the holders of its  
8 bonds, the corporation may collect, enforce the collection of,  
9 and foreclose on any collateral securing its loans to mortgage  
10 lenders. The corporation may acquire, take possession of, sell  
11 at public or private sale with or without bidding, or otherwise  
12 deal with the collateral to protect its interests.

13 **§171C-AAY Purchase of existing loans program.** (a) The  
14 corporation may contract with a mortgage lender to purchase, in  
15 whole or in part, existing loans, whether or not eligible loans,  
16 eligible improvement loans, or eligible project loans. The  
17 contract may contain provisions as determined by the corporation  
18 to be necessary or appropriate to provide security for its  
19 bonds, including but not limited to provisions requiring the:

20 (1) Repurchase of the loans, in whole or in part, by  
21 mortgage lenders at the option of the corporation;



1           (2) Payments of premiums, fees, charges, or other amounts  
2           by mortgage lenders to provide a reserve or escrow  
3           fund for the purposes of protecting against loan  
4           defaults; and

5           (3) Guarantee by, or for recourse against, mortgage  
6           lenders, with respect to defaults on these loans of  
7           the corporation.

8           (b) The corporation shall require, as a condition of each  
9 purchase of existing loans from a mortgage lender, that the  
10 mortgage lender proceed to make and disburse eligible loans,  
11 eligible improvement loans, or eligible project loans in an  
12 aggregate principal amount substantially equal to the amount of  
13 the proceeds from the purchase by the corporation of loans  
14 therefrom.

15           **§171C-AAZ Advance commitments program.** (a) The  
16 corporation may contract with a mortgage lender for the advance  
17 commitment to purchase eligible loans, eligible improvement  
18 loans, or eligible project loans.

19           (b) The contract may contain provisions as determined by  
20 the corporation to be necessary or appropriate to provide  
21 security for its bonds. Notwithstanding any other law to the  
22 contrary, project loans may be made available for housing



1 projects on Hawaiian home lands pursuant to the Hawaiian Homes  
2 Commission Act, 1920, as amended.

3       **§171C-AAAA Loan funding programs.** (a) The corporation  
4 may contract with mortgage lenders to fund eligible loans and  
5 eligible improvement loans and may directly make or contract  
6 with mortgage lenders to fund eligible project loans.

7       (b) Any contract in subsection (a) with a mortgage lender  
8 may contain provisions as determined by the corporation to be  
9 necessary or appropriate to provide security for its revenue  
10 bonds.

11       **§171C-AAAB Loans; service and custody.** The corporation  
12 may contract for the service and custody of its loans. The  
13 contract may provide for the payment of fees or charges for the  
14 services rendered; provided that the fees or charges shall not  
15 exceed the usual, customary, and reasonable charges for the  
16 services rendered.

17       **§171C-AAAC Loans; sale, pledge, or assignment.** (a)  
18 Subject to any agreements with the holders of its revenue bonds,  
19 the corporation may sell its loans at public or private sale at  
20 a price and upon terms and conditions as it determines.

21       (b) Subject to any agreements with the holders of its  
22 revenue bonds, the corporation may pledge or assign its loans,



1 other agreements, notes, or property to secure the loans or  
2 agreements.

3       **§171C-AAAD Loans; insurance and guarantees.** The  
4 corporation may procure insurance or guarantees against any  
5 default of its loans, in amounts and from insurers or  
6 guarantors, as it deems necessary or desirable.

7       **§171C-AAAE Loans; default.** (a) The corporation may  
8 renegotiate, refinance, or foreclose any loan in default.

9       (b) The corporation may waive any default or consent to  
10 the modification of the terms of any loan or security agreement.

11       (c) The corporation may commence any action to protect or  
12 enforce any right conferred upon it by any law, mortgage,  
13 insurance policy, contract, or other agreement.

14       (d) The corporation may bid for and purchase the property  
15 secured by the loan at any foreclosure or other sale, or acquire  
16 or take possession of the property secured by the loan.

17       (e) The corporation may operate, manage, lease, dispose  
18 of, or otherwise deal with the property secured by the loan.

19       **§171C-AAAF Additional powers.** The powers conferred upon  
20 the corporation by this subdivision shall be in addition and  
21 supplemental to the powers conferred by any other law, and



1 nothing in this subdivision shall be construed as limiting any  
2 powers, rights, privileges, or immunities so conferred.

3 3. Rental Assistance Program

4 **§171C-AAAG Purpose; findings and determinations.** The  
5 legislature finds and declares that the health and general  
6 welfare of the people of this State require that the people of  
7 this State have safe and sanitary rental housing accommodations  
8 available at affordable rents; that a grave shortage in the  
9 number of such accommodations affordable by families and  
10 individuals of low- and moderate-income in the State exists; and  
11 that it is essential that owners of rental housing  
12 accommodations be provided with appropriate additional means to  
13 assist in reducing the cost of rental housing accommodations to  
14 the people of this State.

15 The legislature further finds that the high cost of  
16 infrastructure development and the obtaining of interim  
17 construction financing are two of the greatest impediments to  
18 the production of affordable rental housing in this State. It  
19 is especially difficult for private nonprofit and for-profit  
20 entities to participate in the development of affordable housing  
21 due to the difficulty in amassing the capital necessary to plan  
22 and carry out a project to completion.



1 It is the purpose of this subdivision to:

2 (1) Assist owners in maintaining rentals at levels  
3 affordable to low- and moderate-income families and  
4 individuals by providing owners with rental assistance  
5 payments which, together with rental payments received  
6 from low- and moderate-income tenants, will provide  
7 owners with limited but acceptable rates of return on  
8 their investments in rental housing accommodations.

9 Assisting owners by entering into contracts with them  
10 to provide for rental assistance payments is a valid  
11 public purpose and in the public interest; and

12 (2) Provide a funding source for interim construction  
13 financing for the development of affordable rental  
14 housing by private nonprofit and for-profit entities,  
15 as well as the corporation; provided that in allotting  
16 this financing, the corporation shall give preference  
17 to qualified sponsors who are private nonprofit and  
18 for-profit entities.

19 **§171C-AAAH Definitions.** The following terms as used in  
20 this subdivision shall have the following meanings unless a  
21 different meaning clearly appears from the context:

22 "Eligible project" means a rental housing project that:



- 1           (1) Is financed by the corporation pursuant to subdivision
- 2                   2 or 4, or that the corporation determines will
- 3                   require rental assistance to make it financially
- 4                   feasible;
- 5           (2) Is subject to a regulatory agreement with the
- 6                   corporation;
- 7           (3) Maintains at least twenty per cent of its units for
- 8                   eligible tenants; and
- 9           (4) Meets other qualifications as established by rules
- 10                  adopted by the corporation.

11           Notwithstanding any provision to the contrary, "eligible  
12 project" may also include a rental housing project that is  
13 financed by the corporation pursuant to subdivision 1.

14           "Eligible tenant" means a family or an individual whose  
15 income does not exceed eighty per cent of the area median income  
16 as determined by the United States Department of Housing and  
17 Urban Development.

18           "Owner" means the owner of an eligible project.

19           "Regulatory agreement" means an agreement between the  
20 corporation and the owner relating to an eligible project that  
21 includes provisions relating to rents, charges, profits, return  
22 on owner's equity, development costs, and methods of operation.



1 "Rental assistance contract" means an agreement between an  
2 owner and the corporation providing for periodic rental  
3 assistance payment for units in an eligible project.

4 **§171C-AAAI Rental assistance revolving fund.** (a) There  
5 is created a rental assistance revolving fund to be administered  
6 by the corporation.

7 (b) The rental assistance revolving fund may include sums  
8 made available from any government program or grant, from  
9 private grants or contributions, from the proceeds of any bond  
10 issue, or from appropriations to the fund. The aggregate  
11 principal in the fund shall be invested by the corporation in a  
12 manner that will maximize the rate of return on investment of  
13 the fund; provided that any investment made shall be consistent  
14 with section 171C-AAC but need not comply with section 36-21.

15 (c) The corporation may use, as needed, the aggregate  
16 principal sum and the accumulated earnings in the rental  
17 assistance revolving fund to make payments under rental  
18 assistance contracts or to subsidize tenants' rents in eligible  
19 projects developed under this subpart; provided that the  
20 corporation shall use up to \$25,000,000 plus any bond proceeds  
21 to provide interim construction financing to:



1 (1) Qualified sponsors who are private nonprofit or for-  
2 profit entities; or

3 (2) The corporation, for the development of affordable  
4 rental housing;

5 provided further that the corporation, in allotting interim  
6 construction financing moneys pursuant to this subdivision,  
7 shall give preference to rental housing projects developed by  
8 qualified sponsors who are private nonprofit or for-profit  
9 entities.

10 **§171C-AAAJ Rental assistance contracts.** (a) The  
11 corporation may enter into a rental assistance contract and a  
12 regulatory agreement with the owner of an eligible project, when  
13 the owner of an eligible project is other than the corporation.

14 (b) Prior to the execution of a rental assistance  
15 contract, the corporation may execute an agreement to enter into  
16 a rental assistance contract with an owner. The agreement shall  
17 provide for the execution of a rental assistance contract upon  
18 satisfaction of the terms set forth in the agreement and  
19 otherwise established by the corporation. Each rental  
20 assistance contract heretofore entered into by the corporation  
21 that provided that rental assistance payments shall be made  
22 solely from the earnings on the investment of the rental



1 assistance revolving fund shall hereafter, without modification  
2 of the contracts, be payable from the aggregate principal sum  
3 and the accumulated earnings in the rental assistance revolving  
4 fund.

5 (c) A rental assistance contract and any subsidy of  
6 tenants' rents in projects developed under this subdivision  
7 shall be for a term not in excess of thirty-five years and shall  
8 be approved by the board of directors of the corporation. Upon  
9 that approval by the corporation, the director of finance shall  
10 be authorized to guarantee the obligation of the corporation for  
11 the term of the rental assistance contract or the subsidy of  
12 tenants' rents in an amount equal to the aggregate obligation of  
13 the corporation to make assistance payments; provided that the  
14 aggregate of all of the outstanding guarantees shall not exceed  
15 \$100,000,000. Pursuant to that guarantee, the corporation shall  
16 make annual rental payments to the owner in accordance with the  
17 approved rental assistance contract or to the tenants in  
18 accordance with the approved subsidy.

19 (d) Each rental assistance contract shall set forth a  
20 maximum annual rental assistance payment amount. The  
21 corporation shall establish procedures for determining the



1 maximum annual rental assistance payment amount and may consider  
2 the following:

- 3 (1) The cost of constructing the eligible project;
- 4 (2) The estimated annual operating cost of the eligible  
5 project;
- 6 (3) The estimated maximum rentals that may be charged for  
7 dwelling units in the eligible project;
- 8 (4) The amount of funds available for the funding of  
9 rental assistance contracts;
- 10 (5) The number of eligible projects requiring assistance  
11 under this subdivision; and
- 12 (6) A restricted rate of return on equity to the owner,  
13 which rate shall be established by the corporation by  
14 rule.

15 **§171C-AAAK Rental assistance program.** (a) Prior to the  
16 execution of a rental assistance contract and annually  
17 thereafter, the owner shall submit a proposed rental schedule to  
18 the corporation for approval. The schedule shall list every  
19 rental unit in the project and shall designate which units are  
20 to be maintained for eligible tenants.



1 (b) The corporation shall establish procedures for  
2 evaluating the rental schedules submitted pursuant to this  
3 section, and may consider the following:

- 4 (1) The size of and number of bedrooms in the units  
5 comprising the eligible project;
- 6 (2) The location of the project and its type (whether  
7 high-rise, mid-rise, or low-rise);
- 8 (3) The percentage of units being maintained for eligible  
9 tenants; and
- 10 (4) The rentals prevalent in the open market for  
11 comparable units.

12 (c) Annually, following the approval of the rental  
13 schedule submitted pursuant to subsection (a), the corporation  
14 shall determine the amount of rental assistance payments payable  
15 to the owner for the forthcoming year; provided that the amount  
16 shall not exceed the maximum annual rental assistance payment  
17 amount determined in accordance with section 171C-AAAJ. The  
18 amount determined pursuant to this subsection shall take into  
19 account the estimated amount to be derived by the owner from  
20 rentals to be charged for the forthcoming year and the limited  
21 rate of return on equity permitted in accordance with section  
22 171C-AAAJ(d) (6).



- 1 (d) The corporation shall establish standards and  
2 requirements for:
- 3 (1) The awarding of rental assistance contracts and the  
4 allocation of annual rental assistance payments;
- 5 (2) The form of lease to be utilized by the owner in  
6 renting units in an eligible project;
- 7 (3) The marketing and tenant selection and admission  
8 processes to be employed by the owner with respect to  
9 an eligible project; and
- 10 (4) The maintenance and operation of eligible projects.
- 11 (e) The corporation shall establish procedures for:
- 12 (1) The annual review of rental schedules for eligible  
13 projects;
- 14 (2) The periodic review of the income of tenants renting  
15 units in eligible projects; and
- 16 (3) The periodic inspection of eligible projects to  
17 monitor the owners' compliance with the terms and  
18 conditions of their rental assistance contracts.
- 19 (f) When an eligible project is not owned by the  
20 corporation, the corporation shall be entitled to share in the  
21 appreciation in value of units maintained for eligible tenants  
22 within an eligible project realized at the time of refinancing



1 or prepayment of the eligible project loan. The corporation's  
2 share shall be calculated by multiplying the appreciation in  
3 value of units maintained for eligible tenants realized upon  
4 refinancing or prepayment by the ratio of the owner's equity to  
5 the discounted value of the aggregate rental assistance  
6 payments. The discount rate shall be established by rules  
7 adopted by the corporation.

8 The corporation shall exempt projects owned by a county  
9 from the shared appreciation requirement set forth in this  
10 subsection if all of the following requirements are met:

11 (1) The funds derived by the county as a result of  
12 appreciation in value of the units are used for  
13 housing projects wherein:

14 (A) At least sixty per cent of the project is  
15 affordable to families earning one hundred per  
16 cent or below of the applicable area median  
17 income; and

18 (B) At least half of the foregoing sixty per cent is  
19 affordable to families earning eighty per cent or  
20 below of the applicable area median income; and

21 (2) The project from which the appreciation in value is  
22 derived remains as affordable as it was prior to the



1           refinancing or prepayment of the eligible project  
2           loan.

3           **§171C-AAAL Benefits of program not exclusive.** Nothing in  
4 this subdivision shall be construed to prohibit, with respect to  
5 an eligible project, the operation of the rental assistance  
6 program in conjunction with other state or federal programs  
7 including the state rent supplements provided for in part VIII  
8 of chapter 356D.

9           **§171C-AAAM Additional powers.** The powers conferred upon  
10 the corporation by this subdivision shall be in addition and  
11 supplemental to the powers conferred by any other law, and  
12 nothing in this subdivision shall be construed as limiting any  
13 powers, rights, privileges, or immunities so conferred.

14           4. Taxable Mortgage Securities Programs

15           **§171C-AAAN Definitions.** Whenever used in this  
16 subdivision, unless the context otherwise requires:

17           "Eligible borrower" means:

18           (1) Any person or family, without regard to race, creed,  
19           national origin, or sex, who:

20           (A) Is a citizen of the United States or a resident  
21           alien;

22           (B) Is a bona fide resident of the State;



- 1 (C) Is at least eighteen years of age;
- 2 (D) Does not personally, or whose spouse does not if
- 3 the person is married, own a majority interest in
- 4 any residential property in the State; and
- 5 (E) Meets other qualifications as established by
- 6 rules adopted by the corporation; or
- 7 (2) A qualified sponsor of an affordable housing project
- 8 who meets the qualification requirements as
- 9 established by rules adopted by the corporation.

10 "Eligible loan" or "loan" means:

- 11 (1) A loan to an eligible borrower for the purchase of a
- 12 dwelling unit, including a condominium unit; provided
- 13 that the property financed is located in the State,
- 14 will be occupied as the principal place of residence
- 15 by the eligible borrower, and meets other requirements
- 16 as established by rules adopted by the corporation; or
- 17 (2) An interim or permanent loan, which may be federally
- 18 insured or guaranteed, made to a qualified sponsor for
- 19 the financing of an affordable housing project, and
- 20 which meets other requirements as established by rules
- 21 adopted by the corporation.



1 "Housing loan programs" include all or any part of the loan  
2 programs authorized in section 171C-AAAO.

3 **§171C-AAAO Housing loan programs; authorization.** (a) The  
4 corporation may establish under this subdivision one or more  
5 eligible loan programs.

6 (b) The corporation may invest in, make, purchase, take  
7 assignments of, or otherwise acquire or make commitments to  
8 invest in, make, purchase, take assignments of, or otherwise  
9 acquire any eligible loans or any partial interest or  
10 participation therein held by or on behalf of the corporation.

11 (c) The corporation may sell, assign, or otherwise dispose  
12 of or enter into commitments to sell, assign, or otherwise  
13 dispose of any eligible loans or any partial interest or  
14 participation therein held by or on behalf of the corporation.

15 (d) The corporation may acquire any obligation under  
16 conditions which require the seller of the obligation to use the  
17 proceeds of the sale for the purpose of financing eligible  
18 loans.

19 **§171C-AAAP Housing loan programs; procedures and**  
20 **requirements.** (a) The corporation may establish procedures and  
21 requirements for:



- 1           (1) The purchase of loans from mortgage lenders by
- 2                    auction, invitation of tender, advance commitment, or
- 3                    other negotiation;
- 4           (2) The making of loans through mortgage lenders to
- 5                    eligible borrowers or qualified sponsors;
- 6           (3) The allocation to mortgage lenders of money made
- 7                    available under this subdivision; and
- 8           (4) The participation by mortgage lenders as originators
- 9                    and processors of loans on behalf of the corporation
- 10                   under this subdivision.

11           (b) The corporation may adopt rules under chapter 91  
12 necessary or convenient for the operation of the housing loan  
13 programs established under this subdivision.

14           **§171C-AAAQ Housing loan programs; general powers.** (a)  
15 The corporation may make, enter into, and enforce all contracts  
16 or agreements which are necessary, convenient, or desirable for  
17 the purpose of the performance of its powers under this  
18 subdivision.

19           (b) The corporation may establish, revise, charge, and  
20 collect fees, premiums, and charges as necessary, reasonable, or  
21 convenient in connection with its housing loan programs  
22 established under this subdivision. The fees, premiums, and



1 charges shall be deposited into funds as determined by the  
2 corporation.

3 (c) The corporation may contract for the servicing and  
4 custody of any loans or other obligations acquired under this  
5 subdivision.

6 (d) The corporation may procure insurance against any  
7 default of its loans from insurers in amounts deemed necessary  
8 or desirable.

9 (e) Subject to any agreements with the holders of its  
10 bonds, the corporation may:

- 11 (1) Renegotiate, refinance, or foreclose any loan in  
12 default;
- 13 (2) Commence any action to protect or enforce any right  
14 conferred upon it by any law, or as provided in any  
15 mortgage, insurance policy, contract, or other  
16 agreement; and
- 17 (3) Bid for and purchase the property secured by the loan  
18 at any foreclosure or other sale; or acquire, or take  
19 possession of the property secured by the loan and may  
20 operate, manage, lease, dispose of, or otherwise deal  
21 with the property securing the loan.



1           **§171C-AAAR Additional powers.** The powers conferred upon  
 2 the corporation by this subdivision shall be in addition and  
 3 supplemental to the powers conferred by any other law, and  
 4 nothing in this subdivision shall be construed as limiting any  
 5 powers, rights, privileges, or immunities so conferred.

6                           5. State Mortgage Guarantee Program

7           **§171C-AAAS State mortgage guarantee.** (a) The corporation  
 8 may guarantee:

9           (1) Up to the top twenty-five per cent of the principal  
 10 balance of real property mortgage loans for the  
 11 purchase of qualified single-family or multifamily  
 12 dwelling units;

13           (2) Up to one hundred per cent of the principal balance of  
 14 real property mortgage loans of qualified single-  
 15 family housing under section 213 of the Hawaiian Homes  
 16 Commission Act, 1920, as amended; or

17           (3) Up to one hundred per cent of the principal balance of  
 18 real property mortgage loans of single-family or  
 19 multifamily housing developed under self-help or shell  
 20 housing programs;

21 plus the interest due thereon, made to qualified borrowers by  
 22 qualified private lenders; provided that at no time shall the



1 corporation's liability, contingent or otherwise, on these  
2 guarantees exceed \$10,000,000.

3 For purposes of this section:

4 "Self-help housing program" means development or  
5 preservation of housing in which prospective homeowners have  
6 contributed labor, materials, or real property; provided that at  
7 least two-thirds of the participating homeowners are qualified  
8 by income for assistance under this subdivision and that the  
9 program is carried out under the sponsorship of a nonprofit  
10 community development organization.

11 "Shell housing program" means development of housing which  
12 is habitable but unfinished and can be completed or expanded;  
13 provided that one hundred per cent of the participating  
14 homeowners are qualified by income for assistance under this  
15 subdivision and that the program is carried out under the  
16 sponsorship of a public, nonprofit, or private organization.

17 (b) The loans shall be secured by a duly recorded first  
18 mortgage upon the fee simple or leasehold interest of the  
19 borrower in the single-family or multifamily dwelling owned and  
20 occupied by the borrower and the borrower's permitted assigns.  
21 Private lenders shall include all banks, savings and loan  
22 associations, mortgage companies, and other qualified companies



1 and trust funds whose business includes the making of loans in  
2 the State.

3 (c) Loans guaranteed under this section shall be in  
4 accordance with rules adopted by the corporation.

5 (d) To be eligible for loans under this section, a  
6 qualified borrower shall be:

7 (1) A citizen of the United States or a resident alien;

8 (2) Qualified under the rules adopted by the corporation;

9 and

10 (3) Willing to comply with the rules as may be adopted by  
11 the corporation.

12 The corporation may secure the services of a private lender to  
13 process all applications and determine the qualification of  
14 borrowers under this subdivision.

15 (e) When the application for an insured loan has been  
16 approved by the corporation, the corporation shall issue to the  
17 lender a guarantee for that percentage of the loan on which it  
18 guarantees payment of principal and interest. The private  
19 lender shall collect all payments from the borrower and  
20 otherwise service the loan.

21 (f) In return for the corporation's guarantee, the private  
22 lender shall remit out of monthly payments collected an



1 insurance fee as established by the corporation. The funds  
2 remitted shall be deposited to the credit of the state general  
3 fund.

4 (g) When any installment of principal and interest has  
5 been due for sixty days and has not been paid by the borrower,  
6 the private lender may file a claim for the guaranteed portion  
7 of the overdue payments with the corporation which may then  
8 authorize vouchers for these payments, thereby acquiring a  
9 division of interest in the collateral pledged by the borrower  
10 in proportion to the amount of the payment. The corporation  
11 shall be reimbursed for any amounts so paid plus the applicable  
12 interest rate when payment is collected from the borrower.

13 (h) If there is any default in any payment to be made by  
14 the borrower, the lender shall notify the corporation within  
15 fifteen days. Should the lender deem that foreclosure  
16 proceedings are necessary to collect moneys due from the  
17 borrower, it shall notify the corporation. Within thirty days  
18 of either notification, the corporation may elect to request an  
19 assignment of the loan on payment in full to the lender of the  
20 principal balance and interest due. Foreclosure proceedings  
21 shall be held in abeyance in the interim.



1 (i) Every qualified borrower who is granted a loan under  
2 this section shall comply with the following conditions:

3 (1) Expend no portion of the qualified borrower's loan for  
4 purposes other than those sanctioned by the  
5 corporation;

6 (2) Not sell or otherwise dispose of the mortgaged  
7 property except upon the prior written consent of the  
8 corporation and except upon any conditions that may be  
9 prescribed in writing by the private lender;

10 (3) Undertake to pay when due all taxes, liens, judgments,  
11 or assessments that may be lawfully assessed against  
12 the property mortgaged, together with the costs and  
13 expenses of any foreclosure of the mortgage;

14 (4) Keep insured to the satisfaction of the private lender  
15 all improvements and other insurable property covered  
16 by the mortgage. Insurance shall be made payable to  
17 the mortgagee as its interest may appear at the time  
18 of the loss. At the option of the private lender,  
19 subject to the rules and standards of the corporation,  
20 sums so received may be used to pay for reconstruction  
21 of the improvements destroyed, or for decreasing the  
22 amount of the indebtedness;



1 (5) Keep the improvements in good repair; and

2 (6) The private lender may impose any other conditions in  
3 its mortgage; provided the form of the mortgage has  
4 received the prior approval of the corporation.

5 All of the conditions in paragraphs (1) through (6) shall be  
6 held and construed to be provisions of any mortgage executed by  
7 virtue of this section regardless of whether or not the  
8 conditions are expressly incorporated in the mortgage document.

9 (j) Loans guaranteed and made under this subdivision shall  
10 be repaid in accordance with a payment schedule specified by the  
11 private lender with payments applied first to interest and then  
12 to principal. Additional payments in any sums and the payment  
13 of the entire principal may be made at any time within the  
14 period of the loan. The private lender for satisfactory cause  
15 and at its discretion, may extend the time within which the  
16 installments of principal may be made for a period not to exceed  
17 two years.

18 (k) All interest and fees collected under this subdivision  
19 by the corporation shall be deposited into the general fund.

20 All moneys necessary to guarantee payment of loans made under  
21 this subdivision and to carry on the operations of the  
22 corporation in administering and granting loans under this



1 subdivision shall be appropriated by the legislature out of the  
2 proceeds of the general fund. The corporation shall include in  
3 its legislative budgetary request for the upcoming fiscal  
4 period, the amounts necessary to effectuate the purposes of this  
5 section.

6 **§171C-AAAT Mortgage guarantee agreements.** (a) To induce  
7 appropriate officials of any agency or instrumentality of the  
8 United States to commit to insure and to insure mortgages under  
9 the provisions of the United States Housing Act of 1937, as  
10 amended, the corporation may enter into guarantee agreements  
11 with those officials whenever:

12 (1) The purchaser-mortgagor in question is ineligible for  
13 mortgage insurance purposes under the United States  
14 Housing Act of 1937, as amended, because of credit  
15 standing, debt obligation, or income characteristics;

16 (2) The purchaser-mortgagor in question is a "displaced  
17 person" as defined in chapter 111 and the guarantee  
18 agreement will enable the purchaser-mortgagor to  
19 obtain suitable replacement housing in accordance with  
20 chapter 111; or

21 (3) The corporation finds that the purchaser-mortgagor  
22 would be a satisfactory credit risk with ability to





1 for loans under section 171C-AAAW. The downpayment loan to any  
2 one borrower shall not exceed thirty per cent of the purchase  
3 price of the residential property or \$15,000, whichever is less.  
4 The interest rate on the loans may range from zero per cent to  
5 eight per cent, depending on the buyer's income.

6 (b) The repayment of every downpayment loan shall be  
7 secured by a duly recorded second mortgage executed by the  
8 borrower to the State on the residential property purchased with  
9 the downpayment loan.

10 (c) The principal of the downpayment loan, together with  
11 accrued interest, shall be due and payable upon the sale,  
12 transfer, or refinancing of the property, or shall be repaid by  
13 the borrower in installments as determined by the corporation;  
14 provided that the corporation may provide a period in which  
15 payments may be waived. The period over which the principal and  
16 interest shall be paid need not coincide with the period over  
17 which the loan from the mortgage lender for the balance of the  
18 purchase price must be repaid. The borrower may repay the whole  
19 or any part of the unpaid balance of the downpayment loan, plus  
20 accrued interest, at any time without penalty.

21 (d) The corporation may secure the services of the  
22 mortgage lender who loans to the borrower the balance of the



1 purchase price of the residential property or the services of  
2 any other mortgage lender doing business in the State to  
3 collect, on behalf of the State, the principal and interest of  
4 the downpayment loan and otherwise to service the downpayment  
5 loan, for a servicing fee not in excess of the prevailing loan  
6 servicing fees.

7 (e) The corporation shall adopt rules pursuant to chapter  
8 91 to carry out the purposes of this subdivision.

9 **§171C-AAAW Qualifications for downpayment loans.** (a) No  
10 person shall be qualified for a downpayment loan unless the  
11 person:

12 (1) Is a citizen of the United States or a resident alien;

13 (2) Is at least eighteen years of age;

14 (3) Is a bona fide resident of the State;

15 (4) Will physically reside in the residential property to  
16 be purchased for the term of the loan;

17 (5) Is accepted by a mortgage lender as a person to whom  
18 it is willing to lend money for the purchase of the  
19 residential property provided the required downpayment  
20 is made; and

21 (6) Provides a portion of the downpayment which shall be  
22 equal to at least three per cent of the sales price.



1 (b) No person who owns in fee simple or in leasehold any  
2 other residential property within the State shall be eligible to  
3 become a borrower under this section. A person shall be deemed  
4 to own a residential property if the person, the person's  
5 spouse, or both (unless separated and living apart under a  
6 decree of a court of competent jurisdiction) own a majority  
7 interest in a residential property.

8 **§171C-AAAX Restrictions on borrower.** Every loan made  
9 under this subdivision shall be subject to the following  
10 conditions:

11 (1) The borrower shall expend no portion of the borrower's  
12 downpayment loan for purposes other than to make a  
13 downpayment for the purchase of a residential  
14 property;

15 (2) The residential property purchased with the  
16 downpayment loan and mortgaged to the State to secure  
17 the repayment of the loan shall not be sold or  
18 assigned without the prior approval in writing of the  
19 corporation and the first mortgage lender;

20 (3) The borrower shall pay when due all taxes, liens,  
21 judgments, or assessments that may be lawfully levied  
22 against the residential property and all costs and



1 expenses of any foreclosure of the mortgage made to  
2 the State;

3 (4) The borrower shall maintain fire and casualty  
4 insurance in amounts equal to the replacement value of  
5 all improvements and insurable portions of the  
6 residential property with an insurance company  
7 authorized to do business in the State. All proceeds  
8 of that insurance shall be made payable to the first  
9 mortgage lender and the corporation as their  
10 respective interests may appear at the time of any  
11 loss or damage. Subject to the rules of the  
12 corporation, in the event of any loss or damage to the  
13 improvements or property covered by the insurance, the  
14 proceeds receivable by the State shall be applied  
15 toward the reconstruction of the improvements or  
16 property destroyed or damaged, unless otherwise  
17 determined by the corporation on behalf of the State;  
18 and

19 (5) The borrower shall maintain the improvements in good  
20 repair.

21 All of the conditions in paragraphs (1) through (5) shall  
22 be a part of any downpayment mortgage executed under this



1 subdivision, regardless of whether or not they are expressly  
2 incorporated in the mortgage document.

3       **§171C-AAAY Default.** If the borrower defaults in the  
4 payment of any installment of principal or interest of the  
5 downpayment loan, the corporation or mortgage lender shall take  
6 all necessary action to collect the delinquent amounts and may  
7 take all actions generally allowed holders of mortgages,  
8 including the power to foreclose. Upon any foreclosure of the  
9 second mortgage, the corporation or mortgage lender on behalf of  
10 the corporation, may purchase the interest of the borrower in  
11 and to the residential property, take possession thereof and  
12 assume all of the obligations of the borrower under the first  
13 mortgage held by the private lender and any other liens having  
14 priority over the second mortgage that may then exist. On the  
15 acquisition of the borrower's interest, the corporation, at its  
16 option, may pay in full the unpaid balance of the borrower's  
17 obligation secured by the first mortgage and other prior liens;  
18 repair, renovate, modernize, or improve the residential  
19 property; and, with or without clearing the property of all  
20 prior mortgages and liens, sell, lease, or rent the property or  
21 use or dispose of the same in any manner authorized by law.



1           **§171C-AAAZ Additional powers.** The powers conferred upon  
2 the corporation by this subdivision shall be in addition and  
3 supplemental to the powers conferred by any other law, and  
4 nothing in this subdivision shall be construed as limiting any  
5 powers, rights, privileges, or immunities so conferred.

6                           7. Homebuyers' Club Program

7           **§171C-AAAA Homebuyers' club program.** (a) The  
8 corporation may establish a homebuyers' club program for  
9 participants who are desirous of purchasing a home and who have  
10 adequate incomes but who lack sufficient funds for the  
11 downpayment and closing costs. The primary focus of this  
12 program is to facilitate the purchase of homes by providing  
13 participants with strategies to save money, to resolve credit  
14 problems, and to educate participants on how to shop for and  
15 purchase a home.

16           (b) In establishing such a program, the corporation shall  
17 adopt rules pursuant to chapter 91 relating to establishing a  
18 savings program for participants based upon individual analyses  
19 of income and family expenses. The rules may also provide for  
20 integration of the homebuyers' club program with other  
21 governmental programs including but not limited to individual  
22 housing accounts under section 235-5.5, the state mortgage



1 guarantee program under subdivision 5, the downpayment loan  
2 program established under subdivision 6, and the rent-to-own  
3 program established under subdivision 8.

4 (c) The corporation may secure the services of another  
5 public or private entity to carry out the purposes of this  
6 section.

7 **§171C-AAAAB Additional powers.** The powers conferred upon  
8 the corporation by this subdivision shall be in addition and  
9 supplemental to the powers conferred by any other law, and  
10 nothing in this subdivision shall be construed as limiting any  
11 powers, rights, privileges, or immunities so conferred.

12 8. Rent-to-Own Program

13 **§171C-AAAAC Rent-to-own program.** (a) The corporation may  
14 establish a rent-to-own program under which dwelling units that  
15 are for sale may be rented to program participants. Under this  
16 program, the corporation shall credit a portion of the rent  
17 received toward the purchase of the unit.

18 (b) The sales price shall be established at the beginning  
19 of the rental term and shall remain fixed for the first five  
20 years after the rental agreement is executed. During this  
21 period, the participant shall have the option of purchasing the  
22 unit at the designated sales price. If the participant does not



1 elect to purchase the unit within the five-year period, the  
2 renter shall forfeit the right to continue living in the unit  
3 and the unit shall be made available to another purchaser or  
4 renter.

5 (c) The corporation shall have the right to reestablish  
6 the sales price upon expiration of the option period or upon  
7 resale of the unit.

8 **§171C-AAAAD Additional powers.** The powers conferred upon  
9 the corporation by this subdivision shall be in addition and  
10 supplemental to the powers conferred by any other law, and  
11 nothing in this subdivision shall be construed as limiting any  
12 powers, rights, privileges, or immunities so conferred.

13 9. Dwelling Unit Revolving Fund

14 **§171C-AAAAE Dwelling unit revolving fund.** There is  
15 established a dwelling unit revolving fund. The funds  
16 appropriated for the purpose of the dwelling unit revolving fund  
17 and all moneys received or collected by the corporation for the  
18 purpose of the revolving fund shall be deposited in the  
19 revolving fund. The proceeds in the revolving fund shall be  
20 used to reimburse the general fund to pay the interest on  
21 general obligation bonds issued for the purposes of the  
22 revolving fund, for the necessary expenses in administering



1 housing development programs, and for carrying out the purposes  
2 of housing development programs, including but not limited to  
3 the expansion of community facilities constructed in conjunction  
4 with housing projects, permanent primary or secondary financing,  
5 and supplementing building costs, federal guarantees required  
6 for operational losses, and all things required by any federal  
7 agency in the construction and receipt of federal funds or  
8 low-income housing tax credits for housing projects.

9       **§171C-AAAAF Additional powers.** The powers conferred upon  
10 the corporation by this subdivision shall be in addition and  
11 supplemental to the powers conferred by any other law, and  
12 nothing in this subdivision shall be construed as limiting any  
13 powers, rights, privileges, or immunities so conferred.

14                   10. Rental Housing Trust Fund

15       **§171C-AAAAG Definitions.** As used in this subdivision,  
16 unless a different meaning is clearly required by the context:

17       "Develop" or "development" means the planning, financing,  
18 or acquisition of real and personal property; demolition of  
19 existing structures; clearance of real property; construction,  
20 reconstruction, alteration, or repairing of approaches, streets,  
21 sidewalks, utilities, and services, or other site improvements;  
22 construction, reconstruction, repair, remodeling, extension,



1 equipment, or furnishing of buildings or other structures; or  
2 any combination of the foregoing, of any housing project. It  
3 also includes any undertakings necessary therefor, and the  
4 acquisition of any housing, in whole or in part.

5 "Fund" means the rental housing trust fund established in  
6 this subdivision.

7 **§171C-AAAAH Rental housing trust fund.** (a) There is  
8 established the rental housing trust fund to be administered by  
9 the corporation.

10 (b) An amount from the fund, to be set by the corporation  
11 and authorized by the legislature, may be used for  
12 administrative expenses incurred by the corporation in  
13 administering the fund; provided that fund moneys may not be  
14 used to finance day-to-day administrative expenses of projects  
15 allotted fund moneys.

16 (c) The following may be deposited into the fund:  
17 appropriations made by the legislature, private contributions,  
18 repayment of loans, interest, other returns, and moneys from  
19 other sources.

20 (d) The fund shall be used to provide loans or grants for  
21 the development, pre-development, construction, acquisition,  
22 preservation, and substantial rehabilitation of rental housing



1 units. Permitted uses of the fund may include but are not  
2 limited to planning, design, land acquisition, costs of options,  
3 agreements of sale, downpayments, equity financing, capacity  
4 building of nonprofit housing developers, or other housing  
5 development services or activities as provided in rules adopted  
6 by the corporation pursuant to chapter 91. The rules may  
7 provide for a means of recapturing loans or grants made from the  
8 fund if a rental housing project financed under the fund is  
9 refinanced or sold at a later date. The rules may also provide  
10 that moneys from the fund shall be leveraged with other  
11 financial resources to the extent possible.

12 (e) Moneys available in the fund shall be used for the  
13 purpose of providing, in whole or in part, loans or grants for  
14 rental housing projects in the following order of priority:

15 (1) Projects or units in projects that are allocated  
16 low-income housing credits pursuant to the state  
17 housing credit ceiling under section 42(h) of the  
18 Internal Revenue Code of 1986, as amended, or projects  
19 or units in projects that are funded by programs of  
20 the United States Department of Housing and Urban  
21 Development and United States Department of  
22 Agriculture Rural Development wherein:



1           (A) At least fifty per cent of the available units  
2           are for persons and families with incomes at or  
3           below eighty per cent of the median family income  
4           of which at least five per cent of the available  
5           units are for persons and families with incomes  
6           at or below thirty per cent of the median family  
7           income; and

8           (B) The remaining units are for persons and families  
9           with incomes at or below one hundred per cent of  
10          the median family income;

11          provided that the corporation may establish rules to  
12          ensure full occupancy of fund projects; and

13          (2) Mixed-income rental projects or units in a  
14          mixed-income rental project wherein all of the  
15          available units are for persons and families with  
16          incomes at or below one hundred forty per cent of the  
17          median family income.

18          (f) The corporation shall submit an annual report to the  
19          legislature no later than twenty days prior to the convening of  
20          each regular session describing the projects funded and, with  
21          respect to rental housing projects targeted for persons and  
22          families with incomes at or below thirty per cent of the median



1 family income, its efforts to develop those rental housing  
2 projects, a description of proposals submitted for this target  
3 group and action taken on the proposals, and any barriers to  
4 developing housing units for this target group.

5 (g) For the purposes of this subdivision, the applicable  
6 median family income shall be the median family income for the  
7 county or standard metropolitan statistical area in which the  
8 project is located as determined by the United States Department  
9 of Housing and Urban Development, as adjusted from time to time.

10 (h) The corporation may provide loans and grants under  
11 this section; provided that the corporation shall establish  
12 loan-to-value ratios to protect the fund from inordinate risk  
13 and that under no circumstances shall the rules permit the  
14 loan-to-value ratio to exceed one hundred per cent; and provided  
15 further that the underwriting guidelines include a debt-coverage  
16 ratio of not less than 1.0 to 1.

17 (i) For the period commencing July 1, 2005, through June  
18 30, 2009, the fund may be used to provide grants for rental  
19 units set aside for persons and families with incomes at or  
20 below thirty per cent of the median family income in any project  
21 financed in whole or in part by the fund in proportion of those  
22 units to the total number of units in the project. At the



1 conclusion of the period described in this subsection, the  
2 corporation shall report to the legislature on the number and  
3 use of grants provided and whether the grants were an effective  
4 use of the funds for purposes of developing rental housing for  
5 families at or below thirty per cent of the median family  
6 income.

7       **§171C-AAAAI Eligible applicants for funds.** Eligible  
8 applicants for funds shall include nonprofit and for-profit  
9 organizations, limited liability companies, partnerships, and  
10 government agencies, who are qualified in accordance with rules  
11 adopted by the corporation pursuant to chapter 91.

12       **§171C-AAAAJ Eligible projects.** (a) Activities eligible  
13 for assistance from the fund shall include but not be limited  
14 to:

- 15       (1) New construction, rehabilitation, or preservation of  
16       low-income rental housing units that meet the criteria  
17       for eligibility described in subsection (c);
- 18       (2) The leveraging of moneys with the use of fund assets;
- 19       (3) Pre-development activity grants or loans to nonprofit  
20       organizations; and
- 21       (4) Acquisition of housing units for the purpose of  
22       preservation as low-income or very low-income housing.



1 (b) Preference shall be given to projects producing units  
2 in at least one of the following categories:

- 3 (1) Multifamily units;
- 4 (2) Attached single-family units;
- 5 (3) Apartments;
- 6 (4) Townhouses;
- 7 (5) Housing units above commercial or industrial space;
- 8 (6) Single room occupancy units;
- 9 (7) Accessory apartment units;
- 10 (8) Employee housing;
- 11 (9) United States Department of Housing and Urban  
12 Development mixed finance development of public  
13 housing units; and
- 14 (10) Other types of units meeting the criteria for  
15 eligibility set forth in subsection (c).

16 (c) The corporation shall establish an application process  
17 for fund allocation that gives preference to projects meeting  
18 the following criteria that are listed in descending order of  
19 priority:

- 20 (1) Serve the original target group;



- 1           (2) Provide at least five per cent of the total number of
- 2           units for persons and families with incomes at or
- 3           below thirty per cent of the median family income;
- 4           (3) Provide the maximum number of units for persons or
- 5           families with incomes at or below eighty per cent of
- 6           the median family income;
- 7           (4) Are committed to serving the target group over a
- 8           longer period of time;
- 9           (5) Increase the integration of income levels of the
- 10          immediate community area;
- 11          (6) Meet the geographic needs of the target group of the
- 12          proposed rental housing project, such as proximity to
- 13          employment centers and services; and
- 14          (7) Have favorable past performance in developing, owning,
- 15          managing, or maintaining affordable rental housing.

16          The corporation may include other criteria as it deems  
17 necessary to carry out the purposes of this subdivision.

18          If the corporation, after applying the process described in  
19 this subsection, finds a nonprofit project equally ranked with a  
20 for-profit or government project, the corporation shall give  
21 preference to the nonprofit project in allotting fund moneys.



1           **§171C-AAAAK Additional powers.** The powers conferred upon  
2 the corporation by this subdivision shall be in addition and  
3 supplemental to the powers conferred by any other law, and  
4 nothing in this subdivision shall be construed as limiting any  
5 powers, rights, privileges, or immunities conferred.

6           D. Expenditures Of Revolving Funds Under

7           The Corporation Exempt From Appropriation And Allotment

8           **§171C-AAAAL Expenditures of revolving funds under the**  
9 **corporation exempt from appropriation and allotment.** Except as  
10 to administrative expenditures, and except as otherwise provided  
11 by law, expenditures from the revolving funds administered by  
12 the corporation under subdivisions 9 and 10 of subpart C,  
13 relating to financing programs, or sections 171C-AAF, 171C-AAG,  
14 171C-AAAI, or 516-44 may be made by the corporation without  
15 appropriation or allotment by the legislature; provided that no  
16 expenditure shall be made from and no obligation shall be  
17 incurred against any revolving fund in excess of the amount  
18 standing to the credit of the fund or for any purpose for which  
19 the fund may not lawfully be expended. Nothing in sections 37-  
20 31 to 37-41 shall require the proceeds of the revolving funds  
21 identified in subdivisions 9 and 10 of subpart C, or sections



1 171C-AAF, 171C-AAG, 171C-AAAI, or 516-44 to be reappropriated  
2 annually.

3       **§171C-AAAAM Additional powers.** The powers conferred upon  
4 the corporation by this subpart shall be in addition and  
5 supplemental to the powers conferred by any other law, and  
6 nothing in this subpart shall be construed as limiting any  
7 powers, rights, privileges, or immunities so conferred.

8                               **PART III. COMMUNITY DEVELOPMENT**

9                                       A. General Provisions

10       **§171C-AAAAN Definitions.** As used in this part, the  
11 following words and terms shall have the following meanings  
12 unless the context shall indicate another or different meaning  
13 or intent:

14       "County" means any county of the State.

15       "Local governing body" means the county council.

16       "Project" means a specific work or improvement, including  
17 real and personal properties, or any interest therein, acquired,  
18 owned, constructed, reconstructed, rehabilitated, or improved by  
19 the corporation, including a residential project, a  
20 redevelopment project, or a commercial project, all as defined  
21 herein, or any combination thereof, which combination shall  
22 hereinafter be called and known as a "multipurpose project".



- 1           (1) "Residential project" means a project or that portion  
2           of a multipurpose project, including residential  
3           dwelling units, designed and intended for the purpose  
4           of providing housing and such facilities as may be  
5           incidental or appurtenant thereto;
- 6           (2) "Redevelopment project" means an undertaking for the  
7           acquisition, clearance, replanning, reconstruction,  
8           and rehabilitation or a combination of these and other  
9           methods, of an area for a residential project, for an  
10          incidental commercial project, and for other  
11          facilities incidental or appurtenant thereto, pursuant  
12          to and in accordance with this part. The terms  
13          "acquisition, clearance, replanning, reconstruction,  
14          and rehabilitation" shall include renewal,  
15          redevelopment, conservation, restoration, or  
16          improvement, or any combination thereof;
- 17          (3) "Commercial project" means an undertaking involving  
18          commercial or light industrial development, which  
19          includes a mixed use development where commercial or  
20          light industrial facilities may be built into,  
21          adjacent to, under or above residential units.



1 "Public agency" means any office, department, board,  
2 commission, bureau, division, public corporation agency, or  
3 instrumentality of the federal, state, or county government.

4 "Public facilities" includes streets, utility and service  
5 corridors, and utility lines where applicable, sufficient to  
6 adequately service developable improvements in the district,  
7 sites for schools, parks, parking garage, sidewalks, pedestrian  
8 ways, and other community facilities. "Public facilities" shall  
9 also include public highways, as defined by statute, storm  
10 drainage systems, water systems, street lighting systems, off-  
11 street parking facilities, and sanitary sewerage systems.

12 "Real property" means lands, structures, and interests in  
13 land, including lands under water and riparian rights, space  
14 rights, and air rights and any and all other things and rights  
15 usually included within the term. Real property also means any  
16 and all interests in such property less than full title, such as  
17 easements, incorporeal hereditaments, and every estate, interest,  
18 or right, legal or equitable, including terms for years and  
19 liens thereon by way of judgments, mortgages, or otherwise.

20 **§171C-AAAAO Designation of community development**  
21 **districts; community development plans.** (a) The legislature,  
22 by statute, may designate an area as a community development



1 district if it determines that there is need for replanning,  
2 renewal, or redevelopment of that area. The designation shall  
3 describe the boundaries of the district.

4 (b) After designation, the corporation shall develop a  
5 community development plan for the designated district. The  
6 plan shall include but not be limited to community development  
7 guidance policies, district-wide improvement program and  
8 community development rules.

9 (c) The corporation may enter into cooperative agreements  
10 with qualified persons or public agencies, where the powers,  
11 services, and capabilities of such persons or agencies are  
12 deemed necessary and appropriate for the development of the  
13 community development plan.

14 (d) Whenever possible, planning activities of the  
15 corporation shall be coordinated with federal, state, and county  
16 plans. Consideration shall be given to state goals and  
17 policies, adopted state plan or land use guidance policies,  
18 county general plans, development plans, and ordinances.

19 (e) The corporation shall hold a public hearing on a  
20 proposed community development plan pursuant to chapter 91 and,  
21 after consideration of comments received and appropriate



1 revision, shall submit the community development plan to the  
2 governor for the governor's approval.

3 After approval, the governor shall submit to the  
4 legislature requests for appropriations, authorization to issue  
5 bonds, or both, to implement the community development plan in  
6 an orderly, affordable, and feasible manner. The governor shall  
7 submit the requests to the legislature as part of the executive  
8 budget or supplemental budget, as appropriate. In addition to  
9 the information, data, and materials required under chapter 37,  
10 the requests shall be accompanied by:

- 11 (1) Plans, maps, narrative descriptions, and other  
12 appropriate materials on the:
- 13 (A) Locations and design of projects or public  
14 facilities proposed to be funded; and
  - 15 (B) Phase of the community development plans proposed  
16 to be implemented with the requested funds; and
- 17 (2) Other information deemed by the governor of  
18 significance to the legislature regarding the projects  
19 or public facilities proposed to be funded, including  
20 a discussion of the public benefits intended by, and  
21 adverse effects which may result from, implementation  
22 of the projects or public facilities.



1 (f) The corporation may amend the community development  
2 plan as may be necessary. Amendments shall be made in  
3 accordance with chapter 91.

4 §171C-AAAAP Community and public notice requirements;  
5 posting on the corporation's website; required. (a) The  
6 corporation shall adopt community and public notice procedures  
7 pursuant to chapter 91 that shall include at a minimum:

8 (1) A means to effectively engage the community in which  
9 the corporation is planning a development project to  
10 ensure that community concerns are received and  
11 considered by the corporation;

12 (2) The posting of the corporation's proposed plans for  
13 development of community development districts, public  
14 hearing notices, and minutes of its proceedings on the  
15 corporation's website; and

16 (3) Any other information that the public may find useful  
17 so that it may meaningfully participate in the  
18 corporation's decision-making processes.

19 (b) The corporation shall notify the president of the  
20 senate and speaker of the house:

21 (1) Of any public hearing upon posting of the hearing  
22 notice; and



1           (2) With a report detailing the public's reaction at the  
2           public hearing, within one week after the hearing.

3           **§171C-AAAAQ Public hearing for decision making; separate**  
4 **hearing required.** (a) When rendering a decision regarding:

5           (1) An amendment to any of the corporation's community  
6           development rules established pursuant to chapter 91  
7           and section 171C-AAAAS; or

8           (2) The acceptance of a developer's proposal to develop  
9           lands under the corporation's control,

10 the corporation shall render its decision at a public hearing  
11 separate from the hearing that the proposal under paragraph (1)  
12 or (2) was presented.

13           (b) The corporation shall issue a public notice in  
14 accordance with section 1-28.5 and post the notice on its  
15 website; provided that the decision-making hearing shall not  
16 occur earlier than five business days after the notice is  
17 posted. Prior to rendering a decision, the corporation shall  
18 provide the general public with the opportunity to testify at  
19 its decision-making hearing.

20           (c) The corporation shall notify the president of the  
21 senate and speaker of the house:



1 (1) Of any public hearing upon posting of the hearing  
2 notice; and

3 (2) With a report detailing the public's reaction at the  
4 public hearing, within one week after the hearing.

5 **§171C-AAAAR District-wide improvement program.** (a) The  
6 corporation shall develop a district-wide improvement program to  
7 identify necessary district-wide public facilities within a  
8 community development district.

9 (b) Whenever the corporation shall determine to undertake,  
10 or cause to be undertaken, any public facility as part of the  
11 district-wide improvement program, the cost of providing the  
12 public facilities shall be assessed against the real property in  
13 the community development district specially benefiting from  
14 such public facilities. The corporation shall determine the  
15 areas of the community development district which will benefit  
16 from the public facilities to be undertaken and, if less than  
17 the entire community development district benefits, the  
18 corporation may establish assessment areas within the community  
19 development district. The corporation may issue and sell bonds  
20 in such amounts as may be authorized by the legislature to  
21 provide funds to finance such public facilities. The  
22 corporation shall fix the assessments against real property



1 specially benefited. All assessments made pursuant to this  
2 section shall be a statutory lien against each lot or parcel of  
3 land assessed from the date of the notice declaring the  
4 assessment until paid and such lien shall have priority over all  
5 other liens except the lien of property taxes. As between liens  
6 of assessments, the earlier lien shall be superior to the later  
7 lien.

8 (c) Bonds issued to provide funds to finance public  
9 facilities shall be secured solely by the real properties  
10 benefited or improved, the assessments thereon, or by the  
11 revenues derived from the program for which the bonds are  
12 issued, including reserve accounts and earnings thereon,  
13 insurance proceeds, and other revenues, or any combination  
14 thereof. The bonds may be additionally secured by the pledge or  
15 assignment of loans and other agreements or any note or other  
16 undertaking, obligation, or property held by the corporation.  
17 Bonds issued pursuant to this section and the income therefrom  
18 shall be exempt from all state and county taxation, except  
19 transfer and estate taxes. The bonds shall be issued according  
20 and subject to the provisions of the rules adopted pursuant to  
21 this section.



1 (d) Any other law to the contrary notwithstanding, in  
2 assessing real property for public facilities, the corporation  
3 shall assess the real property within an assessment area  
4 according to the special benefits conferred upon the real  
5 property by the public facilities. These methods may include  
6 assessment on a frontage basis or according to the area of real  
7 property within an assessment area or any other assessment  
8 method which assesses the real property according to the special  
9 benefit conferred, or any combination thereof. No such  
10 assessment levied against real property specially benefited as  
11 provided by this part shall constitute a tax on real property  
12 within the meanings of any constitutional or statutory  
13 provisions.

14 (e) The corporation shall adopt rules pursuant to chapter  
15 91, and may amend the rules from time to time, providing for the  
16 method of undertaking and financing public facilities in an  
17 assessment area or an entire community development district.  
18 The rules adopted pursuant to this section shall include but are  
19 not limited to the following: methods by which the corporation  
20 shall establish assessment areas; the method of assessment of  
21 real properties specially benefited; the costs to be borne by  
22 the corporation, the county in which the public facilities are



1 situated, and the property owners; the procedures before the  
2 corporation relating to the creation of the assessment areas by  
3 the owners of real property therein, including provisions for  
4 petitions, bids, contracts, bonds, and notices; provisions  
5 relating to assessments; provisions relating to financing, such  
6 as bonds, revolving funds, advances from available funds,  
7 special funds for payment of bonds, payment of principal and  
8 interest, and sale and use of bonds; provisions relating to  
9 funds and refunding of outstanding debts; and provisions  
10 relating to limitations on time to sue, and other related  
11 provisions.

12 (f) Any provisions to the contrary notwithstanding, the  
13 corporation may, in its discretion, enter into any agreement  
14 with the county in which the public facilities are located, to  
15 implement all or part of the purposes of this section.

16 (g) All sums collected under this section shall be  
17 deposited in the Hawaii community development revolving fund  
18 established by section 171C-AAAAAD; except that notwithstanding  
19 section 171C-AAAAAD, all moneys collected on account of  
20 assessments and interest thereon for any specific public  
21 facilities financed by the issuance of bonds shall be set apart  
22 in a separate special fund and applied solely to the payment of



1 the principal and interest on these bonds, the cost of  
2 administering, operating, and maintaining the program, the  
3 establishment of reserves, and other purposes as may be  
4 authorized in the proceedings providing for the issuance of the  
5 bonds. If any surplus remains in any special fund after the  
6 payment of the bonds chargeable against such fund, it shall be  
7 credited to and become a part of the Hawaii community  
8 development revolving fund. Moneys in the Hawaii community  
9 development revolving fund may be used to make up any  
10 deficiencies in the special fund.

11 (h) If the public facilities to be financed through bonds  
12 issued by the corporation may be dedicated to the county in  
13 which the public facilities are to be located, the corporation  
14 shall ensure that the public facilities are designed and  
15 constructed to meet county requirements.

16 (i) Notwithstanding any law to the contrary, whenever as  
17 part of a district-wide improvement program it becomes necessary  
18 to remove, relocate, replace, or reconstruct public utility  
19 facilities, the corporation shall establish by rule the  
20 allocation of cost between the corporation, the affected public  
21 utilities, and properties that may specially benefit from such  
22 improvement, if any. In determining the allocation of cost, the



1 corporation shall consider the cost allocation policies for  
2 improvement districts established by the county in which the  
3 removal, relocation, replacement, or reconstruction is to take  
4 place.

5       **§171C-AAAAS Community development rules.** The corporation  
6 shall establish community development rules under chapter 91 on  
7 health, safety, building, planning, zoning, and land use which,  
8 upon final adoption of a community development plan, shall  
9 supersede all other inconsistent ordinances and rules relating  
10 to the use, zoning, planning, and development of land and  
11 construction thereon. Rules adopted under this section shall  
12 follow existing law, rules, ordinances, and regulations as  
13 closely as is consistent with standards meeting minimum  
14 requirements of good design, pleasant amenities, health, safety,  
15 and coordinated development. The corporation may, in the  
16 community development plan or by a community development rule,  
17 provide that lands within a community development district shall  
18 not be developed beyond existing uses or that improvements  
19 thereon shall not be demolished or substantially reconstructed,  
20 or provide other restrictions on the use of the lands.

21       **§171C-AAAAT Use of public lands; acquisition of state**  
22 **lands.** (a) Any provision of chapter 171 to the contrary



1 notwithstanding, the governor may set aside public lands located  
2 within community development districts to the corporation for  
3 its use.

4 (b) If state lands under the control and management of  
5 other public agencies are required by the corporation for its  
6 purposes, the agency having the control and management of those  
7 required lands shall, upon request by the corporation and with  
8 the approval of the governor, convey, or lease such lands to the  
9 corporation upon such terms and conditions as may be agreed to  
10 by the parties.

11 (c) Notwithstanding the foregoing, no public lands shall  
12 be set aside, conveyed, or leased to the corporation as above  
13 provided if such setting aside, conveyance, or lease would  
14 impair any covenant between the State or any county or any  
15 department or board thereof and the holders of bonds issued by  
16 the State or such county, department, or board.

17 **§171C-AAAAU Developments within special management areas**  
18 **and shoreline setback.** (a) Notwithstanding chapter 205A, all  
19 requests for developments within a special management area and  
20 shoreline setback variances for developments on any lands within  
21 a community development district, for which a community  
22 development plan has been developed and approved in accordance



1 with section 171C-AAAAO, shall be submitted to and reviewed by  
2 the lead agency as defined in chapter 205A. In community  
3 development districts for which a community development plan has  
4 not been developed and approved in accordance with section 171C-  
5 AAAAO, parts II and III of chapter 205A shall continue to be  
6 administered by the applicable county authority until a  
7 community development plan for the district takes effect.

8 (b) In the review of such requests, the lead agency shall  
9 conform to the following, as deemed appropriate:

10 (1) Applicable county rules adopted in accordance with  
11 section 205A-26 for the review of developments within  
12 a special management area, except that paragraph

13 (2)(C) of section 205A-26 shall not apply; and

14 (2) Part III of chapter 205A and applicable county rules  
15 for the review of developments within the shoreline  
16 setback.

17 (c) With the approval of the lead agency, the developments  
18 may be allowed without a special management area permit or  
19 shoreline setback variance as required by chapter 205A.

20 **§171C-AAAAV Acquisition of real property from a county.**

21 Notwithstanding the provision of any law or charter, any county,  
22 by resolution of its local governing body, may, without public



1 auction, sealed bids, or public notice, sell, lease for a term  
2 not exceeding sixty-five years, grant or convey to the  
3 corporation any real property owned by it which the corporation  
4 certifies to be necessary for its purposes. The sale, lease,  
5 grant, or conveyance shall be made with or without consideration  
6 and upon such terms and conditions as may be agreed upon by the  
7 county and the corporation. Certification shall be evidenced by  
8 a formal request from the corporation. Before the sale, lease,  
9 grant, or conveyance may be made to the corporation, a public  
10 hearing shall be held by the local governing body to consider  
11 the same. Notice of the hearing shall be published at least ten  
12 days before the date set for the hearing in such publication and  
13 in such manner as may be designated by such local governing  
14 body.

15 **§171C-AAAAW Condemnation of real property.** The  
16 corporation upon making a finding that it is necessary to  
17 acquire any real property for its immediate or future use for  
18 the purposes of this part, may acquire the property by  
19 condemnation pursuant to chapter 101, including property already  
20 devoted to a public use. Such property shall not thereafter be  
21 taken for any other public use without the consent of the  
22 corporation. No award of compensation shall be increased by



1 reason of any increase in the value of real property caused by  
2 the designation of a community development district or plan  
3 adopted pursuant to a designation, or the actual or proposed  
4 acquisition, use or disposition of any other real property by  
5 the corporation.

6 **§171C-AAAAX Relocation.** (a) Any provision of law to the  
7 contrary notwithstanding, the corporation shall adopt rules  
8 pursuant to chapter 91 to ensure the appropriate relocation  
9 within or outside the district of persons, families, and  
10 businesses displaced by governmental action within the district.  
11 The rules may include, but are not limited to, the establishment  
12 and operation of a central relocation office; relocation  
13 payments for actual moving costs; fixed payments for losses  
14 suffered; payments for replacement housing or business  
15 locations; relocation payments and loans to displaced businesses  
16 for certain costs related to the re-establishment of their  
17 business operations; and other similar relocation matters.

18 (b) The corporation shall provide relocation assistance to  
19 persons, families, and businesses within the district that are  
20 displaced by private action; provided that such assistance shall  
21 not include any form of direct monetary payments except that the  
22 corporation may make relocation loans to displaced businesses in



1 accordance with rules adopted by the corporation for the  
2 purposes of this section. Temporary relocation facilities  
3 within or outside the district may be made available to  
4 displacees; provided that those displaced by government action  
5 shall be afforded priority to the facilities.

6 **§171C-AAAAA Construction contracts.** The corporation shall  
7 award construction contracts in conformity with the applicable  
8 provisions of chapter 103D.

9 **§171C-AAAAZ Dedication for public facilities as condition**  
10 **to development.** The corporation shall establish rules requiring  
11 dedication for public facilities of land or facilities, or cash  
12 payments in lieu thereof, by developers as a condition of  
13 developing real property pursuant to the community development  
14 plan. Where state and county public facilities dedication laws,  
15 ordinances, or rules differ, the provision for greater  
16 dedication shall prevail.

17 **§171C-AAAAA Public projects.** Any project or activity of  
18 any county or agency of the State in a designated district shall  
19 be constructed, renovated, or improved in consultation with the  
20 corporation.

21 **§171C-AAAAAB Sale or lease of redevelopment projects.** (a)  
22 The corporation may, without recourse to public auction, sell,



1 or lease for a term not exceeding sixty-five years, all or any  
2 portion of the real or personal property constituting a  
3 redevelopment project to any person, upon such terms and  
4 conditions as may be approved by the corporation, if the  
5 corporation finds that the sale or lease is in conformity with  
6 the community development plan.

7 (b) In the case of residential projects or redevelopment  
8 projects, the terms of the sale shall provide for the repurchase  
9 of the property by the corporation at its option, in the event  
10 that the purchaser, if other than a state agency, desires to  
11 sell the property within ten years, provided that this  
12 requirement may be waived by the corporation if the corporation  
13 determines that a waiver will not be contrary to the community  
14 development plan. The corporation shall establish at the time  
15 of original sale a formula setting forth a basis for a  
16 repurchase price based on market considerations including but  
17 not being limited to interest rates, land values, construction  
18 costs, and federal tax laws.

19 If the purchaser in a residential project is a state  
20 agency, the corporation may include as a term of the sale a  
21 provision for the repurchase of the property in conformance with  
22 this section.



1           **§171C-AAAAAC Residential projects; cooperative agreements.**

2       (a) If the corporation deems it desirable to develop a  
3 residential project, it may enter into an agreement with  
4 qualified persons to construct, maintain, operate, or otherwise  
5 dispose of the residential project. Sale, lease, or rental of  
6 dwelling units in the project shall be as provided by the rules  
7 established by the corporation.

8           **§171C-AAAAAD Hawaii community development revolving fund.**

9 There is established the Hawaii community development revolving  
10 fund into which all receipts and revenues of the corporation  
11 shall be deposited. Proceeds from the fund shall be used for  
12 the purposes of this part.

13           **§171C-AAAAAE Expenditures of revolving funds under the**  
14 **corporation exempt from appropriation and allotment.** Except as  
15 to administrative expenditures, and except as otherwise provided  
16 by law, expenditures from any revolving fund administered by the  
17 corporation may be made by the corporation without appropriation  
18 or allotment of the legislature; provided that no expenditure  
19 shall be made from and no obligation shall be incurred against  
20 any revolving fund in excess of the amount standing to the  
21 credit of the fund or for any purpose for which the fund may not  
22 lawfully be expended. Nothing in sections 37-31 to 37-41 shall



1 require the proceeds of any revolving fund administered by the  
2 corporation to be reappropriated annually.

3       **§171C-AAAAAF Exemption from taxation.** The corporation  
4 shall not be required to pay assessments levied by any county,  
5 nor shall the corporation be required to pay state taxes of any  
6 kind.

7       **§171C-AAAAAG Assistance by state and county agencies.** Any  
8 state or county agency may render services upon request of the  
9 corporation.

10       **§171C-AAAAAH Court proceedings; preferences; venue.** (a)  
11 Any action or proceeding to which the corporation, the State, or  
12 the county may be a party, in which any question arises as to  
13 the validity of this part, shall be brought in the circuit court  
14 of the circuit where the case or controversy arises, and shall  
15 be heard and determined in preference to all other civil cases  
16 pending therein except election cases, irrespective of position  
17 on the calendar.

18       (b) Upon application of counsel to the corporation, the  
19 same preference shall be granted in any action or proceeding  
20 questioning the validity of this part in which the corporation  
21 may be allowed to intervene.



1           (c) Any action or proceeding to which the corporation, the  
2 State, or the county may be a party, in which any question  
3 arises as to the validity of this part or any portion of this  
4 part, may be filed in the circuit court of the circuit where the  
5 case or controversy arises, which court is hereby vested with  
6 original jurisdiction over the action.

7           (d) Notwithstanding any provision of law to the contrary,  
8 declaratory relief may be obtained for the action.

9           (e) Any party aggrieved by the decision of the circuit  
10 court may appeal in accordance with part I of chapter 641 and  
11 the appeal shall be given priority.

12           **§171C-AAAAAI Issuance of bonds.** The director of finance  
13 may, from time to time, issue general obligation bonds pursuant  
14 to chapter 39 in such amounts as may be authorized by the  
15 legislature, for the purposes of this part.

16           **§171C-AAAAAJ Violations and penalty.** (a) The corporation  
17 may set, charge, and collect reasonable fines for violation of  
18 this part or any rule adopted pursuant to chapter 91. Any  
19 person violating any of the provisions of this part or any rule  
20 adopted pursuant to chapter 91, for which violation a penalty is  
21 not otherwise provided, shall be fined not more than \$500 a day



1 and shall be liable for administrative costs incurred by the  
2 corporation.

3 (b) The corporation may maintain an action for an  
4 injunction to restrain any violation of the provisions of this  
5 part and may take any other lawful action to prevent or remedy  
6 any violation.

7 (c) Any person violating any provision of this part shall,  
8 upon conviction, be punished by a fine not exceeding \$1,000 or  
9 by imprisonment not exceeding thirty days, or both. The  
10 continuance of a violation after conviction shall be deemed a  
11 new offense for each day of such continuance.

12 B. Kakaako Community Development District

13 **§171C-AAAAAK Kakaako community development district;**  
14 **purposes.** The legislature finds that:

15 (1) The Kakaako district is centrally located in Honolulu  
16 proper, in close proximity to the central business  
17 district, the government center, commercial,  
18 industrial and market facilities, major existing and  
19 contemplated transportation routes and recreational  
20 and service areas;

21 (2) Due to its present function as a service and light  
22 industrial area, the district is relatively



1 underdeveloped and has especially in view of its  
2 proximity to the urban core where the pressure for all  
3 land uses is strong the potential for increased growth  
4 and development that can alleviate community needs  
5 such as low-income housing, parks and open space, and  
6 commercial and industrial facilities;

7 (3) The district, if not redeveloped or renewed, has the  
8 potential to become a blighted and deteriorated area.

9 Due to its present economic importance to the State in  
10 terms of industry and subsequent employment, there is  
11 a need to preserve and enhance its value and  
12 potential;

13 (4) Kakaako has a potential, if properly developed and  
14 improved, to become a planned new community in  
15 consonance with surrounding urban areas.

16 In coordinating community development in the Kakaako  
17 district, the corporation shall plan a mixed-use district  
18 whereby industrial, commercial, residential, and public uses may  
19 coexist compatibly within the same area.

20 The corporation shall plan for the above uses, but shall  
21 also respect and support the present function of Kakaako as a  
22 major economic center, providing significant employment in such



1 areas as light industrial, wholesaling, service, and commercial  
2 activity.

3 **§171C-AAAAAL Prohibitions.** Anything contained in this  
4 part to the contrary notwithstanding, the corporation is  
5 prohibited from:

6 (1) Selling or otherwise assigning the fee simple interest  
7 in any lands in the Kakaako community development  
8 district to which the corporation in its corporate  
9 capacity holds title, except with respect to:

- 10 (A) Utility easements;
- 11 (B) Remnants as defined in section 171-52;
- 12 (C) Grants to any state or county department or  
13 agency; or
- 14 (D) Private entities for purposes of any easement,  
15 roadway, or infrastructure improvements; or

16 (2) Approving any plan or proposal for any residential  
17 development in that portion of the Kakaako community  
18 development district makai of Ala Moana boulevard and  
19 between Kewalo basin and the foreign trade zone.

20 **§171C-AAAAAM District; established, boundaries.** The  
21 Kakaako community development district is established. The  
22 district shall include that area bounded by King Street; Piikoi



1 Street from its intersection with King Street to Ala Moana  
2 Boulevard; Ala Moana Boulevard, inclusive, from Piikoi Street to  
3 its intersection with the Ewa boundary of Ala Moana Park also  
4 identified as the Ewa boundary of tax map key 2-3-37:01; the Ewa  
5 boundary of tax map key 2-3-37:01 from its intersection with Ala  
6 Moana Boulevard to the shoreline; the shoreline from its  
7 intersection with the property line representing the Ewa  
8 boundary of property identified by tax map key 2-3-37:01 to the  
9 property line between Pier 2 and Pier 4; the property line  
10 between Pier 2 and Pier 4 from its intersection with the  
11 shoreline to Ala Moana Boulevard; Ala Moana Boulevard from its  
12 intersection with the property line between lands identified by  
13 Pier 2 and Pier 4 to Punchbowl Street; and Punchbowl Street to  
14 its intersection with King Street; provided that the following  
15 parcels at Pier 1 and Pier 2 shall be deleted from the Kakaako  
16 community development district boundaries and conveyed to the  
17 department of land and natural resources to be set aside for the  
18 department of transportation and the foreign-trade zone division  
19 of the department of business, economic development, and  
20 tourism, to ensure continued maritime and foreign commerce use:  
21 all of lot 3 and parcels 2, 3-A, A, and B of the Forrest Avenue  
22 subdivision, as shown on the map filed with the bureau of



1 conveyances of the State of Hawaii as file plan 2335; and lots  
2 A-1 and A-2, as shown on map 2, filed in the office of the  
3 assistant registrar of the land court of the State of Hawaii  
4 with land court application 1328; and provided further that all  
5 existing easements affecting and appurtenant to the parcels to  
6 be deleted from the Kakaako community development district  
7 boundaries shall not be affected by this change.

8 The district shall also include that parcel of land  
9 identified by tax map key 2-1-14:16, situated mauka of Pier 6  
10 and Pier 7 and makai of Nimitz Highway, being the site for the  
11 existing Hawaiian Electric power plant and related facilities.

12 **§171C-AAAAAN Kakaako community development district;**  
13 **development guidance policies.** The following shall be the  
14 development guidance policies generally governing the  
15 corporation's action in the Kakaako community development  
16 district:

17 (1) Development shall result in a community which permits  
18 an appropriate land mixture of residential,  
19 commercial, industrial, and other uses. In view of  
20 the innovative nature of the mixed use approach, urban  
21 design policies should be established to provide  
22 guidelines for the public and private sectors in the



1 proper development of this district; while the  
2 corporation's development responsibilities apply only  
3 to the area within the district, the corporation may  
4 engage in any studies or coordinative activities  
5 permitted in this part which affect areas lying  
6 outside the district, where the corporation in its  
7 discretion decides that those activities are necessary  
8 to implement the intent of this part. The studies or  
9 coordinative activities shall be limited to facility  
10 systems, resident and industrial relocation, and other  
11 activities with the counties and appropriate state  
12 agencies. The corporation may engage in construction  
13 activities outside of the district; provided that such  
14 construction relates to infrastructure development or  
15 residential or business relocation activities;  
16 provided further, notwithstanding section 171C-AAAAS,  
17 that such construction shall comply with the general  
18 plan, development plan, ordinances, and rules of the  
19 county in which the district is located;

20 (2) Existing and future industrial uses shall be permitted  
21 and encouraged in appropriate locations within the  
22 district. No plan or implementation strategy shall



1 prevent continued activity or redevelopment of  
2 industrial and commercial uses which meet reasonable  
3 performance standards;

4 (3) Activities shall be located so as to provide primary  
5 reliance on public transportation and pedestrian  
6 facilities for internal circulation within the  
7 district or designated subareas;

8 (4) Major view planes, view corridors, and other  
9 environmental elements such as natural light and  
10 prevailing winds, shall be preserved through necessary  
11 regulation and design review;

12 (5) Redevelopment of the district shall be compatible with  
13 plans and special districts established for the Hawaii  
14 Capital District, and other areas surrounding the  
15 Kakaako district;

16 (6) Historic sites and culturally significant facilities,  
17 settings, or locations shall be preserved;

18 (7) Land use activities within the district, where  
19 compatible, shall to the greatest possible extent be  
20 mixed horizontally, that is, within blocks or other  
21 land areas, and vertically, as integral units of  
22 multi-purpose structures;



1           (8) Residential development may require a mixture of  
2           densities, building types, and configurations in  
3           accordance with appropriate urban design guidelines;  
4           integration both vertically and horizontally of  
5           residents of varying incomes, ages, and family groups;  
6           and an increased supply of housing for residents of  
7           low- or moderate-income may be required as a condition  
8           of redevelopment in residential use. Residential  
9           development shall provide necessary community  
10          facilities, such as open space, parks, community  
11          meeting places, child care centers, and other  
12          services, within and adjacent to residential  
13          development;

14          (9) Public facilities within the district shall be  
15          planned, located, and developed so as to support the  
16          redevelopment policies for the district established by  
17          this part and plans and rules adopted pursuant to it.

18          §171C-AAAAAO Cultural public market. (a) There shall be  
19          established within the corporation a state cultural public  
20          market.

21          (b) The cultural public market shall be located on state  
22          land within the Kakaako Makai area and developed pursuant to



1 sections 171C-AAAAAK, 171C-AAAAAM, and 171C-AAAAAN. A public  
2 parking lot shall be included.

3 (c) The corporation shall:

4 (1) Designate and develop the state-owned land for the  
5 cultural public market;

6 (2) Accept, for consideration, input regarding the  
7 establishment of the cultural public market from the  
8 following departments and agencies:

9 (A) The department of agriculture;

10 (B) The department of business, economic development,  
11 and tourism;

12 (C) The department of land and natural resources;

13 (D) The department of labor and industrial relations;  
14 and

15 (E) The Hawaii tourism authority;

16 (3) Consider and determine the propriety of using public-  
17 private partnerships in the development and operation  
18 of the cultural public market;

19 (4) Develop, distribute, and accept requests for proposals  
20 from private entities for plans to develop and operate  
21 the cultural public market; and



- 1           (5) Ensure that the Hawaiian culture is the featured  
2           culture in the cultural public market.
- 3           (d) Requests for proposals for the cultural public market  
4 shall contemplate but not be limited to the inclusion of the  
5 following types of facilities and services:
- 6           (1) Retail outlets for ethnically diverse products;  
7           (2) Venues for businesses with ethnic themes, including  
8           restaurants and other service-related businesses;  
9           (3) Theaters, stages, and arenas designed to showcase  
10           cultural performing artists as well as community  
11           performing arts;  
12           (4) Exhibition space or museums that showcase artwork  
13           created by international and local artists; and  
14           (5) Museums or other educational facilities focusing on  
15           the history and cultures of the various ethnic groups  
16           within Hawaii, including Hawaiian history.

17                   C. Reserved Housing Loan Programs

18           **§171C-AAAAAP Definitions.** The following words or terms as  
19 used in this subpart shall have the following meanings, unless a  
20 different meaning clearly appears from the context:

21           "Eligible borrower" means any person or family,  
22 irrespective of race, creed, national origin, or sex, who:



1 (1) Has never before obtained a loan under this subpart;  
2 and

3 (2) Meets other qualifications as established by rules  
4 adopted by the corporation.

5 "Eligible loan" means a loan to an eligible borrower for  
6 the purchase of a reserved housing unit; provided that the  
7 property financed is located in the community development  
8 district, is and will be occupied as the principal place of  
9 residence by the eligible borrower, and meets other requirements  
10 as established by rules adopted by the corporation.

11 "Mortgage lender" means any bank, trust company, savings  
12 bank, national banking association, savings and loan  
13 association, building and loan association, mortgage banker,  
14 credit union, insurance company, or any other financial  
15 institution, or a holding company for any of the foregoing,  
16 which:

- 17 (1) Is authorized to do business in the State;
- 18 (2) Customarily provides service or otherwise aids in the  
19 financing of mortgages on single family or multi-  
20 family residential property; and
- 21 (3) Is a financial institution whose accounts are  
22 federally insured, or is an institution which is an



1 approved mortgagee for the Federal Housing  
2 Administration, or is an approved lender for the  
3 Department of Veterans Affairs or the United States  
4 Department of Agriculture, or is an approved mortgage  
5 loan servicer for the Federal National Mortgage  
6 Association or the Federal Home Mortgage Corporation.

7 "Reserved housing" means housing designated for residents  
8 in the low- or moderate-income ranges who meet such eligibility  
9 requirements as the corporation may adopt by rule.

10 "Reserved housing loan programs" includes all or any part  
11 of the loan to lenders program, the purchase of existing loans  
12 program, the advance commitments program, and the eligible loan  
13 and eligible project loan funding program authorized under this  
14 subpart.

15 "Revenue bonds" means bonds, notes, or other evidence of  
16 indebtedness of the corporation issued to finance any of the  
17 reserved housing loan programs under this subpart.

18 "Trust indenture" means an agreement by and between the  
19 corporation and the trustee, which sets forth the duties of the  
20 trustee with respect to the revenue bonds, the security  
21 therefor, and other provisions as deemed necessary or convenient  
22 by the corporation to secure the revenue bonds.



1           **§171C-AAAAAQ Rules; eligible loans.** (a) The corporation  
2 shall establish requirements for reserved housing units financed  
3 by an eligible loan, and may consider, but not be limited to the  
4 location, age, condition, and other characteristics of the  
5 reserved housing units.

6           (b) The corporation shall establish restrictions on the  
7 terms, maturities, interest rates, collateral, and other  
8 requirements for eligible loans.

9           (c) All eligible loans made shall comply with applicable  
10 state and federal laws.

11           **§171C-AAAAAR Revenue bonds; authorization.** (a) The  
12 corporation, with the approval of the governor, may issue from  
13 time to time revenue bonds in amounts not exceeding the total  
14 amount of bonds authorized by the legislature for the purpose of  
15 undertaking and maintaining any of the reserved housing loan  
16 programs.

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

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



1           §171C-AAAAAS Revenue bonds; payment and security. (a)

2 The revenue bonds shall be payable from and secured by the  
3 revenues derived from the benefits of the reserved housing loan  
4 programs for which the revenue bonds are issued, including:

5       (1) Any payment made for eligible loans or eligible  
6           project loans or other agreements entered into for the  
7           reserved housing loan programs;

8       (2) Revenues derived from insurance proceeds;

9       (3) Reserve accounts and earnings thereon; and

10       (4) Revenues resulting from loans to mortgage lenders or  
11           from the payment on account of principal of and  
12           interest on loans purchased from mortgage lenders.

13       (b) The corporation may pledge any revenue derived from  
14 the reserved housing loan programs financed from the proceeds of  
15 the revenue bonds to the punctual payment of the principal,  
16 interest, and redemption premiums, if any, on the revenue bonds.

17       (c) The revenue bonds may be additionally secured by the  
18 pledge or assignment of the loans and other agreements or any  
19 note or other undertaking, obligation, or property held by the  
20 corporation to secure the loans.

21       (d) Any pledge made by the corporation shall create a  
22 perfected security interest in the revenues, moneys, or property



1 so pledged and thereafter received by the corporation from and  
2 after the time that a financing statement with respect to the  
3 revenues, moneys, or property so pledged and thereafter received  
4 shall be filed with the bureau of conveyances. Upon such  
5 filing, the revenues, moneys, or property so pledged and  
6 thereafter received by the corporation shall immediately be  
7 subject to the lien of such pledge without any physical delivery  
8 thereof or further act, and the lien of any such pledge shall be  
9 prior to the lien of all parties having claims of any kind in  
10 tort, contract, or otherwise against the corporation,  
11 irrespective of whether such parties have notice thereof.

12 **§171C-AAAAAT Revenue bonds; interest rate, price, and**  
13 **sale.** (a) The revenue bonds shall bear interest at a rate or  
14 rates payable monthly, quarterly, or semi-annually.

15 (b) The corporation shall include the costs of undertaking  
16 and maintaining the reserved housing loan programs for which the  
17 revenue bonds are issued in determining the cost of undertaking  
18 and maintaining the reserved housing loan programs, the  
19 corporation may include the cost of purchasing or funding loans  
20 or other agreements entered into for the reserved housing loan  
21 programs; the costs of studies and surveys; insurance premiums;  
22 underwriting fees; financial consultant, legal, accounting, and



1 marketing services incurred; reserve account, trustee,  
2 custodian, and rating agency fees; and interest on the bonds for  
3 a period not to exceed one year from the date of issuance.

4 (c) The revenue bonds may be sold at public or private  
5 sale, and for a price as may be determined by the corporation to  
6 be in the best interest of the State.

7 (d) Section 39-65 shall not apply to revenue bonds issued  
8 for the purpose of undertaking and maintaining any of the  
9 reserved housing loan programs as permitted by this subpart.  
10 The legislature consents to the taxation by the United States of  
11 interest on revenue bonds issued for the purpose of undertaking  
12 and maintaining any of the reserved housing loan programs as  
13 permitted by this subpart.

14 **§171C-AAAAAU Revenue bonds; investment of proceeds, and**  
15 **redemption.** Subject to any agreement with the holders of its  
16 revenue bonds, the corporation may:

17 (1) Notwithstanding any other law to the contrary, invest  
18 its moneys not required for immediate use, including  
19 proceeds from the sale of any revenue bonds, in any  
20 investment in accordance with procedures prescribed in  
21 a trust indenture;



1           (2) Purchase its revenue bonds out of any fund or money of  
2           the corporation available therefor, and hold, cancel,  
3           or resell the revenue bonds.

4           **§171C-AAAAAV Trustee; designation, duties.** (a) The  
5 corporation shall designate a trustee for each issue of revenue  
6 bonds secured under the same trust indenture; provided that the  
7 trustee shall be approved by the director of finance.

8           (b) The trustee shall be authorized by the corporation to  
9 receive and receipt for, hold, and administer the proceeds of  
10 the revenue bonds, and to apply the proceeds to the purposes for  
11 which the bonds are issued.

12           (c) The trustee shall also be authorized by the  
13 corporation to receive and receipt for, hold, and administer the  
14 revenues derived by the corporation from the benefits of the  
15 reserved housing loan program for which the revenue bonds are  
16 issued and to apply these revenues to the payment of the cost of  
17 administering, operating, and maintaining the reserved housing  
18 loan programs, to pay the principal of and interest on these  
19 bonds, to the establishment of reserves, and to other purposes  
20 as may be authorized in the proceedings providing for the  
21 issuance of the revenue bonds.



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

3 (1) The payment of the principal of and interest on the  
4 revenue bonds; and

5 (2) The purchase, registration, transfer, exchange, and  
6 redemption of the bonds.

7 (e) The trustee shall perform additional functions with  
8 respect to the payment, purchase, registration, transfer,  
9 exchange, and redemption, as the director of finance may deem  
10 necessary, advisable, or expeditious, including the holding of  
11 the revenue bonds and coupons which have been paid and the  
12 supervision of the destruction thereof in accordance with law.

13 (f) Nothing in this subpart shall limit or be construed to  
14 limit the powers granted to the director of finance in sections  
15 36-3 and 39-13, and the third sentence of section 39-68, to  
16 appoint the trustee or others as fiscal agents, paying agents  
17 and registrars for the revenue bonds or to authorize and empower  
18 those fiscal agents and registrars to perform the functions  
19 referred to in those sections.

20 **§171C-AAAAAW Trust indenture.** (a) A trust indenture may  
21 contain covenants and provisions authorized by part III of



1 chapter 39, and as deemed necessary or convenient by the  
2 corporation for the purposes of this subpart.

3 (b) A trust indenture may allow the corporation to pledge  
4 and assign to the trustee loans and other agreements related to  
5 the reserved housing loan programs, and the rights of the  
6 corporation thereunder, including the right to receive revenues  
7 thereunder and to enforce the provision thereof.

8 (c) Where a trust indenture provides that any revenue bond  
9 issued under that trust indenture is not valid or obligatory for  
10 any purpose unless certified or authenticated by the trustee,  
11 all signatures of the officers of the State upon the revenue  
12 bonds required by section 39-56 may be facsimiles of their  
13 signatures.

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

15 (1) The investment of the proceeds of the revenue bonds,  
16 the investment of any reserve for the bonds, the  
17 investment of the revenues of the reserved housing  
18 loan programs, and the use and application of the  
19 earnings from investments; and

20 (2) The terms and conditions upon which the holders of the  
21 revenue bonds or any portion of them or any trustee  
22 thereof may institute proceedings for the foreclosure



1 of any loan or other agreement or any note or other  
2 undertaking, obligation or property securing the  
3 payment of the bonds and the use and application of  
4 the moneys derived from the foreclosure.

5 (e) A trust indenture may also contain provisions deemed  
6 necessary or desirable by the corporation to obtain or permit,  
7 by grant, interest subsidy, or otherwise, the participation of  
8 the federal government in the reserved housing loan programs or  
9 in the financing of the costs of administering, operating, or  
10 maintaining such reserved housing loan programs.

11 **§171C-AAAAAX Reserved housing loan programs; procedures**  
12 **and requirements.** (a) The corporation shall establish  
13 procedures for:

- 14 (1) The submission of requests or the invitation of  
15 proposals for loans to mortgage lenders;
- 16 (2) The purchase of existing loans by auction, invitation  
17 of tenders, or negotiation;
- 18 (3) The making of advance commitments to purchase and the  
19 purchasing of eligible loans or eligible project loans  
20 to be made by mortgage lenders by auction, invitation  
21 of tenders, or negotiation; and



1 (4) Loan applications made through mortgage lenders to  
2 eligible borrowers or qualified sponsors.

3 (b) The corporation shall establish standards and  
4 requirements for:

5 (1) The allocation of loans to mortgage lenders;

6 (2) The allocation of funds to purchase existing loans  
7 from mortgage lenders;

8 (3) The making of advance commitments and allocation of  
9 funds to purchase eligible loans or eligible project  
10 loans from mortgage lenders; and

11 (4) The participation by mortgage lenders as originators  
12 and processors of eligible loans or eligible project  
13 loans on behalf of the corporation.

14 (c) The standards and requirements for the allocation of  
15 funds to mortgage lenders adopted by the corporation shall be  
16 designed to include the maximum number of qualified mortgage  
17 lenders as participants in the reserved housing loan programs.

18 (d) The corporation may adopt rules necessary or  
19 convenient for the operation of the reserved housing loan  
20 programs under this subpart.

21 **§171C-AAAAAY Reserved housing loan programs; general**

22 **powers.** (a) The corporation may make, enter into, and enforce



1 all contracts or agreements which are necessary, convenient, or  
2 desirable for the purpose of the performance of its duties in  
3 executing the reserved housing loan programs.

4 (b) The corporation may require representations and  
5 warranties as it determines necessary to secure its loans.

6 **§171C-AAAAAZ Reserved housing loan programs; self**  
7 **supporting.** The interest rate, fees, charges, premiums, and  
8 other terms of the loans made under the reserved housing loan  
9 programs shall be at least sufficient to pay the cost of  
10 administering and maintaining the portion of the specific  
11 reserved housing loan programs for which the revenue bonds have  
12 been issued, and to assure payment of the principal of and  
13 interest on the revenue bonds as they become due.

14 **§171C-AAAAAAA Reserved housing loan programs; fees.** The  
15 corporation may establish, revise, charge, and collect fees,  
16 premiums, and charges as necessary, reasonable, or convenient,  
17 for its reserved housing loan programs.

18 The fees, premiums, and charges shall be deposited into the  
19 reserved housing loan program revenue bond special fund  
20 established for the particular reserved housing loan program or  
21 part thereof from which the fees, premiums and charges are  
22 derived as determined by the corporation.



1           §171C-AAAAAAB Reserved housing loan programs; evidence of  
2 eligible loan or eligible project loan. (a) Each mortgage  
3 lender who participates in any reserved housing loan program  
4 shall submit evidence, as deemed satisfactory by the  
5 corporation, that eligible loans or eligible project loans have  
6 been made from the proceeds of the revenue bonds.

7           (b) The corporation may inspect the books and records of  
8 the mortgage lenders as may be necessary for this section.

9           §171C-AAAAAAC Loans to lenders program. (a) The  
10 corporation may make loans to mortgage lenders under terms and  
11 conditions requiring that the loan proceeds be used within a  
12 time period prescribed by the corporation to make eligible loans  
13 in an aggregate principal amount substantially equal to the  
14 amount of the loan.

15           (b) The loan made to a mortgage lender shall be a general  
16 obligation of the respective mortgage lender.

17           (c) The loan as determined by the corporation shall:

18           (1) Bear a date or dates;

19           (2) Mature at a time or times;

20           (3) Be evidenced by a note, bond or other certificate of  
21 indebtedness;

22           (4) Contain other provisions consistent with this subpart.



1           (d) Subject to any agreement with the holders of its  
2 revenue bonds, the corporation may consent to any modification  
3 to the rate of interest, time, and payment of any installment of  
4 principal or interest, security or any other term of any loan to  
5 a mortgage lender or any bond, note, contract, or agreement of  
6 any kind to which the corporation is a party.

7           **§171C-AAAAAAD Loan to lenders program; collateral**  
8 **security.** (a) Loans made to mortgage lenders shall be  
9 additionally secured by a pledge of a lien upon collateral  
10 security in an amount as the corporation deems necessary to  
11 assure the payment of principal of and interest on the loans as  
12 they become due.

13           (b) The corporation shall determine the nature and type of  
14 collateral security required.

15           (c) A statement designating the collateral security  
16 pledged, the mortgage lender pledging the collateral, and the  
17 corporation's interest in the pledged collateral may be filed  
18 with the bureau of conveyances. Where a statement has been  
19 filed, no possession, further filing, or other action under any  
20 state law shall be required to perfect any security interest  
21 which may be deemed to have been created in favor of the  
22 corporation. The mortgage lender shall be deemed the trustee of



1 an express trust for the benefit of the corporation in all  
2 matters relating to the pledged collateral.

3 (d) Subject to any agreement with the holders of its  
4 revenue bonds, the corporation may collect, enforce the  
5 collection of, and foreclose on any collateral securing its  
6 loans to mortgage lenders. The corporation may acquire, take  
7 possession, sell at public or private sale with or without  
8 bidding, or otherwise deal with the collateral to protect its  
9 interests.

10 ~~§171C-AAAAAAE~~ **Purchase of existing loans program.** (a)

11 The corporation may contract with a mortgage lender to purchase,  
12 in whole or in part, existing loans, whether or not eligible  
13 loans. The contract may contain provisions as determined by the  
14 corporation to be necessary or appropriate to provide security  
15 for its revenue bonds, including but not limited to provisions  
16 requiring the:

- 17 (1) Repurchase of the loans, in whole or in part, by  
18 mortgage lenders at the option of the corporation;
- 19 (2) Payments of premiums, fees, charges, or other amounts  
20 by mortgage lenders to provide a reserve or escrow  
21 fund for the purposes of protecting against loan  
22 defaults; and



1           (3) Guarantee by, or for recourse against, mortgage  
2           lenders, with respect to defaults on these loans of  
3           the corporation.

4           (b) The corporation shall require as a condition of each  
5 purchase of existing loans from a mortgage lender that the  
6 mortgage lender proceed to make and disburse eligible loans in  
7 an aggregate principal amount substantially equal to the amount  
8 of the proceeds from the purchase by the corporation of loans  
9 therefrom.

10           **§171C-AAAAAF Advance commitments program.** (a) The  
11 corporation may contract with a mortgage lender for the advance  
12 commitment to purchase eligible loans or eligible project loans.

13           (b) The contract may contain provisions as determined by  
14 the corporation to be necessary or appropriate to provide  
15 security for its revenue bonds.

16           **§171C-AAAAAG Eligible loan and eligible project loan**  
17 **funding program.** (a) The corporation may contract with  
18 mortgage lenders to fund eligible loans or eligible project  
19 loans.

20           (b) The contract may contain provisions as determined by  
21 the corporation to be necessary or appropriate to provide  
22 security for its revenue bonds.



1           **§171C-AAAAAAH Loans; service and custody.** The corporation  
2 may contract for the service and custody of its loans. The  
3 contract may provide for the payment of fees or charges for the  
4 services rendered; provided that the fees or charges shall not  
5 exceed the usual, customary, and reasonable charges for the  
6 services rendered.

7           **§171C-AAAAAAI Loans; sale, pledge, or assignment.** (a)  
8 Subject to any agreement with the holders of its revenue bonds,  
9 the corporation may sell its loans at public or private sale at  
10 a price and upon terms and conditions as it determines.

11           (b) Subject to any agreement with the holders of its  
12 revenue bonds, the corporation may pledge or assign its loans,  
13 other agreements, notes, or property to secure the loans or  
14 agreements.

15           **§171C-AAAAAAJ Loans; insurance and guarantees.** The  
16 corporation may procure insurance or guarantees against any  
17 default of its loans, in amounts and from insurers or  
18 guarantors, as it deems necessary or desirable.

19           **§171C-AAAAAAK Loans; default.** (a) The corporation may  
20 renegotiate, refinance, or foreclose any loan in default.

21           (b) The corporation may waive any default or consent to  
22 the modification of the terms of any loan or security agreement.



1 (c) The corporation may commence any action to protect or  
2 enforce any right conferred upon it by any law, mortgage,  
3 insurance policy, contract, or other agreement.

4 (d) The corporation may bid for and purchase the property  
5 secured by the loan at any foreclosure or other sale, or acquire  
6 or take possession of the property secured by the loan.

7 (e) The corporation may operate, manage, lease, dispose  
8 of, or otherwise deal with the property secured by the loan.

9 D. Revenue Bonds For Public Facility Projects

10 §171C-AAAAAAL Findings and declarations. The legislature  
11 finds and declares that the health, safety, and general welfare  
12 of the people of the State require that every opportunity be  
13 taken to assist the redevelopment of community development  
14 districts; that the redevelopment and revitalization of these  
15 districts will alleviate community needs for employment,  
16 housing, parks, open space, and commercial and industrial  
17 facilities; that a significant deterrent to redevelopment is the  
18 cost of public facilities; that interest rates on moneys  
19 necessary to finance such public facilities add significantly to  
20 the cost of such facilities and that more favorable interest  
21 rates would be available through the issuance of tax-exempt  
22 bonds; and that the availability of revenue bonds to finance the



1 cost of public facilities will facilitate redevelopment of  
2 community development districts.

3 The legislature further finds that the powers conferred,  
4 the issuance of revenue bonds, and the expenditure of public  
5 moneys under this subpart constitute a serving of a valid public  
6 purpose, and that this enactment is in the public interest and  
7 is so declared as an express legislative determination.

8 **§171C-AAAAAAM Definitions.** The following as used in this  
9 subpart shall have the following meaning, unless a different  
10 meaning clearly appears from the context:

11 "Revenue bonds" means bonds, notes, or other evidence of  
12 indebtedness of the corporation issued to finance any public  
13 facility under this subpart.

14 **§171C-AAAAAAN Revenue bonds; authorization.** (a) The  
15 corporation, with the approval of the governor, may issue from  
16 time to time revenue bonds in amounts not exceeding the total  
17 amount of bonds authorized to be issued by the legislature for  
18 the purpose of constructing, acquiring, remodeling, furnishing,  
19 and equipping any public facility, including acquisition of the  
20 site thereof.

21 (b) All revenue bonds shall be issued pursuant to part III  
22 of chapter 39, except as provided in this subpart.



1 (c) The revenue bonds under this subpart are declared to  
2 be issued for a public purpose and, together with interest  
3 thereon, shall be exempt from all state and county taxation  
4 except estate and transfer taxes. The legislature consents to  
5 federal income taxation of interest on revenue bonds issued  
6 under this subpart, if it is determined by the corporation that  
7 such issuance is in the best interest of the State.

8 (d) The revenue bonds shall be issued in the name of the  
9 corporation and not in the name of the State. The final  
10 maturity date of the revenue bonds may be any date not exceeding  
11 thirty years from the date of issuance.

12 **§171C-AAAAAAO Revenue bonds; payment and security.** (a)  
13 The revenue bonds shall be payable from and secured by the  
14 revenues derived from the public facility for which the revenue  
15 bonds are issued, including revenue derived from insurance  
16 proceeds and reserve accounts and earnings thereon.

17 (b) The corporation may pledge revenues derived from the  
18 public facility financed from the proceeds of the revenue bonds  
19 to the punctual payment of the principal, interest, and  
20 redemption premiums, if any, on the revenue bonds.

21 (c) The revenue bonds may be additionally secured by the  
22 pledge or assignment of the loans and other agreements or any



1 note or other undertaking, obligation, or property held by the  
2 corporation to secure the loans.

3 (d) Any pledge made by the corporation shall create a  
4 perfected security interest in the revenues, moneys, or property  
5 so pledged and thereafter received by the corporation from and  
6 after the time that a financing statement with respect to the  
7 revenues, moneys, or property so pledged and thereafter received  
8 shall be filed with the bureau of conveyances. Upon such  
9 filing, the revenues, moneys, or property so pledged thereafter  
10 received by the corporation shall immediately be subject to the  
11 lien of any such pledge without any physical delivery thereof or  
12 further act, and the lien of such pledge shall be prior to the  
13 lien of all parties having claims of any kind in tort, contract,  
14 or otherwise against the corporation, irrespective of whether  
15 such parties have notice thereof. This section shall apply to  
16 any financing statement heretofore or hereafter filed with the  
17 bureau of conveyances with respect to any pledge made to secure  
18 revenue bonds issued under this subpart.

19 **§171C-AAAAAAP Revenue bonds; interest rate, price, and**  
20 **sale.** (a) The revenue bonds shall bear interest at a rate or  
21 rates payable monthly, quarterly, or semi-annually.



1 (b) The corporation shall include the costs of undertaking  
2 the public facility for which the revenue bonds are issued in  
3 determining the principal amount of revenue bonds to be issued.  
4 In determining the cost of undertaking the public facility, the  
5 corporation may include the cost of constructing, acquiring,  
6 remodeling, furnishing, and equipping the public facility,  
7 including acquisition of the site thereof; the cost of  
8 purchasing or funding loans or other agreements entered into for  
9 the public facility; the costs of studies and surveys; insurance  
10 premiums; underwriting fees; financial consultant, legal,  
11 accounting, and marketing services incurred; reserve account,  
12 trustee, custodian, and rating agency fees; and any capitalized  
13 interest.

14 (c) The revenue bonds may be sold at public or private  
15 sale, and for a price as may be determined by the corporation to  
16 be in the best interest of the State.

17 **§171C-AAAAAAQ Revenue bonds; investment of proceeds, and**  
18 **redemption.** Subject to any agreement with the holders of its  
19 revenue bonds, the corporation may:

20 (1) Invest its moneys not required for immediate use,  
21 including proceeds from the sale of revenue bonds, in



1           any investment in accordance with procedures  
2           prescribed in a trust indenture; and

3           (2) Purchase its revenue bonds out of any fund or money of  
4           the corporation available therefor, and hold, cancel,  
5           or resell the revenue bonds.

6           **§171C-AAAAAAR Revenue bonds; special funds.** (a) A  
7 separate special fund shall be established for each public  
8 facility financed from the proceeds of the revenue bonds secured  
9 under the same trust indenture. Each fund shall be designated  
10 "public facility revenue bond special fund" and shall bear  
11 additional designation as the corporation deems appropriate to  
12 properly identify the fund.

13           (b) Notwithstanding any other law to the contrary,  
14 including particularly section 171C-AAAAAD, all revenues,  
15 income, and receipts derived from the public facility for which  
16 the revenue bonds are issued shall be paid into the public  
17 facility revenue bond fund established for that public facility  
18 and applied as provided in the proceedings authorizing the  
19 issuance of the revenue bonds.

20           **§171C-AAAAAAS Trustee; designation, duties.** (a) The  
21 corporation shall designate a trustee for each issue of revenue



1 bonds secured under the same trust indenture; provided that the  
2 trustee shall be approved by the director of finance.

3 (b) The trustee shall be authorized by the corporation to  
4 receive and receipt for, hold, and administer the proceeds of  
5 the revenue bonds, and to apply the proceeds to the purposes for  
6 which the bonds are issued.

7 (c) The trustee shall also be authorized by the  
8 corporation to hold and administer the public facility revenue  
9 bond special fund established pursuant to section 171C-AAAAAAR,  
10 and to receive and receipt for, hold, and administer the  
11 revenues derived by the corporation from the public facility for  
12 which the revenue bonds are issued and to apply these revenues  
13 to the payment of the cost:

- 14 (1) Of undertaking the public facility;  
15 (2) Of administering and operating the proceedings  
16 providing for the issuance of the revenue bonds;  
17 (3) To pay the principal or interest on these bonds;  
18 (4) To the establishment of reserves; and  
19 (5) To other purposes as may be authorized in the  
20 proceedings providing for the issuance of the revenue  
21 bonds.



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

3 (1) The payment of the principal of and interest on the  
4 revenue bonds; and

5 (2) The purchase, registration, transfer, exchange, and  
6 redemption of the bonds.

7 (e) The trustee shall perform additional functions with  
8 respect to the payment, purchase, registration, transfer,  
9 exchange, and redemption, as the director of finance may deem  
10 necessary, advisable, or expeditious, including the holding of  
11 the revenue bonds and coupons which have been paid and the  
12 supervision of the destruction thereof in accordance with law.

13 (f) Nothing in this subpart shall limit or be construed to  
14 limit the powers granted to the director of finance in sections  
15 36-3 and 39-13, and the third sentence of section 39-68, to  
16 appoint the trustee or others as fiscal agents, paying agents,  
17 and registrars for the revenue bonds or to authorize and empower  
18 those fiscal agents, paying agents, and registrars to perform  
19 the functions referred to in those sections.

20 **§171C-AAAAAT Trust indenture.** (a) A trust indenture may  
21 contain covenants and provisions authorized by part III of



1 chapter 39, and as deemed necessary or convenient by the  
2 corporation for the purposes of this subpart.

3 (b) A trust indenture may allow the corporation to pledge  
4 and assign to the trustee loans and other agreements related to  
5 the public facility, and the rights of the corporation  
6 thereunder, including the right to receive revenues thereunder  
7 and to enforce the provision thereof.

8 (c) Where a trust indenture provides that any revenue bond  
9 issued under that trust indenture is not valid or obligatory for  
10 any purpose unless certified or authenticated by the trustee,  
11 all signatures of the officers of the State upon the revenue  
12 bonds required by section 39-56 may be facsimiles of their  
13 signatures.

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

15 (1) The investment of the proceeds of the revenue bonds,  
16 the investment of any reserve for the bonds, the  
17 investment of the revenues of the public facility, and  
18 the use and application of the earnings from  
19 investments; and

20 (2) The terms and conditions upon which the holders of the  
21 revenue bonds or any portion of them or any trustee  
22 thereof may institute proceedings for the foreclosure



1 of any loan or other agreement or any note or other  
2 undertaking, obligation, or property securing the  
3 payment of the bonds and the use and application of  
4 the moneys derived from the foreclosure.

5 (e) A trust indenture may also contain provisions deemed  
6 necessary or desirable by the corporation to obtain or permit,  
7 by grant, interest subsidy, or otherwise, the participation of  
8 the federal government in the financing of the costs of  
9 undertaking the public facility.

10 E. Special Facility Projects

11 ~~§171C-AAAAAU~~ **Definitions.** For the purpose of this  
12 subpart, if not inconsistent with the context:

13 "Special facility" means one or more buildings or  
14 structures and the land thereof for the construction of  
15 facilities that provides benefits to the community at large  
16 including, without limitation, an ocean science center that  
17 incorporates research and education programs and which is the  
18 subject of a special facility lease.

19 "Special facility lease" includes a contract, lease, or  
20 other agreement, or any combination thereof, the subject matter  
21 of which is the same special facility.



1           §171C-AAAAAAV Powers. In addition and supplemental to the  
2 powers granted to the corporation by law, the corporation may:

3           (1) With the approval of the governor, enter into a  
4 special facility lease or an amendment or supplement  
5 thereto whereby the corporation agrees to construct,  
6 acquire, or remodel and furnish or equip a special  
7 facility solely for the use by another person to a  
8 special facility lease;

9           (2) With the approval of the governor, issue special  
10 facility revenue bonds in principal amounts that may  
11 be necessary to yield all or a portion of the cost of  
12 any construction, acquisition, remodeling, furnishing,  
13 and equipping of any special facility;

14           (3) With the approval of the governor, issue refunding  
15 special facility revenue bonds with which to provide  
16 for the payment of outstanding special facility  
17 revenue bonds (including any special facility revenue  
18 bonds theretofore issued for this purpose) or any part  
19 thereof; provided any issuance of refunding special  
20 facility revenue bonds shall not reduce the principal  
21 amount of the bonds which may be issued as provided in  
22 paragraph (2);



- 1 (4) Perform and carry out the terms and provisions of any
- 2 special facility lease;
- 3 (5) Notwithstanding section 103-7 or any other law to the
- 4 contrary, acquire, construct, or remodel and furnish
- 5 or equip any special facility, or accept the
- 6 assignment of any contract therefor entered into by
- 7 the other person to the special facility lease;
- 8 (6) Construct any special facility on land owned by the
- 9 State; provided that no funds derived herein will be
- 10 expended for land acquisition; and
- 11 (7) Agree with the other person to the special facility
- 12 lease whereby any acquisition, construction,
- 13 remodeling, furnishing, or equipping of the special
- 14 facility and the expenditure of moneys therefor shall
- 15 be undertaken or supervised by another person.

16 **§171C-AAAAAW Findings and determination for special**  
 17 **facility leases.** The corporation shall not enter into any  
 18 special facility lease unless the corporation at or prior to the  
 19 entering into of such special facility lease shall find and  
 20 determine that the entering into of such special facility lease  
 21 would not be in violation of or result in a breach of any



1 covenant contained in any resolution or certificate authorizing  
2 any bonds of the corporation then outstanding.

3 **§171C-AAAAAX Special facility lease.** (a) In addition to  
4 the conditions and terms set forth in this subpart, any special  
5 facility lease entered into by the corporation shall at least  
6 contain provisions obligating the other person to the special  
7 facility lease:

8 (1) To pay to the corporation during the initial term of  
9 the special facility lease, whether the special  
10 facility is capable of being used or occupied or is  
11 being used or occupied by the other person, a rental  
12 or rentals at the time or times and in the amount or  
13 amounts that will be sufficient:

14 (A) To pay the principal and interest on all special  
15 facility revenue bonds issued for the special  
16 facility;

17 (B) To establish or maintain any reserves for these  
18 payments; and

19 (C) To pay all fees and expenses of the trustees,  
20 paying agents, transfer agents, and other fiscal  
21 agents for the special facility revenue bonds  
22 issued for the special facility;



- 1           (2) To pay to the corporation:
  - 2                   (A) A ground rental, as determined by the
  - 3                           corporation, if the land on which the special
  - 4                           facility is located was not acquired from the
  - 5                           proceeds of the special facility revenue bonds;
  - 6                           or
  - 7                   (B) A properly allocable share of the administrative
  - 8                           costs of the corporation in carrying out the
  - 9                           special facility lease and administering the
  - 10                           special facility revenue bonds issued for the
  - 11                           special facility, if the land was acquired from
  - 12                           the proceeds of the special facility revenue
  - 13                           bonds;
- 14           (3) To either operate, maintain, and repair the special
- 15                   facility and pay the costs thereof or to pay to the
- 16                   corporation all costs of operation, maintenance, and
- 17                   repair of the special facility;
- 18           (4) To:
  - 19                   (A) Insure, or cause to be insured, the special
  - 20                           facility under builder's risk insurance (or
  - 21                           similar insurance) in the amount of the cost of
  - 22                           construction of the special facility to be



1           financed from the proceeds of the special  
2           facility revenue bonds;

3           (B) Procure and maintain, or cause to be procured or  
4           maintained, to the extent commercially available,  
5           a comprehensive insurance policy providing  
6           protection and insuring the corporation and its  
7           officers, agents, servants, and employees (and so  
8           long as special facility revenue bonds are  
9           outstanding, the trustee) against all direct or  
10          contingent loss or liability for damages for  
11          personal injury or death or damage to property,  
12          including loss of use thereof, occurring on or in  
13          any way related to the special facility or  
14          occasioned by reason of occupancy by and the  
15          operations of the other person upon, in, and  
16          around the special facility;

17          (C) Provide all risk casualty insurance, including  
18          insurance against loss or damage by fire,  
19          lightning, flood, earthquake, typhoon, or  
20          hurricane, with standard extended coverage and  
21          standard vandalism and other malicious mischief  
22          endorsements; and



1 (D) Provide insurance for workers' compensation and  
2 employer's liability for personal injury or death  
3 or damage to property (the other party may self-  
4 insure for workers' compensation if permitted by  
5 law);

6 provided that all policies with respect to loss or  
7 damage of property including fire or other casualty  
8 and extended coverage and builder's risk shall provide  
9 for payments of the losses to the corporation, the  
10 other person, or the trustee as their respective  
11 interests may appear; and provided further that the  
12 insurance may be procured and maintained as part of or  
13 in conjunction with other policies carried by the  
14 other person; and provided further that the insurance  
15 shall name the corporation, and so long as any special  
16 facility revenue bonds are outstanding, the trustee,  
17 as additional insured; and

18 (5) To indemnify, save, and hold the corporation, the  
19 trustee and their respective agents, officers,  
20 members, and employees harmless from and against all  
21 claims and actions and all costs and expenses  
22 incidental to the investigation and defense thereof,



1 by or on behalf of any person, firm, or corporation,  
2 based upon or arising out of the special facility or  
3 the other person's use and occupancy thereof,  
4 including, without limitation, from and against all  
5 claims and actions based upon and arising from any:

- 6 (A) Condition of the special facility;
- 7 (B) Breach or default on the part of the other person  
8 in the performance of any of the person's  
9 obligations under the special facility lease;
- 10 (C) Fault or act of negligence of the other person or  
11 the person's agents, contractors, servants,  
12 employees, or licensees; or
- 13 (D) Accident to, or injury or death of, any person or  
14 loss of, or damage to any property occurring in  
15 or about the special facility, including any  
16 claims or actions based upon or arising by reason  
17 of the negligence or any act of the other person.

18 Any moneys received by the corporation pursuant to  
19 paragraphs (2) and (3) shall be paid into the Hawaii community  
20 development revolving fund and shall not be nor be deemed to be  
21 revenues of the special facility.



1 (b) The term and all renewals and extensions of the term  
2 of any special facility lease (including any amendments or  
3 supplements thereto) shall not extend beyond the lesser of the  
4 reasonable life of the special facility which is the subject of  
5 the special facility lease, as estimated by the corporation at  
6 the time of the entering into thereof, or thirty years.

7 (c) Any special facility lease entered into by the  
8 corporation shall contain any other terms and conditions that  
9 the corporation deems advisable to effectuate the purposes of  
10 this subpart.

11 **§171C-AAAAAY Special facility revenue bonds.** All special  
12 facility revenue bonds authorized to be issued shall be issued  
13 pursuant to part III of chapter 39, except as follows:

14 (1) No revenue bonds shall be issued unless at the time of  
15 issuance the corporation shall have entered into a  
16 special facility lease with respect to the special  
17 facility for which the revenue bonds are to be issued;

18 (2) The revenue bonds shall be issued in the name of the  
19 corporation, and not in the name of the State;

20 (3) The revenue bonds shall be payable solely from and  
21 secured solely by the revenues derived by the



1 corporation from the special facility for which they  
2 are issued;

3 (4) The final maturity date of the revenue bonds shall not  
4 be later than either the estimated life of the special  
5 facility for which they are issued or the initial term  
6 of the special facility lease;

7 (5) If deemed necessary or advisable by the corporation,  
8 or to permit the obligations of the other person to  
9 the special facility lease to be registered under the  
10 U.S. Securities Act of 1933, the corporation, with the  
11 approval of the director of finance, may appoint a  
12 national or state bank within or without the State to  
13 serve as trustee for the holders of the revenue bonds  
14 and may enter into a trust indenture or trust  
15 agreement with the trustee. The trustee may be  
16 authorized by the corporation to collect, hold, and  
17 administer the revenues derived from the special  
18 facility for which the revenue bonds are issued and to  
19 apply the revenues to the payment of the principal and  
20 interest on the revenue bonds. If any trustee shall  
21 be appointed, any trust indenture or agreement entered  
22 into by the corporation with the trustee may contain



1 the covenants and provisions authorized by part III of  
2 chapter 39 to be inserted in a resolution adopted or  
3 certificate issued, as though the words "resolution"  
4 or "certificate" as used in that part read "trust  
5 indenture or agreement". The covenants and provisions  
6 shall not be required to be included in the resolution  
7 or certificate authorizing the issuance of the revenue  
8 bonds if included in the trust agreement or indenture.  
9 Any resolution or certificate, trust indenture, or  
10 trust agreement adopted, issued, or entered into by  
11 the corporation pursuant to this subpart may also  
12 contain any provisions required for the qualification  
13 thereof under the U.S. Trust Indenture Act of 1939.  
14 The corporation may pledge and assign to the trustee  
15 the special facility lease and the rights of the  
16 corporation including the revenues thereunder;  
17 (6) If the corporation, with the approval of the director  
18 of finance, shall have appointed or shall appoint a  
19 trustee for the holders of the revenue bonds, then  
20 notwithstanding the provisions of the second sentence  
21 of section 39-68, the director of finance may elect  
22 not to serve as fiscal agent for the payment of the



1 principal and interest, and for the purchase,  
2 registration, transfer, exchange, and redemption, of  
3 the revenue bonds, or may elect to limit the functions  
4 the director of finance shall perform as the fiscal  
5 agent. The corporation, with the approval of the  
6 director of finance, may appoint the trustee to serve  
7 as the fiscal agent, and may authorize and empower the  
8 trustee to perform the functions with respect to  
9 payment, purchase, registration, transfer, exchange,  
10 and redemption, that the corporation may deem  
11 necessary, advisable, or expedient, including, without  
12 limitation, the holding of the revenue bonds and  
13 coupons which have been paid and the supervision and  
14 conduction of the destruction thereof in accordance  
15 with sections 40-10 and 40-11. Nothing in this  
16 paragraph shall be a limitation upon or construed as a  
17 limitation upon the powers granted in the preceding  
18 paragraph to the corporation, with the approval of the  
19 director of finance, to appoint the trustee, or  
20 granted in sections 36-3 and 39-13 and the third  
21 sentence of section 39-68 to the director of finance  
22 to appoint the trustee or others, as fiscal agents,



1           paying agents, and registrars for the revenue bonds or  
2           to authorize and empower the fiscal agents, paying  
3           agents, and registrars to perform the functions  
4           referred to in that paragraph and sections, it being  
5           the intent of this paragraph to confirm that the  
6           director of finance as aforesaid may elect not to  
7           serve as fiscal agent for the revenue bonds or may  
8           elect to limit the functions the director of finance  
9           shall perform as the fiscal agent, that the director  
10          of finance may deem necessary, advisable, or  
11          expedient;

12          (7) The corporation may sell the revenue bonds either at  
13          public or private sale;

14          (8) If no trustee shall be appointed to collect, hold, and  
15          administer the revenues derived from the special  
16          facility for which the revenue bonds are issued, the  
17          revenues shall be held in a separate account in the  
18          treasury of the State, separate and apart from the  
19          Hawaii community development revolving fund, to be  
20          applied solely to the carrying out of the resolution,  
21          certificate, trust indenture, or trust agreement  
22          authorizing or securing the revenue bonds;



- 1           (9) If the resolution, certificate, trust indenture, or  
2           trust agreement shall provide that no revenue bonds  
3           issued thereunder shall be valid or obligatory for any  
4           purpose unless certified or authenticated by the  
5           trustee for the holders of the revenue bonds,  
6           signatures of the officers of the State upon the bonds  
7           required by section 39-56 may be facsimiles of their  
8           signatures;
- 9           (10) Proceeds of the revenue bonds may be used and applied  
10          by the corporation to reimburse the other person to  
11          the special facility lease for all preliminary costs  
12          and expenses, including architectural and legal costs;  
13          and
- 14          (11) If the special facility lease shall require the other  
15          person to operate, maintain, and repair the special  
16          facility which is the subject of the lease, at the  
17          other person's expense, the requirement shall  
18          constitute compliance by the corporation with section  
19          39-61(a)(2), and none of the revenues derived by the  
20          corporation from the special facility shall be  
21          required to be applied to the purposes of section  
22          39-62(2). Section 39-62(4), 39-62(5), and 39-62(6)



1 shall not apply to the revenues derived from a special  
2 facility lease.

3 **§171C-AAAAAAZ Special facility revenue bonds; special**  
4 **funds.** (a) A separate special fund shall be established for  
5 each special facility financed from the proceeds of the revenue  
6 bonds secured under the same trust indenture. Each fund shall  
7 be designated "special facility revenue bond special fund" and  
8 shall bear additional designation as the corporation deems  
9 appropriate to properly identify the fund.

10 (b) Notwithstanding any other law to the contrary,  
11 including particularly section 171C-AAAAAD, all revenues,  
12 income, and receipts derived from the special facility for which  
13 the revenue bonds are issued shall be paid into the special  
14 facility revenue bond fund established for that special facility  
15 and applied as provided in the proceedings authorizing the  
16 issuance of the revenue bonds.

17 F. Kalaeloa Community Development District

18 **§171C-AAAAAAA Barbers Point Naval Air Station**  
19 **redevelopment; power to redevelop established.** (a) The  
20 corporation shall be the designated agency of the State to  
21 implement this subpart.



1           (b) The corporation shall act as the local redevelopment  
2 authority to facilitate the redevelopment of Barbers Point Naval  
3 Air Station in accordance with the Barbers Point Naval Air  
4 Station community reuse plan. In addition to any other duties  
5 that the corporation may have pursuant to this part, the  
6 corporation's duties shall include but not be limited to:

- 7           (1) Coordinating with the Navy and other entities during  
8           the conveyance of properties and conducting  
9           remediation activities for the Barbers Point Naval Air  
10          Station community reuse plan;
- 11          (2) Assisting landholders designated by the plan to market  
12          their properties and process conveyance requests;
- 13          (3) Working with the Navy and others to ensure that  
14          infrastructure support is provided to the existing  
15          developed area, referred to as the "downtown area",  
16          and other federally retained areas;
- 17          (4) Developing the infrastructure necessary to support the  
18          implementation of the Barbers Point Naval Air Station  
19          community reuse plan; and
- 20          (5) Providing, to the extent feasible, maximum opportunity  
21          for the reuse of surplus property by private  
22          enterprise or state and county government.



1 (c) Five additional voting members shall, except as  
2 otherwise provided in this subsection, be appointed to the board  
3 of directors of the corporation by the governor to represent the  
4 Kalaeloa community development district. These members shall be  
5 considered in determining quorum and majority only on issues  
6 relating to the Kalaeloa community development district, and may  
7 vote only on issues relating to the Kalaeloa community  
8 development district. These members shall consist of:

9 (1) The chairperson of the Hawaiian homes commission;

10 (2) The director of the city and county of Honolulu  
11 department of planning and permitting;

12 (3) Two members representing the surrounding community for  
13 a term pursuant to section 26-34, one of which shall  
14 be selected by the mayor of the city and county of  
15 Honolulu; and

16 (4) One member who is a Hawaiian cultural specialist.

17 **§171C-AAAAAAB Designation of the Kalaeloa community**

18 **development district.** (a) The federal Department of Defense  
19 declared approximately two thousand one hundred fifty acres of  
20 land at the Barbers Point Naval Air Station to be surplus to its  
21 needs and under a base realignment is conveying these surplus  
22 lands to the various end users identified by the community reuse



1 plan. The governor has approved and forwarded to the Navy the  
2 community reuse plan for these surplus lands.

3 (b) The legislature hereby designates these surplus lands  
4 as the "Kalaeloa community development district".

5 **§171C-AAAAAAC District established; boundaries.** The  
6 Kalaeloa community development district is established. The  
7 district shall include that area within the boundaries described  
8 as follows: the eastern boundary begins at Geiger Gate and runs  
9 along East Hansen Road to the intersection with Essex Road until  
10 its termination at White Plains Beach Park, where it follows the  
11 eastern boundary of parcel 9-1-13:74 to the shoreline at the  
12 mean high water mark; the northern boundary begins at the  
13 eastern corner at the Geiger Road entry gate where it becomes  
14 Roosevelt Road and continues westward until its intersection  
15 with West Perimeter Road; the western boundary follows the West  
16 Perimeter Road until its termination and then follows the  
17 western border of parcel 9-1-13:30 to the shoreline at the mean  
18 high water mark; two parcels (9-1-13:01 and 9-1-13:09) lying  
19 west of West Perimeter Road toward its mauka end, and two  
20 parcels (9-1-31:28 and 9-1-31:47) lying west of West Perimeter  
21 Road on its makai end, all of which are physically separated  
22 from the western boundary by a storm water drainage canal, are



1 also included; the southern boundary follows the shoreline at  
2 the mean high water mark from the western boundary of parcel 9-  
3 1-13:30 to the eastern boundary of White Plains Beach Park (9-1-  
4 13:74). All references to parcel numbers contained herein  
5 indicate the areas identified by such tax map key numbers as of  
6 March 18, 2002.

7 **§171C-AAAAAAD Kalaeloa community development district;**  
8 **development guidance policies.** The following development  
9 guidance policies shall generally govern the corporation's  
10 actions in the Kalaeloa community development district:

11 (1) Development shall be in accordance with the community  
12 reuse plan, except as it conflicts with the Hawaii  
13 state constitution and the Hawaii Revised Statutes, as  
14 they relate to the department of Hawaiian home lands;

15 (2) With the approval of the governor and concurrence of  
16 the Navy, and in accordance with state law governing  
17 lands owned by the department of Hawaiian home lands,  
18 the corporation, upon the concurrence of a majority of  
19 its voting members, may modify and make changes to the  
20 reuse plan to respond to changing conditions; provided  
21 that prior to amending the reuse plan the corporation



1           shall conduct a public hearing to inform the public of  
2           the proposed changes and receive public input;

3           (3) Development shall seek to promote economic development  
4           and employment opportunities by fostering diverse land  
5           uses and encouraging private sector investments that  
6           utilize the opportunities presented by the receipt of  
7           property from the base closure consistent with the  
8           needs of the public;

9           (4) The corporation may engage in planning, design, and  
10          construction activities within and outside of the  
11          district; provided that activities outside of the  
12          district shall relate to infrastructure development,  
13          area-wide drainage improvements, roadways realignments  
14          and improvements, business and industrial relocation,  
15          and other activities the corporation deems necessary  
16          to carry out redevelopment of the district and  
17          implement this part. Studies or coordinating  
18          activities may be undertaken by the corporation in  
19          conjunction with the county and appropriate state  
20          agencies and may address facility systems, industrial  
21          relocation, and other activities;



- 1 (5) Planning, replanning, rehabilitation, development,  
2 redevelopment, and other preparation for reuse of  
3 Barbers Point Naval Air Station under this part are  
4 public uses and purposes for which public money may be  
5 spent and private property acquired;
- 6 (6) Hawaiian archaeological, historic, and cultural sites  
7 shall be preserved and protected. Endangered species  
8 of flora and fauna and significant military facilities  
9 shall be preserved to the extent feasible;
- 10 (7) Land use and redevelopment activities within the  
11 district shall be coordinated with and to the extent  
12 possible complement existing county and state  
13 policies, plans, and programs affecting the district;  
14 and
- 15 (8) Public facilities within the district shall be  
16 planned, located, and developed to support the  
17 redevelopment policies established by this part for  
18 the district, the reuse plan approved by the governor,  
19 and rules adopted pursuant to this part.

20 **§171C-AAAAAAAE Kalaeloa community development revolving**  
21 **fund.** (a) There is established in the state treasury the



1 Kalaeloa community development revolving fund, into which shall  
2 be deposited:

3 (1) All revenues, income, and receipts of the corporation  
4 for the Kalaeloa community development district,  
5 notwithstanding any other law to the contrary,  
6 including section 171C-AAAAAD;

7 (2) Moneys directed, allocated, or disbursed to the  
8 Kalaeloa community development district from  
9 government agencies or private individuals or  
10 organizations, including grants, gifts, awards,  
11 donations, and assessments of landowners for costs to  
12 administer and operate the Kalaeloa community  
13 development district; and

14 (3) Moneys appropriated to the fund by the legislature.

15 (b) Moneys in the Kalaeloa community development revolving  
16 fund shall be used for the purposes of this subpart.

17 (c) Investment earnings credited to the assets of the fund  
18 shall become part of the assets of the fund.

19 ~~§171C-AAAAAAF~~ **Assessment for operating costs.** (a) The  
20 corporation shall have the power to assess all land users,  
21 except the federal government, for their fair share of the costs  
22 required to administer and operate the Kalaeloa community



1 development district, which may include costs associated with  
2 staffing. Assessments shall be based on each landowner's  
3 proportionate share of the total acreage of the Kalaeloa  
4 community development district.

5 (b) The assessment shall be set by the corporation  
6 annually, based upon the operating budget for the district, and  
7 adjusted for any actual expenditures made in the prior year in  
8 excess of the prior approved budget. The assessments shall be  
9 paid to the corporation in semiannual payments commencing thirty  
10 days after the beginning of the fiscal year.

11 (c) The corporation may charge interest or other fees on  
12 assessment amounts not paid on a timely basis, and may withhold  
13 services or approval of governmental permits for land users  
14 delinquent in payments.

15 (d) For the purposes of this section, "land user" includes  
16 the owner of land; provided that the landowner may assign the  
17 responsibility for payment of assessments to the lessee or  
18 licensee of the land.

19 **§171C-AAAAAAG Complaints.** The corporation may establish  
20 procedures for receiving and processing district-related  
21 complaints, conducting research, monitoring matters that arise  
22 within the district, and reporting its findings.



1           §171C-AAAAAAAH Remedies. (a) The corporation may  
2 research any complaint relating to the district that it  
3 determines to be an appropriate subject for investigation,  
4 including:

- 5           (1) Unkempt appearance of property;
- 6           (2) Brushfires on property;
- 7           (3) Rubbish disposed of inappropriately; or
- 8           (4) Conditions on property otherwise incongruous with  
9           generally accepted standards of maintenance.

10           (b) The corporation may investigate, conduct research, or  
11 monitor any matter that arises within the district, in  
12 accordance with this subpart.

13           (c) If the corporation decides not to research a complaint  
14 filed with the corporation, it shall inform the complainant of  
15 its decision and shall state its reasons.

16           If the corporation decides to research the complaint, it  
17 shall notify the complainant of its decision and shall also  
18 notify the landowner of its intention to investigate.

19           (d) Before giving any opinion or recommendation that is  
20 critical of a landowner or person who is the subject of the  
21 complaint, the corporation shall consult with the landowner or  
22 person on the best means to remedy the situation.



1 (e) After a reasonable time has elapsed, the corporation  
2 shall notify the complainant of the actions taken by it and by  
3 the landowner.

4 **§171C-AAAAAAAI Reports.** (a) After a reasonable time has  
5 elapsed, the corporation may present its opinion and  
6 recommendations to the governor, the legislature, the public, or  
7 any of these. The corporation shall include with this opinion  
8 any reply made by the landowner.

9 (b) The corporation shall submit to the various landowners  
10 in the district a quarterly report discussing the corporation's  
11 activities under this subpart. The report shall be made  
12 available to the public upon request.

13 G. Heeia Community Development District

14 **§171C-AAAAAAAJ Definitions.** As used in this subpart:

15 "District" means the Heeia community development district.

16 "Fund" means the Heeia community development revolving  
17 fund.

18 **§171C-AAAAAAAK District established; boundaries.** (a) The  
19 Heeia community development district is hereby established. The  
20 district shall include that area within the boundaries described  
21 as follows: the southern boundary begins at the southern  
22 property line of tax map key number (1) 4-6-16:001 and runs west



1 to Kahekili highway and east to Kamehameha highway. The  
2 northern boundary begins at the northern property line of tax  
3 map key number (1) 4-6-16:001 and runs west to Kahekili highway  
4 and east to Kamehameha highway. The tax map key numbers are (1)  
5 4-6-16:001 and (1) 4-6-16:002 (owned by the corporation), and  
6 (1) 4-6-16:004, :011, :012, and :017 (owned by various owners of  
7 kuleana parcels).

8 (b) The corporation shall serve as the local redevelopment  
9 authority of the district to facilitate culturally appropriate  
10 agriculture, education, and natural-resource restoration and  
11 management of the Heeia wetlands, in alignment with the Honolulu  
12 board of water supply's most current "Koolau Poko Watershed  
13 Management Plan" and the city and county of Honolulu's most  
14 current "Koolaupoko Sustainable Communities Plan". In addition  
15 to any other of its duties under this part, the corporation  
16 shall:

- 17 (1) Consult with the following persons and entities:
- 18 (A) Recorded landowners in the district;
  - 19 (B) Recorded landowners in section 6 of zone 4 of the  
20 first tax map key division;
  - 21 (C) Koolaupoko Hawaiian Civic Club;
  - 22 (D) Kailua neighborhood board;



- 1 (E) Kahaluu neighborhood board; and
- 2 (F) Kaneohe neighborhood board,
- 3 to implement activities related to and supportive of
- 4 cultural practices, agriculture, education, and
- 5 natural-resource restoration and management;
- 6 (2) Assist land users to manage their properties and
- 7 implement activities related to and supportive of
- 8 cultural practices, agriculture, education, and
- 9 natural-resource restoration and management;
- 10 (3) Work with federal, state, county, and other agencies
- 11 to ensure that infrastructural support is provided for
- 12 the district;
- 13 (4) Develop the infrastructure necessary to support the
- 14 implementation of the Heeia community development
- 15 district master plan; and
- 16 (5) Provide, to the extent feasible, maximum opportunity
- 17 for the restoration and implementation of sustainable,
- 18 culturally appropriate, biologically responsible, or
- 19 agriculturally beneficial enterprises.
- 20 (c) Three additional voting members shall, except as
- 21 otherwise provided in this subsection, be appointed to the board
- 22 of directors of the corporation by the governor pursuant to



1 section 26-34 to represent the district. These three members  
2 shall be considered in determining quorum and majority only on  
3 issues relating to the district and may vote only on issues  
4 related to the district. The three members shall be residents  
5 of the district or the Koolaupoko district which consists of  
6 sections 1 through 9 of zone 4 of the first tax map key  
7 division.

8 **§171C-AAAAAAL Heeia community development district;**  
9 **policies to guide development.** The following general policies  
10 to guide development shall govern the corporation's actions in  
11 the district:

- 12 (1) Development shall be in accordance with the Heeia  
13 master plan, except as it conflicts with the Hawaii  
14 state constitution and the Hawaii Revised Statutes;
- 15 (2) With the approval of the governor, and in accordance  
16 with law, the corporation, upon the concurrence of a  
17 majority of its voting members, may modify and make  
18 changes to the Heeia master plan to respond to  
19 changing conditions; provided that prior to amending  
20 the Heeia master plan, the corporation shall conduct a  
21 public meeting pursuant to chapter 92 to inform the



1 public of the proposed changes and receive public  
2 input;

3 (3) The corporation shall provide, to the extent feasible,  
4 maximum opportunity for the restoration and  
5 implementation of sustainable, culturally appropriate,  
6 biologically responsible, or agriculturally beneficial  
7 enterprises;

8 (4) The corporation may engage in planning, design, and  
9 construction activities within and outside the  
10 district; provided that activities outside the  
11 district shall relate to infrastructural development,  
12 area-wide drainage improvements and sediment transport  
13 mitigation, roadway realignments and improvements, and  
14 other activities the corporation deems necessary to  
15 carry out redevelopment of the district and implement  
16 this part. Studies or coordinating activities may be  
17 undertaken by the corporation in conjunction with the  
18 county and appropriate federal and state agencies and  
19 may address infrastructural systems, natural-resource  
20 systems, and other activities;

21 (5) Planning, replanning, rehabilitation, development,  
22 redevelopment, and other preparations for the



- 1 restoration of cultural practices, education, natural  
2 resources, and agriculture related activities shall be  
3 pursued;
- 4 (6) Hawaiian archaeological, historic, and cultural sites  
5 shall be preserved and protected to the extent  
6 feasible while allowing for continued use of the  
7 property for cultural activities, education,  
8 agricultural and economic pursuits, and natural-  
9 resource restoration;
- 10 (7) Endangered species of flora and fauna shall be  
11 preserved and protected to the extent feasible;
- 12 (8) Land use and redevelopment activities within the  
13 district shall be coordinated with and, to the extent  
14 possible, complement existing county and state  
15 policies, plans, and programs affecting the district;
- 16 (9) Public facilities within the district shall be  
17 planned, located, and developed to support the  
18 redevelopment policies established by this subpart for  
19 the district, the master plan approved by the  
20 governor, and rules adopted pursuant to this part; and



1           (10) Special management area permit administration for the  
2                    district shall continue to be under the authority of  
3                    the city and county of Honolulu.

4           **§171C-AAAAAAM Heeia community development revolving fund.**

5           (a) There is established in the state treasury the Heeia  
6           community development revolving fund, into which shall be  
7           deposited:

8           (1) All revenues, income, and receipts of the corporation  
9                    for the district, notwithstanding any other law to the  
10                   contrary, including section 171C-AAAAAD;

11           (2) Moneys directed, allocated, or disbursed to the  
12                   district from government agencies or private  
13                   individuals or organizations, including grants, gifts,  
14                   awards, donations, and assessments of landowners for  
15                   costs to administer and operate the district; and

16           (3) Moneys appropriated to the fund by the legislature.

17           (b) Moneys in the fund shall be used only for the purposes  
18           of this part.

19           (c) Investment earnings credited to the assets of the fund  
20           shall become part of the fund.





1 (6) Carry out surveys, research, and investigations into  
2 technological, business, financial, consumer trends,  
3 and other aspects of leisure or recreational land uses  
4 in the national and international community;

5 (7) Prepare or cause to be prepared a community  
6 development plan for all designated community  
7 development districts;

8 (8) Acquire, reacquire, or contract to acquire or  
9 reacquire by grant or purchase real, personal, or  
10 mixed property or any interest therein; to own, hold,  
11 clear, improve, and rehabilitate, and to sell, assign,  
12 exchange, transfer, convey, lease, or otherwise  
13 dispose of or encumber the same;

14 [~~7~~] (9) Acquire or contract to acquire by grant or  
15 purchase:

16 (A) All privately owned real property or any interest  
17 therein and the improvements thereon, if any,  
18 that are determined by the corporation to be  
19 necessary or appropriate for its purposes under  
20 this chapter, including real property together  
21 with improvements, if any, in excess of that  
22 needed for such use in cases where small remnants



1 would otherwise be left or where other  
2 justifiable cause necessitates the acquisition to  
3 protect and preserve the contemplated  
4 improvements, or public policy demands the  
5 acquisition in connection with such improvements;  
6 and

7 (B) Encumbrances, in the form of leases, licenses, or  
8 otherwise, needed by the corporation or any state  
9 department or agency for public purposes, the  
10 disposition of subdivided lots,ouselots,  
11 apartments or other economic units, or economic  
12 development;

13 [~~+8~~] (10) Own, hold, improve, and rehabilitate any real,  
14 personal, or mixed property acquired; and sell,  
15 assign, exchange, transfer, convey, lease, or  
16 otherwise dispose of, or encumber the same;

17 [~~+9~~] (11) By itself, or in partnership with qualified  
18 persons or other governmental agencies, acquire,  
19 construct, reconstruct, rehabilitate, improve, alter,  
20 or repair any infrastructure or accessory facilities  
21 in connection with any project; own, hold, sell,  
22 assign, transfer, convey, exchange, lease, or



- 1 otherwise dispose of, or encumber any project; and  
2 develop or manage, by itself, or in partnership with  
3 qualified persons or other governmental agencies, any  
4 project that meets the purposes of this chapter;
- 5 (12) Acquire or reacquire by condemnation real, personal,  
6 or mixed property or any interest therein for public  
7 facilities, including but not limited to streets,  
8 sidewalks, parks, schools, and other public  
9 improvements;
- 10 (13) By itself, or in partnership with qualified persons,  
11 acquire, reacquire, construct, reconstruct,  
12 rehabilitate, improve, alter, or repair or provide for  
13 the construction, reconstruction, improvement,  
14 alteration, or repair of any project; own, hold, sell,  
15 assign, transfer, convey, exchange, lease, or  
16 otherwise dispose of or encumber any project, and in  
17 the case of the sale of any project, accept a purchase  
18 money mortgage in connection therewith; and repurchase  
19 or otherwise acquire any project which the corporation  
20 has theretofore sold or otherwise conveyed,  
21 transferred, or disposed of;



- 1        (14) Arrange or contract for the planning, replanning,  
2        opening, grading, or closing of streets, roads,  
3        roadways, alleys, or other places, or for the  
4        furnishing of facilities or for the acquisition of  
5        property or property rights or for the furnishing of  
6        property or services in connection with a project;
- 7        (15) Grant options to purchase any project or to renew any  
8        lease entered into by it in connection with any of its  
9        projects, on such terms and conditions as it deems  
10       advisable;
- 11       (16) Prepare or cause to be prepared plans, specifications,  
12       designs, and estimates of costs for the construction,  
13       reconstruction, rehabilitation, improvement,  
14       alteration, or repair of any project, and from time to  
15       time to modify such plans, specifications, designs, or  
16       estimates;
- 17       (17) Allow satisfaction of any affordable housing  
18       requirements imposed by the corporation upon any  
19       proposed development project through the construction  
20       of reserved housing, as defined in section 171C-  
21       AAAAAP, by a person on land located outside the  
22       geographic boundaries of the corporation's



1           jurisdiction; provided that the corporation shall not  
2           permit any person to make cash payments in lieu of  
3           providing reserved housing, except to account for any  
4           fractional unit that results after calculating the  
5           percentage requirement against residential floor space  
6           or total number of units developed. The substituted  
7           housing shall be located on the same island as the  
8           development project and shall be substantially equal  
9           in value to the required reserved housing units that  
10           were to be developed on site. The corporation shall  
11           establish the following priority in the development of  
12           reserved housing:

- 13           (A) Within the community development district;  
14           (B) Within areas immediately surrounding the  
15           community development district;  
16           (C) Areas within the central urban core;  
17           (D) In outlying areas within the same island as the  
18           development project.

19           The corporation shall adopt rules relating to the  
20           approval of reserved housing that are developed  
21           outside of a community development district. The  
22           rules shall include but are not limited to the



1           establishment of guidelines to ensure compliance with  
2           the above priorities;

3       ~~(10)~~ (18) In cooperation with any governmental agency, or  
4       otherwise through direct investment or coventure with  
5       a professional investor or enterprise or any other  
6       person, or otherwise, acquire, construct, operate, and  
7       maintain public land facilities, including but not  
8       limited to leisure, recreational, commercial,  
9       residential, time share, hotel, office space, and  
10      business facilities, at rates or charges determined by  
11      the corporation;

12      ~~(11)~~ (19) Assist developmental, recreational, and visitor-  
13      industry related enterprises, or projects developed or  
14      managed by the corporation, by conducting detailed  
15      marketing analysis and developing marketing and  
16      promotional strategies to strengthen the position of  
17      those enterprises and to better exploit local,  
18      national, and international markets;

19      ~~(12)~~ (20) Receive, examine, and determine the acceptability  
20      of applications of qualified persons for allowances  
21      or grants for the development of new recreation and  
22      visitor-industry related products, the expansion of



1 established recreation and visitor-industry or land  
2 development enterprises, and the altering of existing  
3 recreational, visitor-industry related, or land  
4 development enterprises;

5 ~~[(13)]~~ (21) Coordinate its activities with any federal or  
6 state programs;

7 ~~[(14)]~~ (22) Grant options to purchase any project or to renew  
8 any lease entered into by the corporation in  
9 connection with any of its projects, on the terms and  
10 conditions it deems advisable;

11 ~~[(15)]~~ (23) Provide advisory, consultative, training, and  
12 educational services and technical assistance to any  
13 person, partnership, or corporation, either public or  
14 private, to carry out the purposes of this chapter,  
15 and engage the services of consultants on a  
16 contractual basis for rendering professional and  
17 technical assistance and advice;

18 ~~[(16)]~~ (24) Procure insurance against any loss in connection  
19 with its property and other assets and operations in  
20 amounts and from insurers as it deems desirable;

21 ~~[(17)]~~ (25) Accept gifts or grants in any form from any  
22 public agency or any other source;



1        [~~(18)~~] (26) Issue bonds to finance the cost of a project and  
2                    to provide for the security thereof, in the manner and  
3                    pursuant to the procedure prescribed in this chapter;

4        [~~(19)~~] (27) Subject to approval by the department, assume  
5                    management responsibilities for small boat harbors in  
6                    accordance with chapter 200 and any rules adopted  
7                    pursuant thereto for periods not to exceed one year;

8        [~~(20)~~] (28) Recommend to the board of land and natural  
9                    resources the purchase of any privately owned  
10                    properties that may be appropriate for development;  
11                    and

12        [~~(21)~~] (29) Do all things necessary or proper to carry out  
13                    the purposes of and powers expressly provided in this  
14                    chapter."

15                    SECTION 4. Section 182-2, Hawaii Revised Statutes, is  
16                    amended by amending subsection (a) to read as follows:

17                    "(a) All minerals in, on, or under state lands or lands  
18                    which hereafter become state lands are reserved to the State;  
19                    provided that the board of land and natural resources with  
20                    respect to all minerals except geothermal resources, and the  
21                    public land development corporation with respect to geothermal  
22                    resources, may release, cancel, or waive the reservation



1 whenever it deems the land use, other than mining, is of greater  
2 benefit to the State as provided for in section 182-4. Such  
3 minerals are reserved from sale or lease except as provided in  
4 this chapter. A purchaser or lessee of any such lands shall  
5 acquire no right, title, or interest in or to the minerals. The  
6 right of the purchaser or lessee shall be subject to the  
7 reservation of all the minerals and to the conditions and  
8 limitations prescribed by law providing for the State and  
9 persons authorized by it to prospect for, mine, and remove the  
10 minerals, and to occupy and use so much of the surface of the  
11 land as may be required for all purposes reasonably extending to  
12 the mining and removal of the minerals therefrom by any means  
13 whatsoever."

14 SECTION 5. Section 182-3, Hawaii Revised Statutes, is  
15 amended to read as follows:

16 "**§182-3 Bond; compensation to occupiers.** (a) Every  
17 lessee of a mining lease granted under this chapter and every  
18 assignee thereof shall file with the board of land and natural  
19 resources regarding leases not involving geothermal resources,  
20 and with the public land development corporation regarding  
21 leases involving geothermal resources, a bond, in a form and in  
22 an amount approved by the board[7] or the public land



1 development corporation, made payable to the State and which  
2 shall be conditioned upon the faithful performance by the lessee  
3 of all the requirements of this chapter and of the mining lease,  
4 and also conditioned upon the full payment by the lessee of all  
5 damages suffered by the occupiers hereinunder mentioned. If the  
6 State sells or leases its mineral rights on land which it or its  
7 predecessors in interest have granted or leased, or which it may  
8 hereafter sell or lease, and the land thereof including any  
9 crops or improvements is damaged by any mining or other  
10 incidental operations, including exploratory work, or by the  
11 failure of the lessee of the mining lease to properly restore  
12 the land after termination of the operations, the occupier shall  
13 be reimbursed the full extent of the damages caused by the  
14 mining operations of the lessee to be allocated between the  
15 lessee and the fee owner in accordance with the lease terms, if  
16 any.

17 (b) Nothing herein shall be construed to prevent the  
18 occupier from demanding and receiving rentals from the lessee of  
19 the mining lease or to forbid and prevent the occupier and the  
20 lessee from agreeing upon the amount of damages to be paid and  
21 the terms and conditions of payment. The occupier may in  
22 writing before or within thirty days after the public auction



1 notify the board regarding mining leases not involving  
2 geothermal resources, and the public land development  
3 corporation regarding leases involving geothermal resources,  
4 that the occupier elects to have the amount of damages and the  
5 amount of rentals to be paid as a result of the mining lease  
6 determined by arbitration with the successful bidder. In such  
7 event, the occupier shall notify the successful bidder of the  
8 occupier's election to arbitrate, and the arbitration shall  
9 proceed in accordance with chapter 658A. The arbitrators in  
10 fixing the amount of damages to be paid to the occupier shall  
11 award the occupier the amount which in their judgment shall  
12 fairly compensate the occupier for the damages the occupier may  
13 suffer to the occupier's crops or improvements or to the surface  
14 or condition of the occupier's land caused by the mining or  
15 other incidental operations, including exploratory work, and a  
16 reasonable rental for the use of the surface."

17 SECTION 6. Section 182-4, Hawaii Revised Statutes, is  
18 amended to read as follows:

19 "**§182-4 Mining leases on state lands.** (a) If any mineral  
20 is discovered or known to exist on state lands, any interested  
21 person may notify the board of land and natural resources  
22 regarding any mineral not including geothermal resources, and



1 the public land development corporation regarding geothermal  
2 resources, of the person's desire to apply for a mining lease.  
3 The notice shall be accompanied by a fee of \$100 together with a  
4 description of the land desired to be leased and the minerals  
5 involved and any information and maps that the board or the  
6 public land development corporation by rule may prescribe. As  
7 soon as practicable thereafter, the board or the public land  
8 development corporation shall cause a public notice to be given  
9 in the county where the lands are located, at least once in each  
10 of three successive weeks, setting forth the description of the  
11 land, and the minerals desired to be leased. The board or the  
12 public land development corporation may hold the public auction  
13 of the mining lease within six months from the date of the first  
14 notice or any further time that may be reasonably necessary.  
15 Whether or not the state land sought to be auctioned is then  
16 being utilized or put to some productive use, the board[7] or  
17 the public land development corporation, after due notice of  
18 public hearing to all parties in interest, within six weeks from  
19 the date of the first notice or any further time that may be  
20 reasonably necessary, shall determine whether the proposed  
21 mining operation or the existing or reasonably foreseeable  
22 future use of the land would be of greater benefit to the State.



1 If the board or the public land development corporation  
2 determines that the existing or reasonably foreseeable future  
3 use would be of greater benefit to the State than the proposed  
4 mining use of the land, it shall disapprove the application for  
5 a mining lease of the land without putting the land to auction.  
6 The board or the public land development corporation shall  
7 determine the area to be offered for lease and, after due notice  
8 of public hearing to all parties in interest, may modify the  
9 boundaries of the land areas. At least thirty days prior to the  
10 holding of any public auction, the board or the public land  
11 development corporation shall cause a public notice to be given  
12 in the State at least once in each of three successive weeks,  
13 setting forth the description of the land, the minerals to be  
14 leased, and the time and place of the auction. Bidders at the  
15 public auction may be required to bid on the amount of annual  
16 rental to be paid for the term of the mining lease based on an  
17 upset price fixed by the board[-] or the public land development  
18 corporation, a royalty based on the gross proceeds or net  
19 profits, cash bonus, or any combination or other basis and under  
20 any terms and conditions that may be set by the board[-] or the  
21 public land development corporation.



1           (b) Any provisions to the contrary notwithstanding, if the  
2 person who discovers the mineral discovers it as a result of  
3 exploration permitted under section 182-6, and if that person  
4 bids at the public auction on the mining lease for the right to  
5 mine the discovered mineral and is unsuccessful in obtaining  
6 such lease, that person shall be reimbursed by the person  
7 submitting the highest bid at public auction for the direct or  
8 indirect costs incurred in the exploration of the land,  
9 excluding salaries, attorneys fees and legal expenses. The  
10 department or the public land development corporation shall have  
11 the authority to review and approve all expenses and costs that  
12 may be reimbursed."

13           SECTION 7. Section 182-5, Hawaii Revised Statutes, is  
14 amended to read as follows:

15           "**§182-5 Mining leases on reserved lands.** (a) If any  
16 mineral is discovered or known to exist on reserved lands, any  
17 interested person may notify the board of land and natural  
18 resources regarding any mineral not including geothermal  
19 resources, or the public land development corporation regarding  
20 geothermal resources, of the person's desire to apply for a  
21 mining lease. The notice shall be accompanied by a fee of \$100  
22 together with a description of the land desired to be leased and



1 the minerals involved and [~~such~~] any information and maps [~~as~~]  
2 that the board or the public land development corporation may by  
3 [~~regulation~~] rule prescribe. The board or the public land  
4 development corporation may grant a mining lease on reserved  
5 lands in accordance with section 182-4, or the board or the  
6 public land development corporation may, by the vote of two-  
7 thirds of its members to which the board or the public land  
8 development corporation board of directors is entitled, without  
9 public auction, grant a mining lease on reserved lands to the  
10 occupier thereof. [~~Such a~~] A mining lease may be granted to a  
11 person other than the occupier if the occupier has assigned the  
12 occupier's rights to apply for a mining lease to another person,  
13 in which case only [~~such an~~] the assignee may be granted a  
14 mining lease.

15 (b) [~~Any provisions to the contrary notwithstanding, if~~  
16 ~~the board~~] Notwithstanding any other law to the contrary, if the  
17 public land development corporation decides that it is  
18 appropriate to grant a geothermal mining lease on the reserved  
19 lands, the surface owner or the owner's assignee shall have the  
20 first right of refusal for a mining lease; however, the granting  
21 of a geothermal mining lease does not create the presumption  
22 that a geothermal resource subzone will be designated, nor shall



1 geothermal development activities occur on land within the  
2 geothermal mining lease until the area is designated a  
3 geothermal resource subzone.

4 If the occupier or the occupier's assignee of the right to  
5 obtain a mining lease should fail to apply for a mining lease  
6 within six months from the date of notice from the board or the  
7 public land development corporation of a finding by the board or  
8 the public land development corporation that it is in the public  
9 interest that the minerals on the reserved lands be mined, a  
10 mining lease shall be granted under section 182-4; provided that  
11 bidders at the public auction shall bid on an amount to be paid  
12 to the State for a mining lease granting to the lessee the right  
13 to exploit minerals reserved to the State."

14 SECTION 8. Section 182-6, Hawaii Revised Statutes, is  
15 amended to read as follows:

16 "**§182-6 Exploration.** Any person wishing to conduct  
17 exploration on such state lands shall apply to the board of land  
18 and natural resources if geothermal resources are not involved,  
19 or to the public land development corporation, if geothermal  
20 resources are involved, who shall issue exploration permits upon  
21 such terms and conditions as it shall by [~~regulation~~] rule  
22 prescribe. During and as a result of the exploration, no



1 minerals of such types and quantity beyond that reasonably  
2 required for testing and analysis shall be extracted and removed  
3 from such state lands. Upon termination of the exploration  
4 permit, the drill logs and the results of the assays resulting  
5 from the exploration shall be turned over to the board or the  
6 public land development corporation and kept confidential by the  
7 board~~[-]~~ or the public land development corporation. If the  
8 person shall not make application for a mining lease of the  
9 lands within a period of six months from the date the  
10 information is turned over to the board~~[-]~~ or the public land  
11 development corporation, the board or the public land  
12 development corporation in its discretion need not keep the  
13 information confidential."

14 SECTION 9. Section 182-7, Hawaii Revised Statutes, is  
15 amended by amending subsections (a) through (e) to read as  
16 follows:

17 "(a) Prior to the public auction contemplated in section  
18 182-4 or 182-5, or the granting of mining lease without public  
19 auction contemplated in section 182-5, the board of land and  
20 natural resources or the public land development corporation  
21 shall cause a mining lease for the land in question to be drawn.  
22 The lease shall describe the land and shall contain, in addition



1 to such other provisions which the board or the public land  
2 development corporation may deem appropriate, specific  
3 provisions as provided in this section.

4 (b) The term of the lease shall be sixty-five years or for  
5 a lesser period at the discretion of the board[+] or the public  
6 land development corporation.

7 (c) The payments to the State as fixed by the board or the  
8 public land development corporation shall be specified; provided  
9 that:

10 (1) In the case of bauxite, bauxitic clay, gibbsite,  
11 diaspore, boehmite, and all ores of aluminum, the  
12 amount of royalties for each long dry ton of ore as  
13 beneficiated shall not be less than twenty-five cents  
14 or the equivalent of the price of one pound of virgin  
15 pig aluminum, whichever is higher, nor shall it exceed  
16 the equivalent of the price of three pounds of virgin  
17 pig aluminum;

18 (2) The rate of royalty for ore processed into aluminous  
19 oxide in the State shall be set at eighty per cent of  
20 the rate of royalty for ore not processed to aluminous  
21 oxide in the State; and



1           (3) The royalty shall be fixed at a rate which will tend  
2           to encourage the establishment and continuation of the  
3           mining industry in the State.

4           The prices of virgin pig aluminum for the purpose of  
5 determining the royalties under this section shall be the basic  
6 price on the mainland United States market for virgin pig, not  
7 refined, f.o.b. factory. The royalties shall be in lieu of any  
8 severance or other similar tax on the extracting, producing,  
9 winning, beneficiating, handling, storing, treating, or  
10 transporting of the mineral or any product into which it may be  
11 processed in the State, and shall not be subject to reopening or  
12 renegotiating for and during the first twenty years of the lease  
13 term.

14           In the event the lessee desires to mine other minerals, the  
15 lessee, before mining the minerals, shall so notify the board if  
16 geothermal resources are not involved, or the public land  
17 development corporation regarding geothermal resources, in  
18 writing, and the board or the public land development  
19 corporation and the lessee shall negotiate and fix the royalties  
20 for the minerals.

21           Any other law to the contrary notwithstanding, thirty per  
22 cent of all royalties received by the State from geothermal



1 resources shall be paid to the county in which mining operations  
2 covered under a state geothermal resource mining lease are  
3 situated.

4 (d) The lessee shall covenant and agree that the lessee  
5 shall commence mining operations upon the leased lands within  
6 three years from the date of execution of the lease; provided  
7 that so long as the lessee is actively and on a substantial  
8 scale engaged in mining operations on at least one such lease on  
9 the same minerals, the covenant shall be suspended as to all  
10 other leases held by the lessee.

11 Any interested party may, however, request that a mining  
12 lease contain a research period under which the lessees shall be  
13 required to expend money in research and development to  
14 establish a method to make economical the mining and processing  
15 of the mineral deposits contained in the lease. If the board or  
16 the public land development corporation determines that the  
17 research period would be beneficial, it shall fix the period of  
18 research and shall also fix a minimum expenditure for labor  
19 performed or money spent by the lessee in research and  
20 development and the method by which the lessee shall establish  
21 that such expenditure in fact be made. In such leases, the



1 obligation to commence mining operations within three years  
2 shall not commence until the expiration of the research period.

3 (e) For the period of the lease, the lessee shall have the  
4 exclusive right of possession of the minerals leased and the  
5 exclusive rights to mine and remove the minerals by means which  
6 shall be reasonable and satisfactory to the board or the public  
7 land development corporation and to occupy and use so much of  
8 the surface of the land as may reasonably be required, subject  
9 to the provisions of section 182-3. The right to use the  
10 surface shall include the right to erect transportation  
11 facilities thereon, construct plants for beneficiating, drying,  
12 and processing the minerals for electric power generation and  
13 transmission and such other uses as may be necessary or  
14 convenient to the winning and processing of the minerals;  
15 provided that the lessee shall comply with all water and air  
16 pollution control laws, and rules of the State or its political  
17 subdivisions."

18 SECTION 10. Section 182-8, Hawaii Revised Statutes, is  
19 amended to read as follows:

20 "**§182-8 Number of leases; acreage limitations; area**  
21 **covered by lease.** The board [~~is~~] and the public land  
22 development corporation are authorized to impose a limitation on



1 the number of leases or acres which a mining lessee or the  
2 mining lessee's transferee may hold under such terms and  
3 conditions as the board or the public land development  
4 corporation determines to be in the best interest of the State.  
5 No lease shall grant and include an area of land exceeding four  
6 square miles of contiguous land, in which the longest dimension  
7 of the area demised shall exceed its narrowest dimension by more  
8 than six times unless otherwise approved by the board."

9 SECTION 11. Section 182-9, Hawaii Revised Statutes, is  
10 amended to read as follows:

11 "**§182-9 Deposit; first year's rental.** All bidders shall  
12 prior to the date of public auction post with the board of land  
13 and natural resources or the public land development corporation  
14 a deposit of \$500. The board or the public land development  
15 corporation shall refund to unsuccessful bidders such amount  
16 within two days after the auction. All bidders, prior to the  
17 auction, shall satisfy the board or the public land development  
18 corporation of their financial ability to conduct mining  
19 operations and of their capability to develop a mine. The  
20 successful bidder shall pay to the board or the public land  
21 development corporation the amount of the first year's rental  
22 within two days after the acceptance of the bid by the board or



1 the public land development corporation and the \$500 deposit  
2 shall be credited against such sum. If the deposit exceeds the  
3 first year's rental, the excess shall be refunded. All rentals  
4 thereafter are payable in advance once a year."

5 SECTION 12. Section 182-9.5, Hawaii Revised Statutes, is  
6 amended to read as follows:

7 "[+]§182-9.5[+] **Unitization.** Upon motion by the board or  
8 the public land development corporation or petition filed by any  
9 mining lessee, the board[7] or the public land development  
10 corporation, in its discretion, may order such lessees or owners  
11 of mineral rights on adjoining properties to collectively adopt,  
12 and operate under, a cooperative or unit plan of development, if  
13 the board or the public land development corporation finds that  
14 such a plan will prevent the waste of any mineral, increase the  
15 ultimate recovery, avoid the drilling, digging, or excavating of  
16 any unnecessary well, or for such other reason that would  
17 encourage and promote the development of any mineral resource."

18 SECTION 13. Section 182-10, Hawaii Revised Statutes, is  
19 amended to read as follows:

20 "§182-10 **Revocation of mining leases.** A mining lease may  
21 be revoked if the lessee fails to pay rentals when due or if any  
22 of the terms of the lease or of law are not complied with, or if



1 the lessee wholly ceases all mining operations for other than  
2 reasons of force majeure or the uneconomic operation of the  
3 mining lease for a period of one year without the written  
4 consent of the board of land and natural resources[7] or the  
5 public land development corporation; provided that the board or  
6 the public land development corporation shall give the lessee  
7 notice of any default and the lessee shall have six months or  
8 such other time limit as provided by the rules and regulations  
9 from the date of the notice to remedy the default."

10 SECTION 14. Section 182-11, Hawaii Revised Statutes, is  
11 amended to read as follows:

12 "**§182-11 Assignment.** Any mining lease may be assigned in  
13 whole or in part, subject to the approval of the board of land  
14 and natural resources[7] or the public land development  
15 corporation, to an assignee who shall have the same  
16 qualifications as any bidder for a mining lease. The assignee  
17 shall be bound by the terms of the lease to the extent as if the  
18 assignee were the original lessee. The approval of the  
19 assignment by the board or the public land development  
20 corporation shall release the assignor from any liabilities or  
21 duties under the mining lease as to the portion thereof assigned  
22 except for any liability or duty which arose prior to the



1 approval of the assignment by the board or the public land  
2 development corporation and which remains unsatisfied or  
3 unperformed."

4 SECTION 15. Section 182-13, Hawaii Revised Statutes, is  
5 amended to read as follows:

6 "**§182-13 Surrender of mining leases.** Any lessee of a  
7 mining lease, who has complied fully with all the terms,  
8 covenants, and conditions of the existing lease, may, with the  
9 consent of the board of land and natural resources[7] or the  
10 public land development corporation, surrender at any time and  
11 from time to time all or any part of a mining lease or the land  
12 contained therein upon payments as consideration therefor two  
13 years' rent prorated upon the portion of the lease or land  
14 surrendered. The lessee shall thereupon be relieved of any  
15 further liability or duty with respect to the land or lease so  
16 surrendered; provided that nothing herein contained shall  
17 constitute a waiver of any liability or duty the lessee may have  
18 with respect to the land or lease surrendered as a result of any  
19 previous activities conducted on the land or under the lease.  
20 Upon the termination, cancellation, or surrender of any mining  
21 lease or any portion thereof, the lessee shall have the right to  
22 remove any and all equipment, buildings, and plants placed on



1 the land surrendered by the holder of the mining lease. A  
2 mining lease may also be surrendered if as a result of a final  
3 determination by a court of competent jurisdiction, the lessee  
4 is found to have acquired no rights in or to the minerals on  
5 reserved lands, nor the right to exploit the same, pursuant to  
6 the lease, and, in such event, the lessee shall be reimbursed  
7 for rentals paid to the State pursuant to the lease."

8 SECTION 16. Section 182-14, Hawaii Revised Statutes, is  
9 amended to read as follows:

10 "~~§182-14 Rules [and regulations]~~. Subject to chapter 91,  
11 the board of land and natural resources or the public land  
12 development corporation may make, promulgate, and amend such  
13 rules [~~and regulations~~] as it deems necessary to carry out this  
14 chapter and to perform its duties thereunder, all commensurate  
15 with and for the purpose of protecting the public interest. All  
16 such rules [~~and regulations~~] shall have the force and effect of  
17 law."

18 SECTION 17. Section 182-15, Hawaii Revised Statutes, is  
19 amended to read as follows:

20 "~~§182-15 Other use of surface of state lands~~. Where  
21 mining leases are granted on state lands, the board of land and  
22 natural resources or the public land development corporation may



1 reserve to the State the right to lease, sell, or otherwise  
2 dispose of the surface of the lands embraced within the lease.  
3 The lease, sale, or other disposal of the surface, if made,  
4 shall be subject to the rights of the holder of the mining  
5 lease."

6 SECTION 18. Section 182-18, Hawaii Revised Statutes, is  
7 amended to read as follows:

8 "[+]§182-18[+] **Geothermal royalties.** (a) The [~~board~~]  
9 public land development corporation shall fix the payment of  
10 royalties to the State for the utilization of geothermal  
11 resources at a rate which will encourage the initial and  
12 continued production of such resources. With respect to all  
13 geothermal mining leases previously issued or to be issued,  
14 where the [~~board~~] public land development corporation determines  
15 that it is necessary to encourage the initial or continued  
16 production of geothermal resources, the [~~board~~] public land  
17 development corporation shall have the authority to waive  
18 royalty payments to the State for any fixed period of time up to  
19 but not exceeding eight years.

20 (b) The [~~board~~] public land development corporation shall  
21 adopt, amend, or repeal rules pursuant to chapter 91 to  
22 establish the basis upon which the amount and duration of



1 royalty payments to the State will be fixed or waived. The  
2 [~~board's~~] public land development corporation's assessment of  
3 each application shall include[7] but not be limited to[7] the  
4 examination of such factors as the progress of geothermal  
5 development taking place in the State at the time of the  
6 application, the technical and financial capabilities of the  
7 applicant to undertake the project, and the need for providing a  
8 financial incentive in order for the applicant to proceed. The  
9 granting of any favorable terms to an applicant for the payment  
10 of royalties under this section may be revoked by the [~~board~~]  
11 public land development corporation if the applicant fails to  
12 satisfy any of the terms and conditions established by the  
13 [~~board,~~] public land development corporation, or if the  
14 applicant wholly ceases operations and for reasons other than  
15 events which are outside the control of the parties and which  
16 could not be avoided by the exercise of due care by the parties.

17 (c) The [~~board~~] public land development corporation shall  
18 submit a written report of all geothermal royalty dispositions  
19 to the legislature in accordance with section 171-29."

20 SECTION 19. Section 196D-3, Hawaii Revised Statutes, is  
21 amended by amending the definitions of "approval" and  
22 "discretionary consent" to read as follows:



1            ""Approval" means a discretionary consent required from an  
2 agency or the public land development corporation prior to the  
3 actual implementation of the project.

4            "Discretionary consent" means a consent, sanction, or  
5 recommendation from an agency or the public land development  
6 corporation for which judgment and free will may be exercised by  
7 the issuing agency~~[,]~~ or the public land development  
8 corporation, as distinguished from a ministerial consent."

9            SECTION 20. Section 196D-4, Hawaii Revised Statutes, is  
10 amended to read as follows:

11            "~~[+]§196D-4[+]~~ **Consolidated permit application and review**  
12 **process.** (a) The ~~[department]~~ public land development  
13 corporation is designated as the lead agency for the purposes of  
14 this chapter and, in addition to its existing functions, shall  
15 establish and administer the consolidated permit application and  
16 review process provided for in this chapter, which shall  
17 incorporate the permitting functions of those agencies involved  
18 in the development of the project which are transferred by  
19 section 196D-10 to the ~~[department]~~ public land development  
20 corporation to effectuate the purposes of this chapter.

21            (b) The consolidated permit application and review process  
22 shall incorporate:



- 1 (1) A list of all permits required for the project;
- 2 (2) The role and functions of the [~~department~~] public land
- 3 development corporation as the lead agency and the
- 4 interagency group;
- 5 (3) All permit review and approval deadlines;
- 6 (4) A schedule for meetings and actions of the interagency
- 7 group;
- 8 (5) A mechanism to resolve any conflicts that may arise
- 9 between or among the [~~department~~] public land
- 10 development corporation and any other agencies,
- 11 including any federal agencies, as a result of
- 12 conflicting permit, approval, or other requirements,
- 13 procedures, or agency perspectives;
- 14 (6) Any other administrative procedures related to the
- 15 foregoing; and
- 16 (7) A consolidated permit application form to be used for
- 17 the project for all permitting purposes.

18 (c) The [~~department~~] public land development corporation

19 shall perform all of the permitting functions for which it [~~is~~]

20 may be currently responsible and which are transferred to it by

21 section 196D-10 for the purposes of the project, and shall

22 coordinate and consolidate all required permit reviews by other



1 agencies, and to the fullest extent possible by all federal  
2 agencies, having jurisdiction over any aspect of the project."

3 SECTION 21. Section 196D-5, Hawaii Revised Statutes, is  
4 amended by amending subsections (a) to (c) to read as follows:

5 "(a) The [~~department~~] public land development corporation  
6 shall serve as the lead agency for the consolidated permit  
7 application and review process established pursuant to section  
8 196D-4(b) and as set forth in this section for the project. All  
9 agencies whose permitting functions are not transferred by  
10 section 196D-10 to the [~~department~~] public land development  
11 corporation for the purposes of the project are required to  
12 participate in the consolidated permit application and review  
13 process.

14 (b) To the greatest extent possible, the [~~department~~]  
15 public land development corporation and each agency whose  
16 permitting functions are not transferred by section 196D-10 to  
17 the [~~department~~] public land development corporation for the  
18 purposes of the project shall complete all of their respective  
19 permitting functions for the purposes of the project, in  
20 accordance with the timetable for regulatory review set forth in  
21 the joint agreement described in subsection (c)(3) and within  
22 the time limits contained in the applicable permit statutes,



1 ordinances, regulations, or rules; except that the [department]  
2 public land development corporation or any agency shall have  
3 good cause to extend, if and as permitted, the applicable time  
4 limit if the permit-issuing agency must rely on another agency,  
5 including any federal agency, for all or part of the permit  
6 processing and the delay is caused by the other agency.

7 (c) The procedure shall be as follows:

8 (1) The applicant shall submit the consolidated permit  
9 application using the consolidated permit application  
10 form, which shall include whatever data about the  
11 proposed project that the [department] public land  
12 development corporation deems necessary to fulfill the  
13 purposes of this chapter and to determine which  
14 [~~other~~] agencies may have jurisdiction over any aspect  
15 of the proposed project[-];

16 (2) Upon receipt of the consolidated permit application,  
17 the [department] public land development corporation  
18 shall notify all agencies whose permitting functions  
19 are not transferred by section 196D-10 to the  
20 [department] public land development corporation for  
21 the purposes of the project, as well as all federal  
22 agencies, that the [department] public land



1           development corporation determines may have  
2           jurisdiction over any aspect of the proposed project  
3           as set forth in the application, and shall invite the  
4           federal agencies so notified to participate in the  
5           consolidated permit application process. The  
6           agencies, and those federal agencies that accept the  
7           invitation, thereafter shall participate in the  
8           consolidated permit application and review process[-];

- 9           (3) The representatives of the [~~department~~] public land  
10           development corporation and the state, county, and  
11           federal agencies and the applicant shall develop and  
12           sign a joint agreement among themselves which shall:
- 13           (A) Identify the members of the consolidated permit  
14           application and review team;
  - 15           (B) Identify all permits required for the project;
  - 16           (C) Specify the regulatory and review  
17           responsibilities of the [~~department~~] public land  
18           development corporation and each state, county,  
19           and federal agency and set forth the  
20           responsibilities of the applicant;
  - 21           (D) Establish a timetable for regulatory review, the  
22           conduct of necessary hearings, the preparation of



1 an environmental impact statement if necessary,  
2 and other actions required to minimize  
3 duplication and to coordinate and consolidate the  
4 activities of the applicant, the [~~department,~~]  
5 public land development corporation, and the  
6 state, county, and federal agencies; and

7 (E) Provide that a hearing required for a permit  
8 shall be held on the island where the proposed  
9 activity shall occur[-];

10 (4) A consolidated permit application and review team  
11 shall be established and shall consist of the members  
12 of the interagency group established pursuant to  
13 section 196D-6(a). The applicant shall designate its  
14 representative to be available to the review team, as  
15 it may require, for purposes of processing the  
16 applicant's consolidated permit application[-];

17 (5) The [~~department~~] public land development corporation  
18 and each agency whose permitting functions are not  
19 transferred by section 196D-10 to the [~~department~~]  
20 public land development corporation for the purposes  
21 of the project, and each federal agency shall issue  
22 its own permit or approval based upon its own



1 jurisdiction. The consolidated permit application and  
2 review process shall not affect or invalidate the  
3 jurisdiction or authority of any agency under existing  
4 law, except to the extent that the permitting  
5 functions of any agency are transferred by section  
6 196D-10 to the [~~department~~] public land development  
7 corporation for the purposes of the project[-];

8 (6) The applicant shall apply directly to each federal  
9 agency that does not participate in the consolidated  
10 permit application and review process[-];

11 (7) The [~~department~~] public land development corporation  
12 shall review for completeness and thereafter shall  
13 process the consolidated permit application submitted  
14 by an applicant for the project, and shall monitor the  
15 processing of permit application by those agencies  
16 whose permitting functions are not transferred by  
17 section 196D-10 to the [~~department~~] public land  
18 development corporation for the purposes of the  
19 project. The [~~department~~] public land development  
20 corporation shall coordinate, and seek to consolidate  
21 where possible, the permitting functions and shall  
22 monitor and assist in the permitting functions



1           conducted by all of these agencies, and to the fullest  
2           extent possible the federal agencies, in accordance  
3           with the consolidated permit application and review  
4           process[-]; and

5           (8) Once the processing of the consolidated permit  
6           application has been completed and the permits  
7           requested have been issued to the applicant, the  
8           ~~[department]~~ public land development corporation shall  
9           monitor the applicant's work undertaken pursuant to  
10          the permits to ensure the applicant's compliance with  
11          the terms and conditions of the permits."

12          SECTION 22. Section 196D-6, Hawaii Revised Statutes, is  
13          amended to read as follows:

14          "~~[+]~~**\$196D-6**~~[+]~~ **Interagency group.** (a) The ~~[department]~~  
15          public land development corporation shall establish an  
16          interagency group comprised of those agencies whose permitting  
17          functions are not transferred by section 196D-10 to the  
18          ~~[department]~~ public land development corporation for the  
19          purposes of the project and which have jurisdiction over any  
20          aspect of the project. Each of these agencies shall designate  
21          an appropriate representative to serve on the interagency group  
22          as part of the representative's official responsibilities. The



1 interagency group shall perform liaison and assisting functions  
2 as required by this chapter and the [~~department.~~] public land  
3 development corporation. The [~~department~~] public land  
4 development corporation shall invite and encourage the  
5 appropriate federal agencies having jurisdiction over any aspect  
6 of the project to participate in the interagency group.

7 (b) The [~~department~~] public land development corporation  
8 and agencies shall cooperate with the federal agencies to the  
9 fullest extent possible to minimize duplication between and,  
10 where possible, promote consolidation of federal and state  
11 requirements. To the fullest extent possible, this cooperation  
12 shall include, among other things, joint environmental impact  
13 statements with concurrent public review and processing at both  
14 levels of government. Where federal law has requirements that  
15 are in addition to but not in conflict with state law  
16 requirements, the [~~department~~] public land development  
17 corporation and the agencies shall cooperate to the fullest  
18 extent possible in fulfilling their requirements so that all  
19 documents shall comply with all applicable laws.

20 (c) If the legislature establishes any public corporation  
21 or authority for the purposes of the project, then upon its



1 establishment, the public corporation or authority shall be a  
2 member of the interagency group."

3 SECTION 23. Section 196D-7, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "[+]§196D-7[+] **Streamlining activities.** In administering  
6 the consolidated permit application and review process, the  
7 [~~department~~] public land development corporation shall:

8 (1) Monitor all permit applications submitted under this  
9 chapter and the processing thereof on an ongoing basis  
10 to determine the source of any inefficiencies, delays,  
11 and duplications encountered and the status of all  
12 permits in process;

13 (2) Adopt and implement needed streamlining measures  
14 identified by the interagency group, in consultation  
15 with those agencies whose permitting functions are not  
16 transferred by section 196D-10 to the [~~department~~]  
17 public land development corporation for the purposes  
18 of the project and with members of the public;

19 (3) Design, in addition to the consolidated permit  
20 application form, other applications, checklists, and  
21 forms essential to the implementation of the  
22 consolidated permit application and review process;



- 1 (4) Recommend to the legislature, as appropriate,
- 2 suggested changes to existing laws to eliminate any
- 3 duplicative or redundant permit requirements;
- 4 (5) Coordinate with agencies to ensure that all standards
- 5 used in any agency decisionmaking for any required
- 6 permits are clear, explicit, and precise; and
- 7 (6) Incorporate, where possible, rebuttable presumptions
- 8 based upon requirements met for permits issued
- 9 previously under the consolidated permit application
- 10 and review process."

11 SECTION 24. Section 196D-8, Hawaii Revised Statutes, is  
12 amended to read as follows:

13 "[+]§196D-8[+] **Information services.** The [department]  
14 public land development corporation shall:

- 15 (1) Operate a permit information and coordination center
- 16 during normal working hours, which will provide
- 17 guidance to potential applicants for the project with
- 18 regard to the permits and procedures that may apply to
- 19 the project; and
- 20 (2) Maintain and update a repository of the laws, rules,
- 21 procedures, permit requirements, and criteria of
- 22 agencies whose permitting functions are not



1 transferred by section 196D-10 to the [department]  
 2 public land development corporation for the purposes  
 3 of the project and which have control or regulatory  
 4 power over any aspect of the project and of federal  
 5 agencies having jurisdiction over any aspect of the  
 6 project."

7 SECTION 25. Section 196D-9, Hawaii Revised Statutes, is  
 8 amended to read as follows:

9 "[+]§196D-9[+] **Construction of the chapter; rules.** This  
 10 chapter shall be construed liberally to effectuate its purposes,  
 11 and the [department] public land development corporation shall  
 12 have all powers which may be necessary to carry out the purposes  
 13 of this chapter, including the authority to make, amend, and  
 14 repeal rules to implement this chapter; provided that all  
 15 procedures for public information and review under chapter 91  
 16 shall be preserved; and provided further that the consolidated  
 17 permit application and review process shall not affect or  
 18 invalidate the jurisdiction or authority of any agency under  
 19 existing law. The adoption, amendment, and repeal of all rules  
 20 shall be subject to chapter 91."

21 SECTION 26. Section 196D-10, Hawaii Revised Statutes, is  
 22 amended to read as follows:



1            "[+]§196D-10[+] **Transfer of functions.** (a) Those  
2 functions identified in paragraphs (1) and (2) insofar as they  
3 relate to the permit application, review, processing, issuance,  
4 and monitoring of laws, and rules and to the enforcement of  
5 terms, conditions, and stipulations of permits and other  
6 authorizations issued by agencies with respect to the  
7 development, construction, installation, operation, maintenance,  
8 repair, and replacement of the project, or any portion or  
9 portions thereof, are transferred to the [~~department.~~] public  
10 land development corporation. With respect to each of the  
11 statutory authorities cited in paragraphs (1) and (2), the  
12 transferred functions include all enforcement functions of the  
13 agencies or their officials under the statute cited as may be  
14 related to the enforcement of the terms, conditions, and  
15 stipulations of permits, including but not limited to the  
16 specific sections of the statute cited. "Enforcement", for  
17 purposes of this transfer of functions, includes monitoring and  
18 any other compliance or oversight activities reasonably related  
19 to the enforcement process. These transferred functions  
20 include:  
21            (1) Such functions of the land use commission related to:  
22            district boundary amendments as set forth in section



1           205-3.1 et seq.; and changes in zoning as set forth in  
2           section 205-5; and

3           (2) The permit approval and enforcement functions of the  
4           director of transportation or other appropriate  
5           official or entity in the department of transportation  
6           related to permits or approvals issued for the use of  
7           or commercial activities in or affecting the ocean  
8           waters and shores of the State under chapter 266.

9           (b) Nothing in this section shall be construed to relieve  
10          an applicant from the laws, ordinances, and rules of any agency  
11          whose functions are not transferred by this section to the  
12          [department] public land development corporation for the  
13          purposes of the project.

14          (c) This section shall not apply to any permit issued by  
15          the public utilities commission under chapter 269.

16          ~~[(d) Notwithstanding any other provision of this chapter,~~  
17          ~~this section shall take effect on July 1, 1989.]"~~

18          SECTION 27. Section 196D-11, Hawaii Revised Statutes, is  
19          amended to read as follows:

20                 "**[+]§196D-11[+]** **Annual report.** The [department] public  
21          land development corporation shall submit an annual report to  
22          the governor and the legislature on its work during the



1 preceding year, the development status of the project, any  
2 problems encountered, and any legislative actions that may be  
3 needed further to improve the consolidated permit application  
4 and review process and implement the intent of this chapter."

5 SECTION 28. Section 196D-13, Hawaii Revised Statutes, is  
6 amended to read as follows:

7 "**§196D-13 Exemptions from certain state laws.** In order to  
8 promote the purposes of this chapter, all persons hired by the  
9 [~~department~~] public land development corporation to effectuate  
10 this chapter are excepted from chapters 76 and 89."

11 SECTION 29. Section 205-5.1, Hawaii Revised Statutes, is  
12 amended as follows:

13 1. By amending subsections (b) through (d) to read:

14 "(b) The [~~board of land and natural resources~~] public land  
15 development corporation shall have the responsibility for  
16 designating areas as geothermal resource subzones as provided  
17 under section 205-5.2; except that the total area within an  
18 agricultural district which is the subject of a geothermal  
19 mining lease approved by the [~~board of land and natural~~  
20 ~~resources,~~] public land development corporation, any part or all  
21 of which area is the subject of a special use permit issued by  
22 the county for geothermal development activities, on or before



1 May 25, 1984, is designated as a geothermal resource subzone for  
2 the duration of the lease. The designation of geothermal  
3 resource subzones shall be governed exclusively by this section  
4 and section 205-5.2, except as provided therein. The [board]  
5 public land development corporation shall adopt, amend, or  
6 repeal rules related to its authority to designate and regulate  
7 the use of geothermal resource subzones in the manner provided  
8 under chapter 91.

9 The authority of the [board] public land development  
10 corporation to designate geothermal resource subzones shall be  
11 an exception to those provisions of this chapter and of section  
12 46-4 authorizing the land use commission and the counties to  
13 establish and modify land use districts and to regulate uses  
14 therein. The provisions of this section shall not abrogate nor  
15 supersede the provisions of chapters 182, 183, and 183C.

16 (c) The use of an area for geothermal development  
17 activities within a geothermal resource subzone shall be  
18 governed by the [board] public land development corporation  
19 within the conservation district and, except as herein provided,  
20 by state and county statutes, ordinances, and rules not  
21 inconsistent herewith within agricultural, rural, and urban  
22 districts, except that no land use commission approval or



1 special use permit procedures under section 205-6 shall be  
2 required for the use of such subzones. In the absence of  
3 provisions in the county general plan and zoning ordinances  
4 specifically relating to the use and location of geothermal  
5 development activities in an agricultural, rural, or urban  
6 district, the appropriate county authority may issue a  
7 geothermal resource permit to allow geothermal development  
8 activities. "Appropriate county authority" means the county  
9 planning commission unless some other agency or body is  
10 designated by ordinance of the county council. Such uses as are  
11 permitted by county general plan and zoning ordinances, by the  
12 appropriate county authority, shall be deemed to be reasonable  
13 and to promote the effectiveness and objectives of this chapter.  
14 Chapters 177, 178, 182, 183, 183C, 205A, 226, 342, and 343 shall  
15 apply as appropriate. If provisions in the county general plan  
16 and zoning ordinances specifically relate to the use and  
17 location of geothermal development activities in an  
18 agricultural, rural, or urban district, the provisions shall  
19 require the appropriate county authority to conduct a public  
20 hearing on any application for a geothermal resource permit to  
21 determine whether the use is in conformity with the criteria  
22 specified in subsection (e) for granting geothermal resource



1 permits; provided that within the urban, rural, and agricultural  
2 land use districts, direct use applications of geothermal  
3 resources are permitted without any application for a geothermal  
4 resource permit both within and outside of areas designated as  
5 geothermal resource subzones pursuant to section 205-5.2 if such  
6 direct use applications are in conformance with all other  
7 applicable state and county land use regulations and are in  
8 conformance with this chapter.

9 (d) If geothermal development activities are proposed  
10 within a conservation district, with an application with all  
11 required data, the [~~board of land and natural resources~~] public  
12 land development corporation shall conduct a public hearing and,  
13 upon appropriate request for mediation from any party who  
14 submitted comment at the public hearing, the [~~board~~] public land  
15 development corporation shall appoint a mediator within five  
16 days. The [~~board~~] public land development corporation shall  
17 require the parties to participate in mediation. The mediator  
18 shall not be a member of the [~~board~~] public land development  
19 corporation or its staff. The mediation period shall not extend  
20 beyond thirty days after the date mediation started, except by  
21 order of the [~~board.~~] public land development corporation.  
22 Mediation shall be confined to the issues raised at the public



1 hearing by the party requesting mediation. The mediator will  
2 submit a written recommendation to the [~~board,~~] public land  
3 development corporation, based upon any mediation agreement  
4 reached between the parties for consideration by the [~~board~~]  
5 public land development corporation in its final decision. If  
6 there is no mediation agreement, the [~~board~~] public land  
7 development corporation may have a second public hearing to  
8 receive additional comment related to the mediation issues.  
9 Within ten days after the second public hearing, the [~~board~~]  
10 public land development corporation may receive additional  
11 written comment on the issues raised at the second public  
12 hearing from any party.

13 The [~~board~~] public land development corporation shall  
14 consider the comments raised at the second hearing before  
15 rendering its final decision. The [~~board~~] public land  
16 development corporation shall then determine whether, pursuant  
17 to [~~board~~] public land development corporation rules, a  
18 conservation district use permit shall be granted to authorize  
19 the geothermal development activities described in the  
20 application. The [~~board~~] public land development corporation  
21 shall grant a conservation district use permit if it finds that  
22 the applicant has demonstrated that:



1 (1) The desired uses would not have unreasonable adverse  
2 health, environmental, or socio-economic effects on  
3 residents or surrounding property; and

4 (2) The desired uses would not unreasonably burden public  
5 agencies to provide roads and streets, sewers, water,  
6 drainage, and police and fire protection; or

7 (3) There are reasonable measures available to mitigate  
8 the unreasonable adverse effects or burdens referred  
9 to above.

10 A decision shall be made by the [~~board~~] public land  
11 development corporation within six months of the date a complete  
12 application was filed; provided that the time limit may be  
13 extended by agreement between the applicant and the [~~board~~].  
14 public land development corporation."

15 2. By amending subsections (f) through (h) to read:

16 "(f) Requests for mediation shall be received by the  
17 [~~board~~] public land development corporation or county authority  
18 within five days after the close of the initial public hearing.  
19 Within five days thereafter, the [~~board~~] public land development  
20 corporation or county authority shall appoint a mediator. Any  
21 person submitting an appropriate request for mediation shall be  
22 notified by the [~~board~~] public land development corporation or



1 county authority of the date, time, and place of the mediation  
2 conference by depositing such notice in the mail to the return  
3 address stated on the request for mediation. The notice shall  
4 be mailed no later than ten days before the start of the  
5 mediation conference. The conference shall be held on the  
6 island where the public hearing is held.

7 (g) Any decision made by an appropriate county authority  
8 or the ~~[board]~~ public land development corporation pursuant to a  
9 public hearing or hearings under this section may be appealed  
10 directly on the record to the intermediate appellate court for  
11 final decision and shall not be subject to a contested case  
12 hearing. Sections 91-14(b) and (g) shall govern the appeal,  
13 notwithstanding the lack of a contested case hearing on the  
14 matter. The appropriate county authority or the ~~[board]~~ public  
15 land development corporation shall provide a court reporter to  
16 produce a transcript of the proceedings at all public hearings  
17 under this section for purposes of an appeal.

18 (h) For the purposes of an appeal from a decision from a  
19 public hearing, the record shall include:

20 (1) The application for the permit and all accompanying  
21 supporting documents, including but not limited to:



- 1 reports, studies, affidavits, statements, and
- 2 exhibits[-];
- 3 (2) Staff recommendations submitted to the members of the
- 4 agency in consideration of the application[-];
- 5 (3) Oral and written public testimony received at the
- 6 public hearings[-];
- 7 (4) Written transcripts of the proceedings at the public
- 8 hearings[-];
- 9 (5) The written recommendation received by the agency from
- 10 the mediator with any mediation agreement[-];
- 11 (6) A statement of relevant matters noticed by the agency
- 12 members at the public hearings[-];
- 13 (7) The written decision of the agency issued in
- 14 connection with the application and public
- 15 hearings[-]; and
- 16 (8) Other documents required by the [~~board~~] public land
- 17 development corporation or county authority."

18 SECTION 30. Section 205-5.2, Hawaii Revised Statutes, is  
 19 amended to read as follows:

20 "**§205-5.2 Designation of areas as geothermal resource**  
 21 **subzones.** (a) Beginning in [~~1983, the board of land and~~  
 22 ~~natural resources~~] 2013, the public land development corporation



1 shall conduct a county-by-county assessment of areas with  
2 geothermal potential for the purpose of designating geothermal  
3 resource subzones. This assessment shall be revised or updated  
4 at the discretion of the [~~board,~~] public land development  
5 corporation, but at least once each five years beginning in  
6 [~~1988-~~] 2018. Any property owner or person with an interest in  
7 real property wishing to have an area designated as a geothermal  
8 resource subzone may submit a petition for a geothermal resource  
9 subzone designation in the form and manner established by rules  
10 [~~and regulations~~] adopted by the [~~board.~~] public land  
11 development corporation. An environmental impact statement as  
12 defined under chapter 343 shall not be required for the  
13 assessment of areas under this section.

14 (b) The [~~board's~~] public land development corporation's  
15 assessment of each potential geothermal resource subzone area  
16 shall examine factors to include[~~7~~] but not be limited to:

17 (1) The area's potential for the production of geothermal  
18 energy;

19 (2) The prospects for the utilization of geothermal energy  
20 in the area;

21 (3) The geologic hazards that potential geothermal  
22 projects would encounter;



- 1           (4) Social and environmental impacts;
- 2           (5) The compatibility of geothermal development and
- 3                 potential related industries with present uses of
- 4                 surrounding land and those uses permitted under the
- 5                 general plan or land use policies of the county in
- 6                 which the area is located;
- 7           (6) The potential economic benefits to be derived from
- 8                 geothermal development and potential related
- 9                 industries; and
- 10          (7) The compatibility of geothermal development and
- 11                 potential related industries with the uses permitted
- 12                 under chapter 183C and section 205-2, where the area
- 13                 falls within a conservation district.

14           In addition, the [~~board~~] public land development  
15 corporation shall consider, if applicable, objectives, policies,  
16 and guidelines set forth in part I of chapter 205A, and chapter  
17 226.

18           (c) Methods for assessing the factors in subsection (b)  
19 shall be left to the discretion of the [~~board~~] public land  
20 development corporation and may be based on currently available  
21 public information.



1           (d) After the [~~board~~] public land development corporation  
2 has completed a county-by-county assessment of all areas with  
3 geothermal potential or after any subsequent update or review,  
4 the [~~board~~] public land development corporation shall compare  
5 all areas showing geothermal potential within each county, and  
6 shall propose areas for potential designation as geothermal  
7 resource subzones based upon a preliminary finding that the  
8 areas are those sites which best demonstrate an acceptable  
9 balance between the factors set forth in subsection (b). Once a  
10 proposal is made, the [~~board~~] public land development  
11 corporation shall conduct public hearings pursuant to this  
12 subsection, notwithstanding any contrary provision related to  
13 public hearing procedures. Contested case procedures are not  
14 applicable to these hearings.

15           (1) Hearings shall be held at locations which are in close  
16 proximity to those areas proposed for designation. A  
17 public notice of hearing, including a description of  
18 the proposed areas, an invitation for public comment,  
19 and a statement of the date, time, and place where  
20 persons may be heard shall be given and mailed no less  
21 than twenty days before the hearing. The notice shall  
22 be given on three separate days statewide and in the



1 county in which the hearing is to be held. Copies of  
2 the notice shall be mailed to the department of  
3 business, economic development, and tourism, to the  
4 planning commission and planning department of the  
5 county in which the proposed areas are located, and to  
6 all owners of record of real estate within, and within  
7 one thousand feet of, the area being proposed for  
8 designation as a geothermal resource subzone. The  
9 notification shall be mailed to the owners and  
10 addresses as shown on the current real property tax  
11 rolls at the county real property tax office. Upon  
12 that action, the requirement for notification of  
13 owners of land is completed. For the purposes of this  
14 subsection, notice to one co-owner shall be sufficient  
15 notice to all co-owners;

16 (2) The hearing shall be held before the [~~board,~~] public  
17 land development corporation, and the authority to  
18 conduct hearings shall not be delegated to any agent  
19 or representative of the [~~board,~~] public land  
20 development corporation. All persons and agencies  
21 shall be afforded the opportunity to submit data,  
22 views, and arguments either orally or in writing. The



1 department of business, economic development, and  
2 tourism and the county planning department shall be  
3 permitted to appear at every hearing and make  
4 recommendations concerning each proposal by the  
5 ~~[board]~~ public land development corporation; and

6 (3) At the close of the hearing, the ~~[board]~~ public land  
7 development corporation may designate areas as  
8 geothermal resource subzones or announce the date on  
9 which it will render its decision. The ~~[board]~~ public  
10 land development corporation may designate areas as  
11 geothermal resource subzones only upon finding that  
12 the areas are those sites which best demonstrate an  
13 acceptable balance between the factors set forth in  
14 subsection (b). Upon request, the ~~[board]~~ public land  
15 development corporation shall issue a concise  
16 statement of its findings and the principal reasons  
17 for its decision to designate a particular area.

18 (e) The designation of any geothermal resource subzone may  
19 be withdrawn by the ~~[board of land and natural resources]~~ public  
20 land development corporation after proceedings conducted  
21 pursuant to chapter 91. The ~~[board]~~ public land development  
22 corporation shall withdraw a designation only upon finding by a



1 preponderance of the evidence that the area is no longer suited  
2 for designation; provided that the designation shall not be  
3 withdrawn for areas in which active exploration, development,  
4 production or distribution of electrical energy from geothermal  
5 sources or direct use applications of geothermal resources are  
6 taking place.

7 (f) [This] Act 296, Session Laws of Hawaii 1983, shall not  
8 apply to any active exploration, development or production of  
9 electrical energy from geothermal sources or direct use  
10 applications of geothermal resources taking place on June 14,  
11 1983, provided that any expansion of [~~such~~] these activities  
12 shall be carried out in compliance with its provisions."

13 SECTION 31. Section 227D-1, Hawaii Revised Statutes, is  
14 amended by amending the definitions of "project" and "research  
15 and technology park" to read as follows:

16 ""Project" means any combination of land and buildings and  
17 other improvements thereon for use in, but not limited to  
18 research, development, demonstration, processing, or  
19 manufacturing activities or enterprises utilizing or in support  
20 of the utilization of natural resources [~~and geothermal energy~~]  
21 which are located in a research and technology park and



1 acquired, constructed, reconstructed, rehabilitated, improved,  
2 altered, or repaired by or on behalf of the authority.

3 "Research and technology park" means a tract of real  
4 property determined by the board as being suitable for use as  
5 building sites for projects engaged in research, development,  
6 demonstration, processing, or manufacturing activities or retail  
7 or commercial enterprises utilizing or in support of the  
8 utilization of natural resources [~~or geothermal energy~~]. This  
9 includes[~~r~~] but is not limited to[~~r~~] research,  
10 commercialization, training, education, technical analyses,  
11 pilot plant, or prototype product development, and may include  
12 the installation of improvements to tracts incidental to the use  
13 of real property as a research and technology park, such as  
14 water, sewer, sewage and waste disposal, and drainage  
15 facilities, sufficient to adequately service projects in the  
16 research and technology park, and provision of incidental  
17 transportation facilities, power distribution facilities, and  
18 communication facilities."

19 SECTION 32. Section 227D-2, Hawaii Revised Statutes, is  
20 amended by amending subsection (a) to read as follows:

21 "(a) There is established the natural energy laboratory of  
22 Hawaii authority, which shall be a body corporate and politic



1 and an instrumentality and agency of the State. The authority  
2 shall be placed within the department of business, economic  
3 development, and tourism for administrative purposes, pursuant  
4 to section 26-35. The purpose of the natural energy laboratory  
5 of Hawaii authority shall be to facilitate research,  
6 development, and commercialization of natural energy resources  
7 and ocean-related research, technology, and industry in Hawaii  
8 and to engage in retail, commercial, or tourism activities that  
9 will financially support that research, development, and  
10 commercialization at a research and technology park in Hawaii.

11 Its duties shall include:

12 (1) Establishing, managing, and operating facilities that  
13 provide sites for:

14 (A) Research and development;

15 (B) Commercial projects and businesses utilizing  
16 natural resources, such as ocean water [~~or~~  
17 ~~geothermal energy~~];

18 (C) Compatible businesses engaged in scientific and  
19 technological investigations, or retail,  
20 commercial, and tourism activities; and

21 (D) Businesses or educational facilities that support  
22 the primary projects and activities;



- 1 (2) Providing support, utilities, and other services to
- 2 facility tenants and government agencies;
- 3 (3) Maintaining the physical structure of the facilities;
- 4 (4) Promoting and marketing these facilities;
- 5 (5) Promoting and marketing the reasonable utilization of
- 6 available natural resources;
- 7 (6) Supporting ocean research and technology development
- 8 projects that support national and state interests,
- 9 use facilities and infrastructure in Hawaii, and
- 10 foster potential commercial development; and
- 11 (7) Engaging in retail, commercial, and tourism activities
- 12 that are not related to facilitating research,
- 13 development, and commercialization of natural energy
- 14 resources in Hawaii; provided that all income derived
- 15 from these activities shall be deposited in the
- 16 natural energy laboratory of Hawaii authority special
- 17 fund."

18 SECTION 33. Chapter 201H, Hawaii Revised Statutes, is  
 19 repealed.

20 SECTION 34. Chapter 206E, Hawaii Revised Statutes, is  
 21 repealed.

22 **PART II**



1 SECTION 35. Section 26-18, Hawaii Revised Statutes, is  
2 amended by amending subsection (b) to read as follows:

3 "(b) The following are placed in the department of  
4 business, economic development, and tourism for administrative  
5 purposes as defined by section 26-35: Aloha Tower development  
6 corporation, [~~Hawaii community development authority, Hawaii~~  
7 ~~housing finance and development corporation,~~] high technology  
8 development corporation, land use commission, natural energy  
9 laboratory of Hawaii authority, and any other boards and  
10 commissions as shall be provided by law.

11 The department of business, economic development, and  
12 tourism shall be empowered to establish, modify, or abolish  
13 statistical boundaries for cities, towns, or villages in the  
14 State and shall publish, as expeditiously as possible, an up-to-  
15 date list of cities, towns, and villages after changes to  
16 statistical boundaries have been made."

17 SECTION 36. Section 53-1, Hawaii Revised Statutes, is  
18 amended by amending the definition of "Hawaii housing finance  
19 and development corporation" to read as follows:

20 "" [~~Hawaii housing finance and development corporation,~~  
21 Public land development corporation," "corporation",  
22 "government", "federal government", and "real property" have the



1 respective meanings set forth for these terms in chapter [~~201H.~~]  
2 171C."

3 SECTION 37. Section 171-2, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "§171-2 Definition of public lands. "Public lands" means  
6 all lands or interest therein in the State classed as government  
7 or crown lands previous to August 15, 1895, or acquired or  
8 reserved by the government upon or subsequent to that date by  
9 purchase, exchange, escheat, or the exercise of the right of  
10 eminent domain, or in any other manner; including accreted lands  
11 not otherwise awarded, submerged lands, and lands beneath tidal  
12 waters which are suitable for reclamation, together with  
13 reclaimed lands which have been given the status of public lands  
14 under this chapter, except:

- 15 (1) Lands designated in section 203 of the Hawaiian Homes  
16 Commission Act, 1920, as amended;
- 17 (2) Lands set aside pursuant to law for the use of the  
18 United States;
- 19 (3) Lands being used for roads and streets;
- 20 (4) Lands to which the United States relinquished the  
21 absolute fee and ownership under section 91 of the  
22 Hawaiian Organic Act prior to the admission of Hawaii



1 as a state of the United States unless subsequently  
 2 placed under the control of the board of land and  
 3 natural resources and given the status of public lands  
 4 in accordance with the state constitution, the  
 5 Hawaiian Homes Commission Act, 1920, as amended, or  
 6 other laws;

7 (5) Lands to which the University of Hawaii holds title;

8 ~~[(6) Lands to which the Hawaii housing finance and  
 9 development corporation in its corporate capacity  
 10 holds title;~~

11 ~~[(7) Lands to which the Hawaii community development  
 12 authority in its corporate capacity holds title;]~~

13 (6) Lands to which the public land development corporation  
 14 in its corporate capacity holds title;

15 ~~[(8)]~~ (7) Lands to which the department of agriculture  
 16 holds title by way of foreclosure, voluntary  
 17 surrender, or otherwise, to recover moneys loaned or  
 18 to recover debts otherwise owed the department under  
 19 chapter 167;

20 ~~[(9)]~~ (8) Lands ~~[which]~~ that are set aside by the governor  
 21 to the Aloha Tower development corporation; lands  
 22 leased to the Aloha Tower development corporation by



1           any department or agency of the State; or lands to  
 2           which the Aloha Tower development corporation holds  
 3           title in its corporate capacity;

4       ~~[(10)]~~ (9) Lands ~~[which]~~ that are set aside by the governor  
 5           to the agribusiness development corporation; lands  
 6           leased to the agribusiness development corporation by  
 7           any department or agency of the State; or lands to  
 8           which the agribusiness development corporation in its  
 9           corporate capacity holds title; and

10       ~~[(11)]~~ (10) Lands to which the high technology development  
 11           corporation in its corporate capacity holds title."

12           SECTION 38. All references to "Hawaii community  
 13 development authority", or like terms, as the case may be, in  
 14 sections 46-102 and 514A-14.5, Hawaii Revised Statutes, shall be  
 15 amended to "public land development corporation", or like terms,  
 16 as the case may be, as the context requires.

17           SECTION 39. All references to "Hawaii housing finance and  
 18 development corporation", or like terms, as the case may be, in  
 19 chapter 516 and sections 10-13.6, 36-24, 46-15.1, 53-17, 53-22,  
 20 111-8, 111-9, 171-18.5, 171-50.2, 171-64.7, 209-16, 209-17, 237-  
 21 29, 356D-161, 519-2, and 519-3, Hawaii Revised Statutes, shall



1 be amended to "public land development corporation", or like  
2 terms, as the case may be, as the context requires.

3 SECTION 40. The revisor of statutes shall substitute all  
4 references made to "chapter 201H" or any specific section, part,  
5 or subpart of chapter 201H, as the case may be, in sections 10-  
6 13.6, 29-15.5, 46-15.1, 46-15.2, 53-17, 91-13.5, 104-2, 171-  
7 18.5, 171-19.5, 171-64.7, 205-4, 206-1, 235-110.8, 237-29, 247-  
8 7, 356D-161, 514A-14.5, 514A-108, 514B-99.5, 516-1, 516-31, and  
9 516-104, Hawaii Revised Statutes, with the corresponding  
10 chapter, part, subpart, or section number of the new law created  
11 and codified under this Act, as appropriate.

12 SECTION 41. The revisor of statutes shall substitute all  
13 references made to "chapter 206E" or any specific section or  
14 part of chapter 206E, as the case may be, in sections 36-27, 36-  
15 30, 46-102, and 514A-14.5, Hawaii Revised Statutes, with the  
16 corresponding chapter, part, or section number of the new law  
17 created and codified under this Act, as appropriate.

18 **PART III**

19 SECTION 42. All rights, powers, functions, and duties of  
20 the Hawaii housing finance and development corporation and the  
21 Hawaii community development authority are transferred to the  
22 public land development corporation.



1 All officers and employees whose functions are transferred  
2 to the public land development corporation by this Act shall be  
3 transferred with their functions and shall continue to perform  
4 their regular duties upon their transfer, subject to the state  
5 personnel laws and this Act.

6 No officer or employee of the State having tenure shall  
7 suffer any loss of salary, seniority, prior service credit,  
8 vacation, sick leave, or other employee benefit or privilege as  
9 a consequence of this Act, and such officer or employee may be  
10 transferred or appointed to a civil service position without the  
11 necessity of examination; provided that the officer or employee  
12 possesses the minimum qualifications for the position to which  
13 transferred or appointed; and provided that subsequent changes  
14 in status may be made pursuant to applicable civil service and  
15 compensation laws.

16 An officer or employee of the State who does not have  
17 tenure and who may be transferred or appointed to a civil  
18 service position as a consequence of this Act shall become a  
19 civil service employee without the loss of salary, seniority,  
20 prior service credit, vacation, sick leave, or other employee  
21 benefits or privileges and without the necessity of examination;  
22 provided that such officer or employee possesses the minimum



1 qualifications for the position to which transferred or  
2 appointed.

3 If an office or position held by an officer or employee  
4 having tenure is abolished, the officer or employee shall not  
5 thereby be separated from public employment, but shall remain in  
6 the employment of the State with the same pay and classification  
7 and shall be transferred to some other office or position for  
8 which the officer or employee is eligible under the personnel  
9 laws of the State as determined by the head of the department or  
10 the governor.

11 SECTION 43. All appropriations, records, equipment,  
12 machines, files, supplies, contracts, books, papers, documents,  
13 maps, and other personal property heretofore made, used,  
14 acquired, or held by the Hawaii housing finance and development  
15 corporation and the Hawaii community development authority  
16 relating to the functions transferred to the public land  
17 development corporation shall be transferred with the functions  
18 to which they relate.

19 SECTION 44. All rules, policies, procedures, guidelines,  
20 and other material adopted or developed by the Hawaii housing  
21 finance and development corporation and the Hawaii community  
22 development authority to implement provisions of the Hawaii



1 Revised Statutes which are reenacted or made applicable to the  
2 public land development corporation by this Act, shall remain in  
3 full force and effect until amended or repealed by the public  
4 land development corporation pursuant to chapter 91, Hawaii  
5 Revised Statutes. In the interim, every reference to the Hawaii  
6 housing finance and development corporation or the Hawaii  
7 community development authority or the board of directors of the  
8 Hawaii housing finance and development corporation in those  
9 rules, policies, procedures, guidelines, and other material is  
10 amended to refer to the public land development corporation as  
11 appropriate.

12 SECTION 45. All deeds, leases, contracts, loans,  
13 agreements, permits, or other documents executed or entered into  
14 by or on behalf of the Hawaii housing finance and development  
15 corporation or the Hawaii community development authority  
16 pursuant to the provisions of the Hawaii Revised Statutes, which  
17 are reenacted or made applicable to the public land development  
18 corporation by this Act, shall remain in full force and effect.  
19 Upon the effective date of this Act, every reference to the  
20 Hawaii housing finance and development corporation or the Hawaii  
21 community development authority therein shall be construed as a



1 reference to the public land development corporation as  
2 appropriate.

3 SECTION 46. It is the intent of this Act not to jeopardize  
4 the receipt of any federal aid nor to impair the obligation of  
5 the State or any agency thereof to the holders of any bond  
6 issued by the State or by any such agency, and to the extent,  
7 and only to the extent, necessary to effectuate this intent, the  
8 governor may modify the strict provisions of this Act, but shall  
9 promptly report any such modification with reasons therefor to  
10 the legislature at its next session thereafter for review by the  
11 legislature.

12 SECTION 47. If any part of this Act is found to be in  
13 conflict with federal requirements that are a prescribed  
14 condition for the allocation of federal funds to the State, the  
15 conflicting part of this Act is inoperative solely to the extent  
16 of the conflict and with respect to the agencies directly  
17 affected, and this finding does not affect the operation of the  
18 remainder of this Act in its application to the agencies  
19 concerned. The rules under this Act shall meet federal  
20 requirements that are a necessary condition to the receipt of  
21 federal funds by the State.



1 SECTION 48. This Act shall not be applied so as to impair  
2 any contract existing as of the effective date of this Act in a  
3 manner violative of either the Hawaii constitution or Article I,  
4 section 10, of the United States Constitution.

5 SECTION 49. Notwithstanding any provision to the contrary,  
6 the terms of the members appointed to the board of directors of  
7 the Hawaii housing finance and development corporation and the  
8 Hawaii community development authority shall terminate no later  
9 than June 30, 2013.

10 SECTION 50. In codifying the new sections added by section  
11 1 of this Act, the revisor of statutes shall substitute  
12 appropriate section numbers for the letters used in designating  
13 the new sections in this Act.

14 SECTION 51. Statutory material to be repealed is bracketed  
15 and stricken. New statutory material is underscored.

16 SECTION 52. This Act shall take effect on July 1, 2013;  
17 provided that the amendments made to section 46-15.1, Hawaii  
18 Revised Statutes, in sections 39 and 40 of this Act shall not be  
19 repealed when section 46-15.1, Hawaii Revised Statutes, is



1 reenacted on June 30, 2015 by section 3 of Act 141, Session Laws  
2 of Hawaii 2009.

3

INTRODUCED BY:







# S.B. NO. 2330

**Report Title:**

HHFDC; HCDA; Geothermal Resources; Public Land Development Corporation

**Description:**

Repeals the HHFDC and the HCDA and transfers their functions to the public land development corporation. Transfers all functions relating to the State's geothermal resources to the public land development corporation. Effective 7/1/13.

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

