

A Bill for an Act Relating to Long-Term Care.

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

SECTION 1. The legislature finds that the State must adopt cost-effective strategies that encourage the independence, self-sufficiency, and well-being of elders through community-based programs. The legislature further finds that the growing elderly population will depend increasingly upon family caregivers, many of whom assume multiple roles as workers, parents, and community volunteers, and therefore require assistance in order to remain in the work force. The legislature also finds that many community facilities can be converted to use for community-based programs, and that other facilities now being used as sites for senior centers, nutrition meal sites, and adult day care and adult day health programs are unsafe or inadequate. Finally, the legislature finds there is a need to support and encourage the development of adult day care and adult day health centers.

The purpose of this Act is to support family caregivers, assure safe and adequate care to elders, and pursue cost-effective service options for older adults by providing grants to renovate and improve existing facilities used to deliver services through senior centers, meal sites for nutrition programs, and facilities for adult day care and adult day health programs. It is also the purpose of this Act to increase the number of facilities for the provision of adult day care and adult day health programs by providing grants to convert and renovate existing facilities so that additional adult day care and adult day health programs can be located in such facilities.

SECTION 2. In accordance with Section 9 of Article VII of the Constitution of the State of Hawaii and sections 37-91 and 37-93, Hawaii Revised Statutes, the legislature has determined that the appropriation contained in this Act will cause the state general fund expenditure ceiling for fiscal year 1990-1991 to be exceeded by \$1,000,000, or 0.039 per cent. The reasons for exceeding the general fund expenditure ceiling are that the appropriation made in this Act is necessary to serve the public interest and to meet the need provided for by this Act.

SECTION 3. As used in this Act, unless the context otherwise requires: "Adult day care" means a socialization program designed to meet the social as well as minimum health needs of functionally or mentally impaired adults for the purpose of providing care, assistance, guidance, or training essential for sustaining the activities of daily living in a protective setting during the day. Services are generally provided on a long-term basis.

"Adult day health" means a program similar to adult day care but also includes health and rehabilitative services as well as support services to restore or maintain to the fullest extent possible the participant's capacity for remaining in the community. Services are generally provided on a long-term basis.

"Nutrition meal site", "nutrition program site", or "meal site" means a facility or place where meals are served in a congregate setting on a regular basis to participants of the nutrition program for the elderly funded by the executive office on aging.

"Organization" means a nonprofit or a profit entity or a government agency which has a fee simple or leasehold interest in real property that is used to provide adult day care or adult day health programs or serves as a senior center

or nutrition meal site, or which owns a facility that can be used for the operation or delivery of such programs and services.

“Renovate” or “improve” means modifications upon or to an existing facility either to convert its use to or continue use as a senior center, nutrition program site, or a facility for adult day care or adult day health program, including restoring and repairing the original facility and all such related physical improvements.

“Senior center” means a community facility for the organization and provision of a broad spectrum of services, including, and not limited to, the provision of health, social, and educational services and the provision of facilities for recreation activities for older persons.

SECTION 4. (a) Applications for grants shall be made to the executive office on aging and shall contain such information as the office shall require by rules adopted pursuant to chapter 91. Every applicant shall provide assurance to the executive office on aging that:

- (1) The facility to be renovated or improved shall be used as a senior center or a meal site for senior citizens’ nutrition programs, or for the delivery of adult day care programs or adult day health programs for a continuous period of at least five years;
- (2) Any adult day care or adult day health programs located in a renovated facility will be duly licensed by the department of health or the department of human services;
- (3) The program shall comply with applicable federal and state laws prohibiting discrimination against any person on the basis of race, color, national origin, religion, creed, sex, age, or physical handicap;
- (4) The grant shall not be used for purposes of entertainment or perquisites;
- (5) The applicant shall comply with any other requirement the executive office on aging may prescribe to ensure adherence to applicable federal, state, and county laws;
- (6) All renovations and improvements undertaken with funds received under this Act shall comply with all applicable state and county statutes and ordinances, including applicable building codes and structural requirements imposed under the licensure requirements of the department of health and department of human services;
- (7) If the applicant is a profit organization, it shall provide at least ten per cent of the total costs of renovation and construction;
- (8) The applicant shall indemnify and hold harmless the State of Hawaii and its officers, agents, and employees from and against any and all claims arising out of or resulting from the renovation and improvements made with funds provided by this Act, and, upon request of the executive office on aging, the applicant shall procure sufficient insurance to provide that indemnification; and
- (9) The facility shall not be and is not intended to be used for sectarian instruction or as a place of worship.

(b) To receive a grant under this Act to convert an existing facility into an adult day care or adult day health facility the applicant shall:

- (1) Be a profit organization incorporated under the laws of the State, or a nonprofit organization determined to be exempt from the federal income tax by the Internal Revenue Service;
- (2) In the case of a nonprofit organization, have a governing board whose members have no material conflict of interest and serve without compensation, have bylaws or policies which describe the

manner in which business is conducted and policies relating to nepotism and management of potential conflict of interest situations, and employ or have under contract persons as are qualified to engage in the activity; provided that no two or more members of a family or kin of the first or second degree shall be employed or under contract unless specifically permitted in writing by the executive office on aging;

- (3) Agree to make available to the department of health and the department of human services all records it may have relating to the operation of any adult day care or adult day health program in the facility, and to allow the state agencies to monitor its compliance with the purposes of this Act;
- (4) Agree that, if the facility is to be altered or improved, or is to be used by other age groups, moneys appropriated by this Act shall be used for renovating or improving the facility only in proportion to the floor space to be used by older persons; and
- (5) Establish, to the satisfaction of the executive office on aging, that sufficient funds are available for the effective use of the facility for the purpose for which it is being renovated or improved.

(c) In selecting applicants for funding, the executive office on aging shall make every effort to ensure that adult day care and adult day health programs and facilities are equitably distributed throughout the State according to demographic need; provided that the office may give preference to the following:

- (1) Applications for funds to renovate a workplace to meet the employees' needs for assistance in the care of elderly family members during the workday;
- (2) An applicant willing to provide more than the requisite ten per cent matching funds; and
- (3) An applicant who has received a written commitment from a licensed adult day care or adult day health provider agency to deliver services at the facility to be renovated and improved.

(d) In considering applications for grants to renovate or improve an existing senior center, nutrition program site, or facility used for the operation of adult day care or adult day health program, the executive office on aging shall give preference to applications to renovate facilities most in need of repair to address safety and habitability concerns.

SECTION 5. The executive office on aging shall be responsible for disbursing all grants to those applicants it has selected to receive funding. It shall also be responsible for monitoring all renovations and improvements undertaken with the grants. No grant shall be disbursed unless an agreement is entered into between the applicant and the State, by and through the executive office on aging. The agreement shall include the assurances and conditions required by this Act and any other terms which the executive office on aging may require.

SECTION 6. This Act shall be construed to be consistent with existing statutory law; provided that, in the case of conflict, provisions contained in this Act shall prevail.

SECTION 7. There is appropriated out of the general revenues of the State of Hawaii, the sum of \$1,000,000 or so much thereof as may be necessary for fiscal year 1990-1991, for the purposes of this Act. The provisions of chapters 102, 103, and 104, Hawaii Revised Statutes, shall not apply to the expenditure of funds appropriated by this Act. The provisions of chapter 42, Hawaii Revised

Statutes, shall not apply to the grants made pursuant to this Act, but all grants shall be made only in accordance with the standards and conditions specified in this Act. Any unexpended or unencumbered balance of the sum appropriated remaining as of the close of business on June 30, 1991, shall lapse into the general fund.

SECTION 8. The sum appropriated shall be expended by the executive office on aging for the purposes of this Act.

SECTION 9. This Act shall take effect on July 1, 1990.

(Approved July 9, 1990.)