

ACT 67

H.B. NO. 2888

A Bill for an Act Relating to Elderly Housing.

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

SECTION 1. Chapter 201E, Hawaii Revised Statutes, is amended by adding a new subpart to part III to be appropriately designated and to read as follows:

“ . HOUSING FOR ELDERNS

§201E- Development of housing for elders; priority. The corporation may develop or rehabilitate housing projects for elders which shall be deemed to have a priority in the State’s overall housing development plans.

§201E- Powers in addition to powers. The powers conferred by this subpart shall be in addition and supplemental to the powers conferred by any other law, and nothing in this subpart shall be construed as limiting any other powers of the corporation.

§201E- Transfer of housing projects and assets. Upon completion of a housing project developed under this subpart, the corporation shall transfer the housing project and all assets connected therewith to the Hawaii housing authority.”

SECTION 2. Chapter 359, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

“PART . HOUSING FOR ELDERNS

§359- Definitions. The following terms, wherever used or referred to in this part, shall have the following respective meanings, unless a different meaning clearly appears from the context:

“Elder” means a person who is a resident of the State and who has attained the age of sixty-two.

“Housing complex” or “complex” shall include all real and personal property, buildings, and improvements, offices, lands for gardening or farming, and community facilities administered by the authority and providing safe and sanitary dwelling accommodations for residents. The terms shall also include all other real and personal property and all tangible or intangible assets held or used in connection with a housing complex administered under this part.

§359- Resident selection; dwelling accommodations; rentals. In the administration of housing complexes, the authority shall observe the following with regard to resident selection, dwelling accommodations, and rentals:

- (1) Except as hereinafter provided, it shall accept only elders as residents in the housing complexes.
- (2) It may accept as residents in any housing unit one or more persons, related or unrelated by marriage. It may also accept as a resident in any dwelling accommodation or in any complex, in the case of illness or other disability of an elder who is a resident in the dwelling accommodation or in the complex, a person designated by the elder as the elder's companion and who is approved by the authority, although the person is not an elder; provided that the person shall cease to be a resident therein upon the recovery of, or removal from the complex of, the elder.
- (3) It may rent or lease to an elder a dwelling accommodation consisting of any number of rooms as the authority deems necessary or advisable to provide safe and sanitary accommodations to the proposed resident or residents thereof without overcrowding.
- (4) Notwithstanding that the elder has no written rental agreement or that it has expired, so long as the elder continues to tender the usual rent to the authority or proceeds to tender receipts for rent lawfully withheld, no action or proceeding to recover possession of the dwelling unit may be maintained against the elder, nor shall the authority otherwise cause the elder to quit the dwelling unit involuntarily, demand an increase in rent from the elder, or decrease the services to which the elder has been entitled during hospitalization of the elder due to illness or other disability.

§359- Housing for elders revolving fund. There is created an housing for elders revolving fund to be administered by the authority. Notwithstanding any law to the contrary, moneys received or collected by the authority pursuant to this part or section 201E- shall be deposited into the revolving fund. Revenues from the fund may be used to pay the expenses of management, operation, and maintenance of housing, including, but not limited to, the cost of insurance, a proportionate share of the administrative expenses of the authority, and the costs of repairs, equipment, and improvements.”

SECTION 3. Section 46-4, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) Neither this section nor any other law, county ordinance, or rule shall prohibit group living in facilities with eight or fewer residents and which are licensed by the State as provided for under section 321-15.6 or in an intermediate care [facilities for the mental retardation] facility/mental retardation-community [ICF/MR-C] for persons, including the mentally ill, [the elderly,] elders, the handicapped, the developmentally disabled, or [the] totally disabled persons, who are not related to the home operator or facility staff; provided that [such] those group living facilities meet all applicable county requirements, not inconsistent with the intent of this subsection and including building height, setback, maximum lot coverage, parking, and floor area requirements. For purposes of this section[, “mentally];

“Mentally ill person” means a mentally ill person as defined under section 334-1[; “elderly person”].

“Elder” means an [elderly person] elder as defined under section [201E-230; “handicapped] 201E-2.

“Handicapped person” means an individual with a physical handicap as defined under section 515-2[; “developmentally].

“Developmentally disabled person” means a person suffering from developmental disabilities as defined under section [333E-2; “totally] 333F-2.

“Totally disabled person” means a person totally disabled as defined under section 235-1[; and “intermediate].

“Intermediate care facility/mental retardation-community (ICF/MR-C)” is defined as an identifiable unit providing residence and care for eight or fewer mentally retarded individuals. Its primary purpose is the provision of health, social, and rehabilitation services to the mentally retarded through an individually designed active treatment program for each resident. No person who is predominately confined to bed shall be admitted as a resident of such a facility.”

SECTION 4. Section 201E-2, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

“ “Elder” means a person who is a resident of the State and who has attained the age of sixty-two.”

SECTION 5. Section 321-15.6, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The director shall adopt rules regarding adult residential care homes in accordance with chapter 91 which shall be designed to:

- (1) Protect the health, safety, and civil rights of persons residing in facilities regulated;
- (2) Provide for the licensing of adult residential care homes; provided that the rules shall allow group living in two categories of adult residential care homes as licensed by the department of health: type I allowing group living by five or fewer unrelated persons, and type II allowing six or more persons including, but not limited to, the mentally ill, [the elderly,] elders, the handicapped, the developmentally disabled, or [the] totally disabled persons who are not related to the home operator or facility staff. For purposes of this section[, “mentally]:
 - “Mentally ill person” means a mentally ill person as defined under section 334-1[; “elderly person” means an elderly person].
 - “Elder” means an elder as defined under section [359-52; “handicapped] 201E-2.
 - “Handicapped person” means an individual with a physical handicap as defined under section 515-2[; “developmentally].
 - “Developmentally disabled person” means a person with developmental disabilities as defined under section [333E-2; and “totally] 333F-2.
 - “Totally disabled person” means a person totally disabled as defined under section 235-1;
- (3) Comply with applicable federal laws and regulations of Title XVI of the Social Security Act, as amended; and
- (4) Provide penalties for the failure to comply with any rule.”

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SECTION 6. Section 321E-2, Hawaii Revised Statutes, is amended by amending the definition of “elderly person” to read as follows:

“[“Elderly person” means a person] “Elder” shall be as defined in section [359-52;] 201E-2;”

SECTION 7. Section 359-121, Hawaii Revised Statutes, is amended to read as follows:

“§359-121 Rent supplements. The Hawaii housing authority is authorized to make, and contract to make, annual payments to a “housing owner” on behalf of a “qualified tenant”, as those terms are defined in this part, in such amounts and under such circumstances as are prescribed in or pursuant to this part. In no case shall a contract provide for such payments with respect to any housing for a period exceeding forty years. No payment on behalf of a qualified tenant shall exceed a segregated amount of \$160 a month; provided that payments on behalf of [elderly persons] elders as defined in section [359-52] 359- shall not exceed a segregated amount of \$160 a month.”

SECTION 8. Chapters 346, 349, 349C, and 524 and sections 46-15.1, 201E-12, 201E-30, 201E-180, 201E-205, 201E-208, 226-22, 269-16.5, 235-2.2, 321E-1, 321E-3, 330C-5, 356-15, 356-20, 359-125, 359-171, 371K-3, 457B-4, 515-3, 706-620, 706-660.2, and 706-662, Hawaii Revised Statutes, are amended by substituting the words “elders” or “elder” or like terms for the words “the elderly” or “elderly”, as the context requires.

SECTION 9. Subpart D of part III of chapter 201E, Hawaii Revised Statutes, is repealed.

SECTION 10. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 10. This Act shall take effect upon its approval.

(Approved May 7, 1990.)