

A Bill for an Act Relating to Housing.

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

SECTION 1. Section 359-56, Hawaii Revised Statutes, is amended to read:

“Sec. 359-56 State assistance to [governmental] public agencies and [persons.] eligible developers and non-profit corporations. (a) The authority may provide assistance and aid to public agencies, eligible developers and non-profit corporations in developing and constructing new housing projects and rehabilitating old housing for elderly persons of low income by making available interim construction loans from the proceeds of tax exempt general obligation bonds; provided [,] that the development and construction of new housing projects and rehabilitation of old housing for elderly persons of low income qualify for the housing assistance from the federal government. Federal housing assistance means financial or other aid granted to the State to help defray construction and rental costs associated with such housing project or projects.

(b) State financial assistance granted to public agencies and eligible developers shall be in an amount not in excess of the development cost of the project, [including] excluding administrative or other cost or expense to be incurred by the authority. In anticipation of final payment of such financial assistance, the authority in accordance with such assistance, may make temporary advances to the public agencies and eligible developers for preliminary planning expense or other development cost of such project or projects.

(c) The authority may charge service fees and premiums upon the issuance of any interim construction loan under this section. The interest paid on such loans [,] and service fees and premiums shall be paid into the elderly housing fund created by section 359-65.

(d) The rates of interest on loans secured and made under this part shall be established by the authority, with the approval of the director of finance, after each sale of general obligation bonds of the State, the proceeds of which are to be used for the purposes of this part. In the event that no such sale intervenes in a twelve-month period after the last rate fixing, the authority may review the then existing rates on loans made under this part and retain the existing rate or, with the approval of the director of finance, establish different rates. The director of finance shall approve such rates so as to produce up to but not in excess of the maximum yield to the State permitted under [such] section 103(d) (2) of the United States Internal Revenue Code of 1954, on the assumption that the general obligation bonds, the proceeds of which are to be used for the purposes of this part, would otherwise be “arbitrage bonds” under that section were such maximum yield to be exceeded. The establishment of the rates of interest shall be exempt from chapter 91.

(e) Loans made under this part shall be secured by a duly recorded first mortgage upon the fee simple or leasehold interest only in the land upon which the dwelling units are constructed. The authority may require such other security interests and instruments as it deems necessary to secure the indebtedness and

such other conditions consistent with the production and rental of dwelling units at the lowest possible prices. The authority may also set the conditions of the loan in a building and loan agreement between the borrower and the authority in order to secure the loan and the performance of the borrower to complete the project.

(f) The authority may require performance bonds to be posted to the benefit of the State with surety satisfactory to it guaranteeing completion of housing projects and performance by qualified developers or the State may act as a self-insurer requiring such security, if any, from qualified developers as the authority shall deem necessary.

(g) The authority may obtain from any federal agency any insurance or guarantee for the payment of interest or principal, or both, on any obligations issued pursuant to the provision of this section."

SECTION 2. Section 359-57, Hawaii Revised Statutes, is amended to read:

"Sec. 359-57 Cooperative agreements with political subdivisions and other governmental agencies. (a) The authority shall have the power to provide assistance to political subdivisions and other governmental agencies in the planning, construction, and operation of housing projects and to enter into such agreements and arrangements as it deems advisable [to obtain] in providing such aid and cooperation. The authority may receive assistance from political subdivisions and other governmental agencies in the planning, construction, and operation of housing projects and to enter into such agreements and arrangements as it deems advisable to obtain such aid and cooperation.

(b) When a political subdivision deems it necessary that the authority develop and administer an elderly housing project, the legislative body of the political subdivision shall by resolution request the authority to develop a housing project or projects within the political subdivision and shall approve the site or sites thereof. During the time the authority maintains and administers the housing project pursuant to request of a political subdivision:

- (1) The political subdivision shall not levy or impose any special or improvement district assessments upon the housing project or upon the authority;
- (2) [That the] The political subdivision shall furnish, or cause to be furnished, to the authority, without cost or charge to the authority or to the tenants of the housing project, public services and facilities which are, upon the enactment of this part, being furnished [without cost or charge] to any other dwellings or any other inhabitants of the political subdivision regardless of cost or charge, including but not limited to: fire, police, and health protection and services; nursing, medical, or hospital care for the sick, aged, poor, or indigent; maintenance and repair of highways, streets, roads, alleys, sidewalks, and sewer and water systems within or adjacent to the project; garbage and trash collection and disposal; storm drainage; control of and protection against flood or flood waters; street lighting on streets or roads within the project and on the boundaries thereof; and adequate sewer services

for the projects;

- (3) [That the] The political subdivision shall, without cost or charge to the authority, vacate such streets, roads and alleys within the area of the housing project as the authority may find necessary in the development or administration thereof and shall convey without charge to the authority such interest that the political subdivision may have in the vacated areas;
- (4) The political subdivision insofar as it may lawfully do so, shall make changes in the zoning of the site of the housing project as are reasonable and necessary for the development and protection thereof;
- (5) The political subdivision shall, without cost or charge to the authority or to the tenants of the housing project, provide, improve, pave, construct, and maintain all interior streets, roads, alleys, sidewalks, and storm and sanitary sewer mains and laterals within the area of the project (and shall accept necessary dedications of land therefor), and shall, in like manner, provide, improve, pave, construct, and maintain all streets, roads, and alleys bounding the project or necessary to provide adequate access thereto, and also all water mains and storm and sanitary sewer mains leading to the project or serving the bounding streets thereof;
- (6) The political subdivision shall, when requested by the authority, without cost or charge to the authority, remove from the project any sick or disabled elderly person, who is a tenant therein, and shall thereupon furnish the elderly person, without cost or charge to the authority, suitable medical, nursing, and hospital treatment and care; and
- (7) The political subdivision shall observe and perform such other terms and conditions as the authority may deem necessary or desirable in connection with the development or administration of the project."

SECTION 3. Section 359-62, Hawaii Revised Statutes, is amended to read:

"Sec. 359-62 Tenant selection; dwelling accommodations; rentals. In the administration of housing projects the Hawaii housing authority shall at all times observe the following duties in regard to tenant selections, dwelling accommodations, and rentals:

- (1) Except as hereinafter provided, it shall accept only elderly persons as tenants in the housing projects.
- (2) It may accept as tenants [in a single dwelling accommodation] in any such housing project a husband and wife, or two or more members of the same family; provided, each such person is an elderly person. It may also accept as a tenant in any such dwelling accommodation or in any such project, in case of the illness or other disability of an elderly person who is a tenant in the dwelling accommodation or in the project, such person as shall be designated by the elderly person as his or her companion and who is approved by the authority, although the person is not an elderly person; provided, any such person shall cease to be a tenant

therein upon the recovery of, or removal from [,] the project of, the elderly person.

- (3) It may rent or lease to an elderly person a dwelling accommodation consisting of such number of rooms as it deems necessary or advisable to provide safe and sanitary accommodations to the proposed occupant or occupants thereof without overcrowding.
- (4) Notwithstanding that the elderly person has no written rental agreement or that it has expired, so long as the elderly person continues to tender the usual rent to the authority or proceeds to tender receipts for rent lawfully withheld, no action or proceeding to recover possession of the dwelling unit may be maintained against the elderly person, nor shall the authority otherwise cause the elderly person to quit the dwelling unit involuntarily, [nor] demand an increase in rent from the elderly person [; nor] , or decrease the services to which the elderly person has been entitled during hospitalization of the elderly person due to illness or other disability."

SECTION 4. Section 359G-1.1, Hawaii Revised Statutes, is amended to read:

"Sec. 359G-1.1 Definitions. Unless otherwise clear from the context, as used in this chapter:

- (1) "Eligible bidder" means a person, partnership, firm, or corporation determined by the authority:
 - (A) To be qualified by experience and financial responsibility to construct housing of the type proposed to be contracted;
 - (B) To have submitted the lowest acceptable bid; and
 - (C) To form a corporation to comply with chapter 416 to receive a lease of lands.
- (2) "Eligible developer" means any person, partnership, cooperative, firm, non-profit or profit corporation or public agency determined by the authority:
 - (A) To be qualified by experience and financial responsibility and support to construct housing of the type described and of the magnitude encompassed by the given project;
 - (B) To have submitted plans for a project adequately meeting the objectives of this chapter, the maintenance of aesthetic values in the locale of the project, and the requirements of all applicable environmental statutes, and rules;
 - (C) To be fully capable, on the basis of experience and reputation to complete all sales of the project in a nondiscriminatory fashion and without encountering complaints under chapters 342, 378, 396, 515, or suits under any applicable state or federal civil or human rights statute, if applicable; and
 - (D) To meet all other requisites the authority deems to be just and reasonable, and all requirements stipulated in this chapter.
- (3) "Land" or "property" includes vacant land or land with site improvements whether partially or entirely finished in accordance with

- governmental subdivision standards, or with complete dwellings.
- (4) "Mortgage holder" includes the United States Department of Housing and Urban Development, Federal Housing Administration, United States Department of Agriculture, Farmers Home Administration, and other federal or state agency engaged in housing activity, Administrator of Veterans Affairs, Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation, private mortgage lender, private mortgage insurer, and their successors, grantees, and assigns.
 - (5) "Mortgage lender" means any bank or trust company, savings bank, national banking association, savings and loan association maintaining an office in the State, any insurance company authorized to transact business in the State, or any mortgagee approved by the Federal Housing Administration and maintaining an office in the State.
 - (6) "Purchaser's equity" means the difference between the original cost of the dwelling unit to the purchaser, and the principal amount of any mortgages, liens, or notes outstanding.
 - (7) "Qualified resident" means a person who:
 - (A) Is a citizen of the United States or a [declarant] resident alien;
 - (B) Is at least eighteen years of age;
 - (C) Is a bona fide resident of the State and has a bona fide intent to reside in the dwelling unit purchased or rented under this chapter; [and]
 - (D) In the case of purchase of a dwelling unit in fee simple or leasehold, has a gross income sufficient to qualify for the loan to finance the purchase [.] and
 - (E) [Any person whom] Is not found by the authority [finds] to be within one of the following classes[, shall not be eligible to become a purchaser of a dwelling unit, to wit]:
 - [(A)] (i) A person who himself or whose husband or wife or both (when husband and wife are living together) owns or own in fee simple or leasehold any lands suitable for dwelling purposes; [and] or
 - [(B)] (ii) A person who himself or whose husband or wife (when husband and wife are living together) has pending [an] another unrefused application to purchase a dwelling unit under this chapter from the authority."

SECTION 5. Section 359G-4, Hawaii Revised Statutes, is amended by amending subsection (a) to read:

"(a) The authority [shall] may develop fee simple or leasehold property, construct dwelling units thereon, including condominiums and planned units, and sell, lease, or rent or cause to be leased or rented, [the land and the completed units] at the lowest possible price to qualified residents of the State, in partnership with a qualified partner or in its own behalf [.] either:

- (1) Fully completed dwelling units with the appropriate interest in the land on which the dwelling unit is located; or

- (2) Units which are substantially complete and habitable with the appropriate interest in the land on which the dwelling unit is located; or
- (3) The land with site improvements (other than the dwelling unit) either partially or fully developed."

SECTION 6. Section 359G-4, Hawaii Revised Statutes, is amended by amending subsection (e) to read:

"(e) The authority may acquire, by eminent domain, exchange, or negotiation, land or property required within the foreseeable future for the purposes of this chapter. Whenever land with a completed or substantially complete and habitable dwelling or dwellings thereon is acquired by exchange or negotiation, the exchange value or purchase price for such dwelling, including land, shall not exceed its appraised value. Land or property acquired in anticipation of future use may be leased for the interim period by the authority for such term and rent as it deems appropriate."

SECTION 7. Section 359G-6, Hawaii Revised Statutes, is amended by amending subsection (c) to read:

"(c) The authority shall have sole control of the partnership, shall keep all books of the partnership, and shall ascertain all costs of the partnership, including the cost of services performed by any other partners and it shall audit the same. The other partners shall perform services for the partnership under the direction of the authority and shall be reimbursed for all costs relating to the project as certified by the authority including administrative and overhead costs. Additionally the other partners shall, [upon occupancy of the dwelling unit by] upon transfer of title by the authority to the purchaser, be entitled to a guaranteed gross share of not more than fifteen per cent of the actual cost to the developer, of the project pro rated to such dwelling unit less any amount subsidized by the State. Subsidies shall include tax relief granted under section 359G-15, unrecovered development and land costs and any other subsidized items as defined in rules to be adopted by the authority pursuant to chapter 91. The percentage of such share shall be determined by the authority by contract with the partner based upon the nature of the services rendered by them."

SECTION 8. Section 359G-8, Hawaii Revised Statutes, is amended by amending subsection (a) to read:

"(a) The authority shall sell completed dwelling units or dwelling units which are substantially completed and habitable, developed and constructed hereunder, to qualified residents in fee simple, or shall cause them to be leased or rented to qualified residents, at a price or rental based on cost as determined by the authority; provided that the authority may retain such units as necessary in a project for lease or rental to nonprofit community organizations for community activity or facility purposes. The gross share to the other partners, or contract payments, and any amounts subsidized by the State, including but not limited to the land, need not be counted as cost so as to increase the price. Such may be borne by the State, under rules adopted pursuant to chapter 91, subject to reimbursement upon sale as is provided for in section 359G-9.2."

ACT 142

SECTION 9. Section 359G-12, Hawaii Revised Statutes, is amended by amending subsections (c) and (d) to read:

“(c) Loans secured [and made] under this section shall be limited to qualified single-family and multi-family housing in accordance with [standards and regulations as may be promulgated and administered] rules adopted by the authority.

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

- (1) A citizen of the United States or a [declarant] resident alien;
- (2) A sound credit risk with ability to repay the money borrowed;
- (3) [Meet] Qualified under the [standards and regulations as may be promulgated] rules adopted by the authority; and
- (4) Willing to comply with the regulations as may be promulgated by the director of finance.

The authority shall process all applications and determine who is a qualified borrower under this chapter.”

SECTION 10. The homeownership counseling administrator employed by the authority prior to the effective date of this Act and still so employed on such date shall be accorded all the rights, benefits, and privileges thereto retroactive to the date of his appointment. Such rights and privileges shall include seniority, prior service credit for retirement purposes, vacation and sick leave credit, and salary level, and said employee shall become a civil service employee without necessity of examination.

SECTION 11. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.

SECTION 12. This Act shall take effect upon its approval.

(Approved May 30, 1978.)