

ACT 215

S.B. NO. 3188

A Bill for an Act Relating to Housing.

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

SECTION 1. Chapter 201E, Hawaii Revised Statutes, is amended as follows:

1. By amending section 201E-131 to read as follows:

“[§201E-131] Definitions. The following words or terms as used in this subpart shall have the following meanings unless a different meaning clearly appears from the context:

“Eligible project” means a rental housing project which:

- (1) Is financed by the corporation pursuant to subpart II.B. or II.C. [of this chapter], or the corporation determines will require rental assistance to make it financially feasible;
- (2) Is subject to a regulatory agreement with the corporation;
- (3) Maintains at least twenty per cent of its units for eligible tenants; and
- [(4) Other than a unit reserved for a manager of the project, maintains the remainder of its units for moderate income persons and families, whose incomes shall not exceed the limits set forth in section 201E-62(b); and
- (5)] (4) Meets other qualifications as established by rules adopted by the corporation.

Notwithstanding any provisions to the contrary, “eligible project” may also include a rental housing project which is financed by the corporation pursuant to subpart II.A.

“Eligible tenant” means a family or an individual [of low or moderate income as determined by the Secretary of the United States Treasury Department in accordance with the Internal Revenue Code of 1954, as amended] whose income does not exceed eighty per cent of the area median income as determined by the United States Department of Housing and Urban Development.

“Owner” means the owner of an eligible project.

“Regulatory agreement” means an agreement between the corporation and the owner relating to an eligible project which includes provisions relating to rents, charges, profits, return on owner’s equity, development costs, and methods of operation.

“Rental assistance contract” means an agreement between an owner and the corporation providing for periodic rental assistance payment for units in an eligible project.”

2. By amending section 201E-132(c) to read as follows:

“(c) Earnings on the investment of the rental assistance revolving fund and amounts recovered by the corporation pursuant to section 201E-134(f) may be applied by the corporation to payments under the rental assistance contracts or to subsidize tenants’ rents in projects developed under subpart II.A.”

3. By amending section 201E-133(a) to read as follows:

“(a) The corporation may enter into a rental assistance contract and a regulatory agreement with [an] the owner of an eligible project[.], when the owner of an eligible project is other than the corporation.”

4. By amending section 201E-134(f) to read as follows:

“(f) When an eligible project is not owned by the corporation, the [The] corporation shall be entitled to share in any appreciation in value of an eligible project realized at the time of refinancing or prepayment of the eligible project loan. The corporation’s share shall be calculated by multiplying the appreciation of the eligible project realized upon refinancing or prepayment by the ratio of the owner’s equity to the discounted value of the aggregate rental assistance payments. The discount rate shall be established by rules adopted by the corporation.”

5. By amending section 201E-204 to read as follows:

“[[§201E-204]] **Dwelling unit revolving fund.** There is created a dwelling unit revolving fund. The funds appropriated for the purpose of this [chapter] part and all moneys received or collected by the corporation under this [chapter] part shall be deposited in the revolving fund. The proceeds in the fund shall be used to reimburse the general fund to pay the interest on general obligation bonds issued for the purposes of this [chapter,] part, for the necessary expenses in administering the [chapter,] part, and for carrying out the purposes of this [chapter,] part, including, but not limited to, the expansion of community facilities constructed in conjunction with housing projects [for elderly persons], and supplementing building costs, federal guarantees required for operational losses, and all things required by any federal agency in the construction and receipt of federal funds for housing projects [for the elderly].”

6. By amending section 201E-212(a) to read as follows:

“(a) In any county, the corporation may develop or 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]. 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.”

7. By amending section 201E-221(b) and (c) to read as follows:

“(b) The restrictions prescribed in subsection (a) may be waived if:

- (1) The purchaser wishes to transfer title to the dwelling unit and the property or lease by devise or through the laws of descent to a family member who would otherwise qualify under rules established by the corporation; or
- (2) The corporation determines, in accordance with adopted rules, that the sale or transfer of a dwelling unit would be at a price and upon terms that preserves the intent of this section without the necessity of the State to repurchase the unit[; provided that the restrictions prescribed in subsection (a) shall be reinstated after the transfer of title and shall be fully effective and applicable to the transferee].

(c) The restrictions prescribed in subsection (a) shall be automatically extinguished and shall not attach in subsequent transfers of title when a mortgage holder or other party becomes the owner of the dwelling unit and the land or leasehold interest pursuant to a mortgage foreclosure, foreclosure under power of sale, or a conveyance in lieu of foreclosure after a foreclosure action is commenced. Any law to the contrary notwithstanding, a mortgagee under a mortgage covering

a dwelling unit and land or leasehold interest encumbered by the first option to purchase in favor of the corporation, prior to commencing mortgage foreclosure proceedings, shall notify the corporation of (1) any default of the mortgagor under the mortgage within ninety days after the occurrence of the default, and (2) any intention of the mortgagee to foreclose the mortgage under chapter 667. The corporation shall be a party to any foreclosure action, and shall be entitled to all proceeds remaining in excess of all customary and actual costs and expenses of transfer pursuant to default, including liens and encumbrances of record; provided that the person in default shall be entitled to an amount which shall not exceed the sum of amounts determined pursuant to subsection (a)(1)(B) and (C) and the purchaser's equity in the property."

8. By amending section 201E-222(d) to read as follows:

"(d) The restrictions prescribed in subsection (a) shall be automatically extinguished and shall not attach in subsequent transfers of title as prescribed in section [201E-221(c)] 201E-221(b) and (c)."

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii, the sum of \$10,000,000, or so much thereof as may be necessary for fiscal year 1988-89, to be paid into the rental assistance revolving fund created under section 201E-132, Hawaii Revised Statutes. The sum appropriated shall be expended by the housing finance and development corporation for the purposes of the fund.

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

SECTION 4. This Act shall take effect on July 1, 1988.

(Approved June 7, 1988.)