

ACT 15

S.B. NO. 3287

A Bill for an Act Relating to Housing.

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

**SECTION 1. Findings and purpose.** The legislature finds that there exists a critical shortage of safe, sanitary and affordable housing units in the State and that the legislature must quickly eliminate or reduce that critical shortage by using temporary, but courageous and novel legislation designed to rapidly increase the inventory of affordable housing units, and to do so in the most expeditious and economical way with a high degree of flexibility given to the developer in developing real property for affordable housing.

The legislature finds that legislation designed to increase the development of affordable housing units to reduce or eliminate this critical shortage, must also be designed to maintain an economically stable affordable housing environment, to protect against the destructive effects of speculation on affordability of housing, and to help private developers develop affordable housing units, without overly intrusive and time-consuming regulations.

The purpose of this Act is therefore to institute a five year moratorium on certain provisions of Part III of Chapter 201E which relate to the development of housing projects, to establish temporary legislation to reduce and eliminate the critical shortage of affordable housing, create and maintain stable housing devel-

opment costs, prevent speculation on affordable housing units, and provide the housing finance and development corporation with sufficient flexibility to develop affordable housing units on its own behalf or in concert with eligible developers within a self regulatory environment, without sacrificing health, safety, environmental and shoreline management requirements.

**SECTION 2. Moratorium; automatic repeal.** (a) Sections 201E-201, 201E-210, 201E-212, and all provisions in Part III, of Chapter 201E which are in conflict with or which are inconsistent with the provisions and intent of this Act shall not be applicable or otherwise enforceable for a period of five years from the effective date of this Act.

(b) This Act shall be automatically repealed five years from the effective date of this Act.

**SECTION 3. Other provisions, applicability.** The provisions of Chapter 201E, which are not in conflict with or otherwise inconsistent with the provisions with this Act shall continue to be applicable and enforceable, and this Act shall be applicable and enforceable under the provisions of Chapter 201E which are not in conflict with or which are not inconsistent with the intent and provisions of this Act.

**SECTION 4. Powers and duties, generally.** (a) The corporation, as defined in Section 201E-2, may develop fee simple or leasehold property, construct dwelling units thereon, including condominiums, planned units and cluster developments, and sell, lease, or rent or cause to be leased or rented, at the lowest possible price to qualified residents of the State, with an eligible developer 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.

(b) The corporation shall require all applicants for the purchase of dwelling units to make application therefor under oath, and may require additional testimony or evidence under oath in connection with any application. The determination of any applicant's eligibility under this chapter by the corporation shall be conclusive as to all persons thereafter dealing with the property; but the making of any false statement knowingly by the applicant or other person to the corporation in connection with any application shall constitute perjury and be punishable as such. The corporation shall establish a system to determine preferences by lot in the event that it receives more qualified applications than it has units available.

(c) The corporation shall adopt upon direction from the governor and for such period as the governor shall authorize, rules on health, safety, building, planning, zoning, and land use which relate to the development, subdivision, and construction of dwelling units in projects in which the State, through the corporation, shall participate; provided that these rules shall not contravene any safety standards or tariffs approved by the public utilities commission; provided further that these rules shall follow existing law as closely as is consistent with the production of lower cost housing with standards which meet minimum requirements of good design, pleasant amenities, health, safety, and coordinated development.

Upon the adoption of such rules they shall have the force and effect of law and shall supersede, for all projects in which the State through the corporation shall participate, all other inconsistent laws, ordinances, and rules relating to the use,

zoning, planning, and development of land, and the construction of dwelling units thereon.

(d) The corporation may acquire, by eminent domain, exchange, or negotiation, land or property required within the foreseeable future for the purposes of this Act. 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 each 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 corporation for such term and rent as it deems appropriate.

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

- (1) Land acquisition;
  - (2) The development and improvement of land;
  - (3) The construction of dwelling units;
  - (4) The purchase, lease or rental of land and dwelling units by qualified residents under this Act;
  - (5) Payment of any services contracted for under this Act, including profit or recompense paid to partners, and including community information and advocacy services deemed necessary by the corporation to provide for citizen participation in the development of housing projects, the implementation of this Act, and the staffing of any citizen advisory committee the corporation may establish;
  - (6) The cost of repurchase of units under section 201E-221;
  - (7) Loans for the rehabilitation and renovation of existing housing; and
  - (8) Any other moneys required to accomplish the purposes of this Act.
- (f) Do all things necessary and convenient to carry out the purposes of this

Act.

**SECTION 5. Housing development; exemption from statutes, ordinances, charter provisions, rules; plans and specifications; boundary change.**

(a) The corporation may develop on behalf of the State or with an eligible developer, or may assist under a government assistance program in the development of housing projects which shall be exempt from all statutes, ordinances, charter provisions, and rules of any governmental agency relating to planning, zoning, construction standards for subdivisions, development and improvement of land, and the construction of units thereon; provided that:

- (1) The corporation finds the project is consistent with the purpose and intent of this Act, and meets minimum requirements of health and safety;
- (2) The development of the proposed project does not contravene any safety standards or tariffs approved by the public utilities commission for public utilities; and
- (3) The corporation shall have first conducted a public hearing after reasonable notice in the county in which the project is situated. The notice shall include a description of the proposed project.

(b) The final plans and specifications for the project which are consistent with the purpose and intent of this Act and which meets minimum requirements of health and safety shall constitute the zoning, building, construction, and subdivision standards for that project. For purposes of section 501-85 and 502-17, the executive director of the corporation may certify maps and plans of lands connected with the project as having complied with applicable laws and ordinances relating to consolidation and subdivision of lands, and such maps and plans shall be accepted for registration or recordation by the land court and registrar.

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

(d) For the purposes of this section, "government assistance program" means a housing program qualified by the corporation and administered or operated by the corporation or the United States or any of their political subdivisions, agencies, or instrumentalities, corporate or otherwise.

**SECTION 6. Independent development of projects.** (a) In any county, the corporation may enter into agreements for housing projects with an eligible developer if in the corporation's reasonable judgment a project is primarily designed for lower income housing. The agreement may provide for the housing to be placed under the control of the corporation, or to be sold by the corporation or to be sold to the corporation as soon as the units are completed and shall contain such terms, conditions, and covenants as the corporation, by rules deems appropriate, and every agreement shall provide for the developer to furnish a performance bond, in favor of the corporation, assuring the timely and complete performance of the housing project. Sureties on the bond must be satisfactory to the corporation.

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

- (1) Provide for economically integrated housing by stipulation and design; provided that not less than sixty per cent of the units shall be sold in price ranges established by the corporation under this chapter and chapter 91 as being within the purchasing power of lower income purchasers and the balance of the units to be sold at these or other prices; provided further that the variously priced units shall not be segregated and shall be randomly dispersed individually or in clusters throughout the project horizontally, and if applicable, vertically;
- (2) Provide for the sale of all units in fee simple or in leasehold either to the corporation or to the purchaser and in all cases subject to all of the provisions of sections 201E-221, 201E-222, and 201E-223; excepting units sold at market price; and
- (3) Encompass the use of lands adequately suited to the size, design, and types of occupancies designated in subsection (a), properly located for occupancy by the groups for which the development is designed under this section, properly districted for the use intended prior to this application, and appropriately zoned within an urban land use district, or appropriate in its situation and surroundings for more intensive or denser zoning.

(c) The corporation may accept and approve projects independently initiated by private developers which fully comply with subsections (a) and (b). The corporation may review the plans, specifications, districting, and zoning of the project for the purpose of exempting the project from all statutes, ordinances, charter provisions, and rules of any governmental agency relating to zoning and construction standards for subdivisions, development, and improvement of land and the construction, improvement, and sale of homes thereon; provided that the procedures in Section 5(a)(1), (2), and (3) have been satisfied.

**SECTION 7. Compliance with environmental and shoreline protection laws required.** The corporation shall not be exempt from compliance with Chapters 343, and 205A, which are intended to maintain and protect the quality of the environment and shorelines.

**SECTION 8. Rules.** The corporation, which shall adopt rules pursuant to Chapter 91 necessary for the purposes of this Act, shall, in addition to the require-

ments contained in Chapter 91, give to the legislative body of the county in which the project is to be situated not less than forty-five days written notice of the public hearing, such notice to include the proposed rule to be adopted by the corporation.

**SECTION 10.<sup>1</sup> Effective date.** This Act shall take effect upon its approval.

(Approved April 20, 1988.)

**Note**

1. So in original.