

**ACT 278**

S. B. 24.

A Bill for an Act Relating to Government Subsidies for Private Development and Low and Moderate-Income Housing Units and Making an Appropriation.

*Be It Enacted by the Legislature of the State of Hawaii:*

**PART I**

**DECLARATION OF FINDINGS AND PURPOSE**

**SECTION 1. Short title.** This Act may be cited as the "Omnibus Housing Act of 1967".

**SECTION 2. Findings and purpose.** The purpose of this Act is to encourage the development of housing units to serve low and moderate-

income families by private developers. Since the survey by the Mid-America Appraisal and Research Corporation in 1965 for the Honolulu redevelopment program reported a need and demand for approximately 10,000 units of moderately priced rental units to replace a portion of the dilapidated, substandard, and overcrowded units currently serving the moderate-income market, this Act is intended to provide safe, sanitary, and decent housing at rental levels that low and moderate-income families can afford as the rapidly expanding population increases the congestion and demand for adequate shelter in urban areas. Private developers can be assisted in meeting this critical state need by providing rent supplements to tenants who cannot otherwise afford privately developed rentals; by providing for low interest loans to certain private developers and individuals; by authorizing the state permanent housing program to make greater use of private developments through sales of such dwellings, to tenants, and by authorizing the better use of residential public lands to certain developers at minimal leases to reduce tenant rentals.

## PART II STATE RENT SUPPLEMENTS

SECTION 3. Chapter 77, Revised Laws of Hawaii 1955, is amended by adding a new section to be appropriately designated and to read as follows:

**“Sec. 77-..... Rent supplements.** (a) The authority is authorized to make, and contract to make, annual payments to a “housing owner” on behalf of “qualified tenants”, as those terms are defined herein, in such amounts and under such circumstances as are prescribed in or pursuant to this part. In no case shall a contract provide for such payments with respect to any housing for a period exceeding forty years. No payment on behalf of a qualified tenant shall exceed a segregated amount of \$50 per month.

(b) As used in this part, the term “housing owner” means (1) a private nonprofit corporation or other private nonprofit legal entity, a limited dividend corporation or other limited dividend legal entity, or a cooperative housing corporation, which is a mortgagor under sections 202, 207, 213, 221(d)(3), 221(d)(5), or 231 of the National Housing Act or which conforms to the standards of said sections but which is not a mortgagor under said sections or any other private mortgagor under the National Housing Act for low or moderate-income family housing, regulated or supervised under federal or state laws or by political subdivisions of the State, or agencies thereof, as to rents, charges, capital structure, rate of return, and methods of operation, from the time of issuance of the building permit for the project and (2) any other resident owner of a standard housing unit or units deemed qualified by the authority.

(c) As used in this part, the term “qualified tenant” means any individual or family who has, pursuant to criteria and procedures established by the authority, been determined to have an income which would qualify such tenant for occupancy in housing provided by section 221(d)(3) of the National Housing Act or to have a lesser income. The terms “qualified

tenant” and “tenant” include a member of a cooperative who satisfies the foregoing requirements and who, upon resale of his membership to the cooperative, will not be reimbursed for more than fifty per cent of any equity increment accumulated through payments under this part. With respect to members of a cooperative, the terms “rental” and “rental charges” mean the charges under the occupancy agreements between such members and the cooperative.

(d) The amount of the annual payment with respect to any dwelling unit shall not exceed the amount by which the fair market rental for such unit exceeds one-fifth of the tenant’s income as determined by the authority pursuant to procedures and regulations established by it.

(e) (1) For purposes of carrying out this part, the authority shall establish criteria and procedures for determining the eligibility of occupants and rental charges, including criteria and procedures with respect to periodic review of tenant incomes and periodic adjustment of rental charges. The authority shall issue, upon the request of a housing owner, certificates as to the following facts concerning the individuals and families applying for admission to, or residing in, dwellings of such owner:

(A) the income of the individual or family; and

(B) whether the individual or family was displaced from public housing administered under chapter 74 for exceeding the maximum allowable income for continued occupancy.

(2) Procedures adopted by the authority hereunder shall provide for recertification of the incomes of occupants, except the elderly, at intervals of two years, or at shorter intervals, for the purpose of adjusting rental charges and annual payments on the basis of occupants’ incomes, but in no event shall rental charges adjusted under this part for any dwelling exceed the fair market rental of the dwelling.

(3) The authority may enter into agreements, or authorize housing owners to enter into agreements, with public or private agencies for services required in the selection of qualified tenants, including those who may be approved, on the basis of the probability of future increases in their incomes, as lessees under an option to purchase (which will give such approved qualified tenants an exclusive right to purchase at a price established or determined as provided in the option) dwellings, and in the establishment of rentals. The authority is authorized, without limiting its authority under any other law, to delegate to any such public or private agency his authority to issue certificates pursuant to this part or to contract for the administration of this part.

(4) No payments under this part may be made with respect to any property for which the costs of operation, including wages and salaries, are determined by the authority to be greater than similar costs of operation of similar housing in the community where the property is situated.

(5) No payments shall be made under this part except to the extent that tenants selected under this part have been selected according to the following priorities:

(A) first priority shall be given to those (i) who have an income above the maximum amount allowed for continued occupancy in housing provided for in chapter 74 and (ii) who have been tenants of public housing under chapter 74 and (iii) who have recently vacated or are vacating such housing because of exceeding the maximum income allowable for continued occupancy and (iv) who have an urgent housing need;

(B) second priority shall be given to all other eligible persons under this part who have an urgent housing need.

(f) Nothing in this part or any other part of the law shall preclude payments made under this part from supplementing any rental supplements made pursuant to Public Law 89-117 where the need for such additional state supplement is urgent.

(g) There is appropriated to the Hawaii housing authority from general revenues in the treasury of the State of Hawaii the sum of \$50,000, or so much thereof as may be necessary, for the purposes of this part, including annual payments for rent supplements, services provided under or pursuant to agreements entered into under subsection (e), and to provide for administrative expenses.”

### PART III COMMUNITY HOME MORTGAGE PROGRAM

#### SECTION 4. Definitions. As used herein:

“Director” means the director of finance.

“Community home mortgage” means a mortgage loan made to a resident of the State of Hawaii for the purchase of his first parcel of residential property, or for constructing of his first dwelling to be occupied as his home, or for making repairs, alterations or improvements in property owned by him and occupied as his home, or for refinancing his first home, or to a developer of moderate-income housing.

“Resident” means any person who has an annual gross income which does not exceed the income limitations under section 221(d)(3) of the National Housing Act by twenty per cent and who has resided in Hawaii for more than one year.

“Mortgagee” means any financial institution which is a mortgagee of a community home mortgage and which has been certified by the director as being eligible to sell community home mortgages to the director and adequately equipped to service them.

“Service” of a community home mortgage, or “servicing” a community home mortgage includes the collection of, and the attempting to collect all sums payable on the community home mortgage; the depositing of all such collections in accounts for the State; notification to the director that the mortgaged premises are damaged or vacant; periodic inspection of the mortgaged premises and notification to the director concerning the condition thereof; notification to the director of all community home mortgages that are delinquent for nonpayment of one or more monthly installments; and the using of due diligence to protect the mortgaged property and to prevent the attachment to the mortgaged property of any liens superior thereto.

“Developer” means a developer of moderate-income housing under sections 202, 207, 213, 221(d)(3), 221(d)(5), or 231 of the National Housing Act or a public agency, limited dividend corporation, or a private non-profit corporation as defined in section 221(d)(3) which conforms to the standards of said sections but which is not a mortgagor under said sections or any other private mortgagor under the National Housing Act for low or moderate-income family housing, regulated or supervised under federal or state laws or by political subdivisions of the State, or agencies thereof, as to rents, charges, capital structure, rate of return, and methods of operation, from the time of issuance of the building permit for the project.

**SECTION 5. Purchase, servicing and sale of community home mortgages.** On or after July 1, 1967, the director may purchase, service, and sell community home mortgages. The director shall not pay more than an amount necessary to pay the unpaid principal balance plus accrued and unpaid interest at the date of the purchase or commitment contract for purchase of a community home mortgage.

**SECTION 6. Community home mortgage requirements.** No community home mortgage shall be purchased:

(a) If the effective date of the original mortgage was prior to July 1, 1967, or in the case of refinancing of an existing home, if the home was purchased prior to August 21, 1959.

(b) If the dwelling unit is more than one single family residence in the case of a resident, except in the case of cooperative units wherein ninety per cent of the members are eligible under this part.

(c) If, in the case of a resident or developer, the unpaid principal balance of the loan exceeds \$22,500 per unit.

(d) If, in the case of a resident or developer, the unpaid principal balance of the loan exceeds 95 per cent of the appraised market value of the property.

(e) If the interest rate of the community home mortgage exceeds one-half of one per cent per year over the charges on bonds issued for such mortgage; provided that this subsection shall not preclude a resident from refinancing an existing mortgage if he qualifies for refinancing under subsection (a).

(f) If the community home mortgage is not secured by property in the State.

(g) If the community home mortgage is not offered by the original mortgagee prior to any other sale thereof.

(h) If the community home mortgage does not provide for periodic payments thereon to include the pro rata portion of taxes, insurance, ground rent, and assessment, if any.

(i) If the resident has an annual gross income which exceeds the income limitations under section 221(d)(3) of the National Housing Act by twenty per cent.

Prior to the sale of a community home mortgage the mortgagee shall

certify to the effect that no default or defaults exist and that the mortgagee knows of no existing condition affecting the mortgagor or his affairs which in the opinion of the mortgagee will cause the community home mortgage to become delinquent.

The director may, by rule and regulation, establish such other minimum requirements which must be met by community home mortgages to qualify for purchase, as are conducive to carrying out the provisions of this chapter and are not in conflict therewith.

**SECTION 7. Servicing community home mortgages.** All sales of community home mortgages to the director shall provide for the servicing of each such mortgage by the mortgagee, but the mortgagee shall not be obligated to bear any of the costs of foreclosure.

For servicing the community home mortgage, the mortgagee shall be entitled to receive from the interest collected on the mortgage a service charge in an amount prescribed by the rules of the director and, in addition, the late charges collected, if any. Such charge shall be in addition to any charges for originally making the loan and supervising construction permitted by the director.

The premises or developments mortgaged under any community home mortgage shall be located close enough to the principal or branch office of the mortgagee, or a bona fide agent of the mortgagee, adequately to service the mortgage. The mortgagee and his agent shall be equipped so as to facilitate the servicing of community home mortgages.

**SECTION 8. Commitments to purchase community home mortgages.** The director may enter into commitment contracts with mortgagees for the purchase of community home mortgages not in existence, or for which full disbursement has not been made, at the time the contract is entered into.

**SECTION 9. Default.** In the event of default in the payment of any community home mortgage, the director shall take all necessary action to collect the delinquent principal and interest on the loan, including all actions allowed to holders of obligations.

The director shall have power to deal with, rent, repair, renovate, modernize, or sell for cash, with a view to securing a maximum financial return to the State, any property acquired by it as a result of foreclosure proceedings or otherwise.

Nothing in this section shall be construed to preclude any forbearance for the benefit of the resident or developer as may be agreed to by the director and the resident. The director may adopt programs for deferred payments by residents or developers to avoid undue hardship or sacrifice of values of properties mortgaged.

**SECTION 10. Rules and regulations.** The director may, as he deems necessary, make, alter, amend, and repeal rules and regulations for the administration of this part, and not inconsistent with the provisions thereof,

including, but not limited to, additional minimum requirements to be met by community home mortgages to be eligible for purchase, minimum requirements to be met by mortgagees in order to be eligible to sell community home mortgages to the director and service them, the form in which community home mortgages shall be delivered to the director, the information required to be submitted to show community home mortgages offered for sale comply with this chapter and are eligible for purchase, the covenants of and procedures for entering into purchase mortgage contracts and commitment contracts to purchase community home mortgages, and procedures for foreclosing community home mortgages and the bearing of the expenses thereof.

The director, by rule and regulation, shall prescribe the service charge defined in section 4 but in no event shall it exceed one-half of one per cent per year computed upon the unpaid principal balance of the community home mortgage, and also the full amount of the late charges paid by the mortgagor.

**SECTION 11. Direct loans to residents and developers.** Whenever the director expressly finds that so few loans are being made to residents and developers and so few community home mortgages are being offered for sale to the director that it is impossible to carry out the intent of this part, the director with the approval of the governor may make direct loans to residents and developers and make mortgages as security therefor. The limitations on the purchase of community home mortgages shall apply to direct loan grants to the effect that mortgages taken therefor shall meet all requirements applicable to community home mortgages except that the loan shall be made directly by and shall be serviced by the director.

In the event that loan grants are made directly by the director, the director shall adopt, and may amend and rescind, such rules and regulations as are necessary for the administration of this section.

**SECTION 12. Taxation.** All assets of the director acquired in the administration of this part shall be exempt from taxation, except that any real property the mortgage for which is held by the director, and which has not been foreclosed, shall be subject to taxation to the same extent according to its value as other real property not so mortgaged.

**SECTION 13. Community home mortgage program.** There is created a community home mortgage program which shall be administered by the director in accordance with this part.

**SECTION 14. Community home mortgage bonds fund.** All repayments of principal on mortgages made under this part and all realizations on foreclosure of such mortgages, as secured, shall be paid into a special fund in the state treasury, to be called the community home mortgage bonds fund and used to pay the principal on bonds issued under this chapter.

**SECTION 15. Community home mortgage bonds special fund.** All interest received on mortgages made under this part and all fees and charges received under this part shall be paid into a special fund in the state treas-

ury, to be called the community home mortgage bonds special fund, and shall be used first to pay the interest on bonds issued under this part, and then to pay the expenses of the director in administering this part.

**SECTION 16. Bonds.** The director may, with the approval of the governor, issue from time to time general obligation bonds of the State to an amount not exceeding \$5,000,000 as provided by part I of chapter 137. The proceeds of sale of such bonds shall be used solely for the making of community home mortgages as provided in this part. To the extent that moneys in the community home mortgage bonds fund are inadequate to meet the principal, or moneys in the community home mortgage bonds special fund are inadequate to meet the interest on bonds issued under this part, as the same become due for payment, such moneys in the general fund of the State as are not otherwise appropriated shall be used for such purpose.

**SECTION 17. Transferability.** No mortgage purchased under this part shall be transferable to another party not qualifying under this part.

**SECTION 18. Exceeding income limitations by residents.** Residents' income shall be verified every biennium and shall not exceed the limitation imposed under section 6(h) herein except that in the event a resident exceeds such limitation subsequent to participating in the program the director shall renegotiate the mortgage and place additional charges upon the mortgage up to but not to exceed the going market rate for similar mortgages in an amount of one-half of one per cent; provided that no renegotiated mortgage shall result in payments by the resident in excess of twenty per cent of his income.

**SECTION 19. Exceeding standards by developers.** If the director determines that the developer has violated its limited dividend or nonprofit character the director shall renegotiate the mortgage and place additional charges upon the mortgage up to but not to exceed the going market rate for similar mortgages in an amount of one-half of one per cent; provided that the moderate-income character of the development shall be maintained.

**SECTION 20. Priorities and preferences.** The director shall purchase mortgages only according to the following priorities:

(a) First priority shall be given to developers for the purchase of land only.

(b) Second priority shall be given to developers and residents for the purchase of land and the smallest portion of improvements to land.

(c) Third priority shall be given to all other purchases.

**SECTION 21. Appropriations.** All moneys in the community home mortgage bonds fund created by section 14 are appropriated for the payment of principal on bonds issued under this part as the same become due and payable and all moneys in the community home mortgage bonds special fund created by section 15 are appropriated for the payment of interest on bonds issued under this chapter and the payment of service charges to mortgagees,



as the same become due and payable. There is appropriated from the community home mortgage bonds special fund such amounts of money as may be necessary to pay the salaries of employees of the department of budget and finance charged with the administration of this part and the cost of supplies and equipment therefor, and for other expenses in connection therewith.

If there are moneys in general, special, or revolving funds in the State which, in the director's judgment, are in excess of the amounts necessary for the immediate state requirements, and if in his judgment the necessary financial operations of the State will not be impeded or hampered thereby, the director may make temporary loans therefrom for the purposes of this part. Such loans shall in general comply with section 132-13.

#### PART IV STATE SALES HOUSING PROGRAM

**SECTION 22.** Chapter 77, Revised Laws of Hawaii 1955, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 77-..... State sales housing.** Notwithstanding sections 77-8, 9, 38, 60, or any other law to the contrary, but subject to any resolution of issuance under part IV of this chapter, the authority may permit any member of a tenant family of a housing project administered under this chapter, or chapter 74 or any individual meeting the income standards under section 221(d)(3) of the National Housing Act to enter into a contract, including but not limited to contracts entered under and conforming to the provisions of part V of this chapter or under the community home mortgage program (either individually or as a member of a group) for the acquisition of a dwelling unit and lot or the acquisition of a dwelling unit and the lease of its lot, such lease to conform to the provisions of chapter 103A with the exception that such lease shall not require bid, auction, or negotiation, in any project under chapters 74 and 77 which is suitable for sale and for occupancy by such purchaser or a member or members of his family, upon the following terms:

(a) The purchaser shall pay at least (1) a pro rata share cost of any services furnished him by the authority, including but not limited to, administration, maintenance, repairs, utilities, insurance, provision of reserves, and other expenses, (2) taxes on his dwelling unit, and (3) monthly payments of interest and principal sufficient to amortize a sales price, equal to the greater of the unamortized debt or the appraised value (at the time such purchase contract is entered into) of the dwelling unit, in not more than forty years; provided that the authority may, under terms and conditions to be prescribed by it, permit a purchaser to apply toward the purchase price of such unit amounts provided for under part V;

(b) Except in the case of financing under the community home mortgage program the interest rate shall be fixed at not less than the average interest cost of loans outstanding on the project, except that in the case of a project on which bonds are not outstanding the interest rate shall be fixed at not less than the going rate applicable to such project;

(c) The principal payments shall be not less than one-half of one per cent per year of the sales price during the first five years after purchase, one per cent per year during the next five years, one and one-half per cent per year during the third five years, and thereafter not less than the principal payments resulting from a level debt service of interest and principal over the balance of the payment period; and

(d) If at any time (1) a purchaser fails to carry out his contract with the authority and if no member of his family who resides in the dwelling assumes such contract, or (2) the purchaser or a member of his family who assumes the contract does not reside in the dwelling, the authority shall have an option to acquire his interest under such contract upon payment to him or his estate of an amount equal to his aggregate principal payments plus the value to the authority of any improvements made by him, less an amount equal to two and one-half per cent of the sales price."

SECTION 23. Chapter 103A, Revised Laws of Hawaii 1955, is amended by adding a new section to be appropriately designated within part III B and to read as follows:

**"Sec. 103A-..... Leases to certain developers of low and moderate-income housing.** Sections 103A-69, 103A-70, 103A-71, 103A-72, or any other law to the contrary notwithstanding, residential public lands may be leased on a first priority basis without a drawing or public auction by the board to developers under sections 202, 207, 213, 221(d)(3), 221(d)(5) or 231 of the National Housing Act or to a limited dividend or nonprofit corporation as defined in section 221(d)(3) which conforms to the standards of said sections but which is not a mortgagor under said sections or any other private mortgagor under the National Housing Act for low or moderate-income family housing, regulated or supervised under federal or state laws or by political subdivisions of the State, or agencies thereof, as to rents, charges, capital structure, rate of return, and methods of operation, from the time of issuance of the building permit for the project. The lease under this section shall include terms to meet Federal Housing Administration requirements, if any, and the annual rental of the premises shall not exceed one dollar per year."

SECTION 24. This Act shall take effect upon its approval; provided that Parts II and III shall take effect on July 1, 1967.

(Approved June 8, 1967.)