

ACT 278

H.B. NO. 2201-82

A Bill for an Act Relating to Housing.

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

SECTION 1. Section 356-201, Hawaii Revised Statutes, is amended by amending the definition of "eligible borrower" and "housing loan programs" to read:

"Eligible borrower" means any person or family, irrespective of race, creed, national origin, or sex, who:

- (1) Is a citizen of the United States or a declarant alien;
- (2) Is a bona fide resident of the State;
- (3) Is at least of legal age;
- (4) Does not himself or herself, or whose spouse if the person is married, own any interest in any residential property within or without the State and who has not owned such property within the three years immediately prior to the application for an eligible loan under this [chapter;] part, except this requirement shall not apply to any eligible loan for a targeted area residence as defined in the Mortgage Subsidy Bond Tax Act of 1980, Public Law 96-499, which residence is to replace a housing unit which has been declared structurally unsalvageable by a governmental board or agency having the power to make such a declaration;
- (5) Has never before obtained a loan under this part; and
- (6) Meets other qualifications as established by rules adopted by the authority.

"Housing loan programs" includes all or any part of the loan to lenders program, the purchase of existing loans program, the advance commitments program, and the [eligible loan and eligible project] loan funding [program] programs authorized under this part."

SECTION 2. Section 356-206, Hawaii Revised Statutes, is amended to read:

"§356-206 Rules; eligible borrower. (a) The authority shall establish the qualifications of an eligible borrower, and may consider, but not be limited to, the following:

- (1) The proportion of income spent for shelter;
- (2) Size of the family;
- (3) Cost and condition of housing available to the total housing market; and
- (4) Ability of the person to compete successfully in the normal housing market and to pay the amounts on which private enterprise is providing loans for safe, decent, and sanitary housing in the State.

(b) The adjusted household income of an eligible borrower shall not exceed one hundred twenty-five per cent of the median annual income for households of four persons in the State as most recently published by the United States Department of Health[, Education and Welfare] and Human Services except that the adjusted household income of a family of one shall not exceed one hundred per cent of such median income. As used in this subsection, "adjusted household income" means the total income, before taxes and personal deductions, received by all members of the eligible borrower's household, including, but not limited to, wages,

social security payments, retirement benefits, unemployment benefits, welfare benefits, interest and dividend payments, and such other income as provided by rules adopted by the authority under chapter 91, but not including business deductions.

(c) The assets of an eligible borrower shall not exceed an annual amount equal to the adjusted household income for an eligible borrower as set forth in subsection (b). As used herein, assets include, but [is] are not limited to, all cash, securities, and real and personal property, less any outstanding liabilities secured by such assets and less twenty-five per cent of a [down payment] downpayment required for the purchase of property financed by an eligible loan.

(d) For the purpose of determining the qualification of an eligible borrower for an eligible improvement loan:

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

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

(e) For the purpose of determining the qualification of an eligible borrower for an eligible loan for a targeted area residence:

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

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

SECTION 3. Section 356-212, Hawaii Revised Statutes, is amended to read: **"§356-212 Revenue bonds; payment and security.** (a) The revenue bonds shall be payable from and secured by the revenues derived from the benefits of the housing loan programs for which the revenue bonds are issued, including:

(1) Any payment made for eligible loans, eligible improvement loans, or eligible project loans or other agreements entered into for the housing loan programs;

(2) Revenues derived from insurance proceeds;

(3) Reserve accounts and earnings thereon; and

(4) Revenues resulting from loans to mortgage lenders or from the payment on account of principal of and interest on loans purchased from mortgage lenders.

(b) The authority may pledge any revenues derived from the housing loan programs financed from the proceeds of the revenue bonds to the punctual payment of the principal, interest, and redemption premiums, if any, on the revenue bonds.

(c) The revenue bonds may be additionally secured by the pledge or assignment of the loans and other agreements or any note or other undertaking, obligation, or property held by the authority to secure the loans.

(d) Any pledge made by the authority shall create a perfected security interest in the revenues, moneys, or property so pledged and thereafter received by the authority from and after the time that a financing statement with respect to the revenues, moneys, or property so pledged and thereafter received shall be filed with

the bureau of conveyances. Upon such filing, the revenues, moneys or property so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be prior to the lien of all parties having claims of any kind in tort, contract, or otherwise against the authority, irrespective of whether such parties have notice thereof. This section shall apply to any financing statement heretofore or hereafter filed with the bureau of conveyances with respect to any pledge made to secure revenue bonds issued under this part."

SECTION 4. Section 356-231, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read:

"(a) The authority shall establish procedures for:

- (1) The submission of requests or the invitation of proposals for loans to mortgage lenders;
 - (2) The purchase of existing loans by auction, invitation of tenders, or negotiation;
 - (3) The making of advance commitments to purchase and the purchasing of eligible loans, eligible improvement loans, or eligible project loans to be made by mortgage lenders by auction, invitation of tenders, or negotiation; and
 - (4) Loan applications made through mortgage lenders to eligible borrowers or qualified sponsors.
- (b) The authority shall establish standards and requirements for:
- (1) The allocation of loans to mortgage lenders;
 - (2) The allocation of funds to purchase existing loans from mortgage lenders;
 - (3) The making of advance commitments and allocation of funds to purchase eligible loans, eligible improvement loans, or eligible project loans from mortgage lenders; and
 - (4) The participation by mortgage lenders as originators and processors of eligible loans,¹ eligible improvement loans, or eligible project loans on half² of the authority."

SECTION 5. Section 356-235, Hawaii Revised Statutes, is amended by amending the section heading and subsection (a) to to read:

"§356-235 Housing loan programs; evidence of eligible loan, eligible improvement loan, or eligible project loan. (a) Each mortgage lender who participates in any housing loan program shall submit evidence, as deemed satisfactory by the authority, that eligible loans,³ eligible improvement loans, or eligible project loans have been made from the proceeds of the revenue bonds."

SECTION 6. Section 356-241, Hawaii Revised Statutes, is amended by amending subsection (a) to read:

"(a) The authority may make loans to mortgage lenders under terms and conditions requiring that the loan proceeds be used within a time period prescribed by the authority to make eligible loans, eligible improvement loans, and eligible project loans in an aggregate principal amount substantially equal to the amount of the loan."

SECTION 7. Section 356-251, Hawaii Revised Statutes, is amended to read:

"§356-251 Purchase of existing loans program. (a) The authority may contract with a mortgage lender to purchase, in whole or in part, existing loans, whether or not eligible loans[.], eligible improvement loans, or eligible project loans. The contract may contain provisions as determined by the authority to be necessary or appropriate to provide security for its revenue bonds, including, but not limited to, provisions requiring the:

- (1) Repurchase of the loans, in whole or in part, by mortgage lenders at the option of the authority;
- (2) Payments of premiums, fees, charges, or other amounts by mortgage lenders to provide a reserve or escrow fund for the purposes of protecting against loan defaults; and
- (3) Guarantee by, or for recourse against, mortgage lenders, with respect to defaults on these loans of the authority.

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

SECTION 8. Section 356-261, Hawaii Revised Statutes, is amended by amending subsection (a) to read:

"(a) The authority may contract with a mortgage lender for the advance commitment to purchase eligible loans, eligible improvement loans, or eligible project loans."

SECTION 9. Section 356-271, Hawaii Revised Statutes, is amended by amending the section heading and subsection (a) to read:

"§356-271 [Eligible loan and eligible project loan funding program.] Loan funding programs. (a) The authority may contract with mortgage lenders to fund eligible loans and eligible improvement loans and may directly make or contract with mortgage lenders to fund eligible project loans."

SECTION 10. Section 356-201, Hawaii Revised Statutes, is amended by adding two new definitions to be appropriately inserted and to read:

"Eligible improvement" means alterations, repairs, or improvements to an existing housing unit which substantially protect or improve the basic livability of the unit.

"Eligible improvement loan" means a loan to finance an eligible improvement to the owner of the housing unit, which may be a condominium unit, where the eligible improvement is to be made; provided that the owner meets the requirements of an eligible borrower, except that the requirement of paragraph (4) set forth in the definition of "eligible borrower" need not apply, the unit to be financed is located in the State, the unit will be occupied as the principal place of residence of the borrower, and meets other requirements as established by rules adopted by the authority."

SECTION 11. Chapter 356, Hawaii Revised Statutes, is amended by adding a new section to read:

“§356-209 Rules; eligible improvement loans. (a) The authority shall establish requirements for property financed by an eligible improvement loan, and may consider, but not be limited to, the location, age, condition, value, and other characteristics of the property.

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

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

SECTION 12. Issuance of revenue bond; amount authorized. Revenue bonds may be issued by the authority pursuant to part III, chapter 39, Hawaii Revised Statutes, and part II, chapter 356, Hawaii Revised Statutes, in an aggregate principal amount not to exceed \$9,000,000 at such times and in such amounts as it deems advisable for the purpose of undertaking and maintaining any of the housing loan programs in part II of chapter 356, Hawaii Revised Statutes, relating to the funding or purchasing of eligible improvement loans.

SECTION 13. Severability. If any part, section, sentence, clause, phrase, word, or punctuation of this Act, or the application thereof to any person or transaction or circumstance is held invalid, the invalidity does not affect any other part, section, sentence, clause, phrase, word, or punctuation of this Act or the application thereof to other persons or transactions or circumstances which can be given effect without the invalid part, section, sentence, clause, word, or punctuation or application, and to this end the parts, sections, sentences, clauses, words, punctuation of this Act are severable.

SECTION 14. Statutory material to be repealed is bracketed. New material is underscored.⁴

SECTION 15. This Act shall take effect on July 1, 1982 and is repealed on December 31, 1983.

(Approved June 18, 1982.)

Notes

1. Should be underscored.
2. So in original.
3. Should be underscored.
4. Edited pursuant to HRS §23G-16.5.