

ACT 80

S.B. NO. 597

A Bill for an Act Relating to County Housing Powers.

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

SECTION 1. Section 46-15.1, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

- “(b) Any law to the contrary notwithstanding, any county may:
- (1) Authorize and issue bonds under chapter 47 and chapter 49 to provide moneys to carry out the purposes of this section[,] or section 46-15.2, including the satisfaction of any guarantees made by the county pursuant to this section;
 - (2) Appropriate moneys of the county to carry out the purposes of this section;
 - (3) Obtain insurance and guarantees from the State or the United States, or subsidies from either;
 - (4) Designate, after holding a public hearing on the matter and with the approval of the respective council, any lands owned by it for the purposes of this section;
 - (5) Provide interim construction loans to partnerships of which it is a partner and to developers whose projects qualify for federally assisted project mortgage insurance, or other similar programs of federal assistance for persons of low and moderate income; and
 - (6) Adopt such rules pursuant to chapter 91 as are necessary to carry out the purposes of this section.”

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

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

- (1) To provide assistance and aid to persons of low and moderate income in acquiring housing by providing loans secured by a mortgage, including by acquiring such loans from private lenders for which such county has made advance commitment to acquire such loans, and to make and execute contracts with

- private lenders or a public agency for the origination and servicing of such loans and pay the reasonable value of such services;
- (2) In connection with the exercise of any powers granted under this section or section 46-15.1, to establish one or more loan programs and to issue bonds under chapter 47 or 49 to provide moneys to carry out [such programs;] the purposes of this section or section 46-15.1; provided that:
- (A) If bonds are issued pursuant to chapter 47[,], to finance one or more loan programs, the county may establish such qualifications as it deems appropriate;
 - (B) If bonds are issued pursuant to chapter 49[, any] to finance one or more loan programs, such loan program or programs shall comply with the provisions of part II of chapter 356;
 - (C) If bonds are issued pursuant to section 47-2.1 or chapter 49, any loan program established pursuant to this section or any county-owned dwelling units constructed under section 46-15.1 shall be and constitute an "undertaking" under section 49-1 and the provisions of chapter 49 shall apply to such loan program or county-owned dwelling units to the extent applicable;
 - (D) In connection with the establishment of any loan program pursuant to this section, a county may employ financial consultants, attorneys, real estate counselors, appraisers, and such other consultants as may be required in the judgment of the county and fix and pay their compensation from funds available to the county therefor;
 - (E) Notwithstanding any limitation otherwise established by law, with respect to the rate of interest on any loan made under any loan program established pursuant to this section, such loan may bear such rate or rates of interest per year as the county shall determine; provided no loan made from the proceeds of any bonds of the county shall be under terms or conditions which would cause the interest on such bonds to be deemed subject to income taxation by the United States of America;
 - (F) Notwithstanding any limitation otherwise established by law, with respect to the amount of compensation permitted to be paid for the servicing of loans made under any loan program established pursuant to this section, a county may fix such reasonable compensation as the county may determine;
 - (G) Notwithstanding the requirement of any other law, a county may establish such separate funds and accounts with respect to [any loan program established] bonds issued pursuant to chapter 47 or 49 to provide moneys to carry out the purposes of this section or section 46-15.1 as such county may deem appropriate;
 - (H) Notwithstanding any provision of chapter 47 or 49[,], or of any other law, but subject to the limitations of the State Constitution, bonds issued to [finance a loan program established pursuant to] provide moneys to carry out the purposes of this section or section 46-15.1 may be sold at public or private sale at such price [and bearing], may bear interest at such rate or rates per year, may be payable at

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

- (I) If deemed necessary or advisable, the county may designate a national or state bank or trust company within or without the State to serve as trustee for the holders of bonds issued to [finance a loan program established pursuant to] provide moneys to carry out the purposes of this section or section 46-15.1 and enter into a trust indenture, trust agreement, or indenture of mortgage with such trustee whereby such trustee may be authorized to receive and receipt for, hold, and administer the proceeds of such bonds and to apply the proceeds to the purposes for which such bonds are issued, or to receive and receipt for, hold, and administer the revenues and other receipts derived by the county [under the loans made] from the application of the proceeds of such bonds and to apply such revenues and receipts to the payment of the principal of, or interest on such bonds, or both. Any such trust indenture, trust agreement, or indenture of mortgage entered into with the trustee may contain any covenants and provisions as may be deemed necessary, convenient, or desirable by the county in order to secure such bonds. The county may pledge and assign to the trustee any agreements related to the [loans financed from] application of the proceeds of such bonds and the rights of the county thereunder, including the rights to revenues and receipts derived thereunder. Upon appointment of the trustee, the director of finance may elect not to serve as fiscal agent for the payment of the principal and interest, and for the purchase, registration, transfer, exchange, and redemption, of such bonds, or may elect to limit the functions the director of finance performs as such fiscal agent, and may appoint the trustee to serve as the fiscal agent, and may authorize and empower the trustee to perform such functions with respect to such payment, purchase, registration, transfer, exchange, and redemption, as the director of finance deems necessary, advisable, or expedient, including, without limitation, the holding of such bonds and coupons which have been paid and the supervision and conduction or the destruction thereof in accordance with law;
- (J) If a trustee is not appointed to collect, hold, and administer the proceeds of bonds issued to [finance a loan program established pursuant to] provide moneys to carry out the purposes of this section[,] or section 46-15.1, or the revenues and receipts derived by the county [under the loans made] from the application of the proceeds of such bonds, all as provided in subparagraph [(G),] (I), the director of finance of such county may hold such proceeds or revenues and receipts, as the case may be, in a separate account in the treasury of the county, to be applied solely to the

carrying out of the ordinance, trust indenture, trust agreement, or indenture of mortgage, if any, authorizing or securing such [special purpose revenue] bonds; and

(K) Any law to the contrary notwithstanding the investment of funds held in reserves and sinking funds related to bonds issued to provide moneys to carry out the purposes of this section or section 46-15.1 shall comply with the provisions of section 356-214; provided that any investment which requires approval by the county council pursuant to section 46-48 or 46-50 must first be approved by the county council.

- (3) To acquire such policies of insurance and enter into such banking arrangements as such county may deem necessary in order to better secure bonds issued to [finance a loan program established pursuant to] provide money to carry out the purposes of this section[; and] or section 46-15.1 including, without limitation, contracting for a support facility or facilities as may be necessary with respect to bonds issued with a right of the holders to put such bonds and contracting for interest rate swaps; and
- (4) To do any and all other things necessary or appropriate to carry out the purposes and exercise the powers granted in section 46-15.1 and this section.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 30, 1987.)