

ACT 158

S.B. NO. 2861

A Bill for an Act Relating to Residential Leaseholds.

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

SECTION 1. Section 516-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

“‘Fee simple lands” means absolute ownership of land for an indefinite duration, freely transferable and inheritable. For the purposes of this chapter, a lessee shall be deemed to own fee simple lands if such fee simple real property is held under any trust agreement or fiduciary arrangement in which another person holds legal title to the land and where the lessee, whether as trustee, co-trustee or beneficiary, holds or retains the controlling interest and right to direct the trust with regard to management or control of the trust or its assets.”

SECTION 2. Section 516-33, Hawaii Revised Statutes, is amended to read as follows:

**“§516-33. Qualification for purchase.** Except as otherwise provided under section 516-28, no sale of any residential house lot within a development tract shall be made to any person unless the person meets the following requirements:

- (1) Is at least eighteen years of age;
- (2) Is a bona fide resident of the State or has a bona fide intent to reside in the development tract if successful in purchasing the lot and does reside on the lot within five years of purchase of the lot, except in hardship circumstances as determined by the corporation;
- (3) Has legal title to, or pursuant to an agreement of sale an equitable interest in, a residential structure situated on the leased lot applied for; provided that for the purposes of this section, the vendor under such agreement of sale shall not be eligible to purchase the lot. An agreement of sale means an executory contract for the sale and purchase of real property which binds one party to sell and the other party to buy property which is the subject matter of the transaction;
- (4) Has a letter of credit, certificate of deposit, proof of funds, or approved application from any lending institution demonstrating that the person will be able to promptly pay the corporation for the leased fee interest in the lot;
- (5) Submits an application in good faith in such form as is acceptable to

- the corporation;
- (6) Executes a contract for purchase of the fee interest in such form as is acceptable to the corporation; and
  - (7) Does not own in fee simple lands suitable for residential purposes for such person within the county and in or reasonably near the place of business of such person or has or have pending before the housing finance and development corporation an unrefused application to lease or purchase a lot in a development tract. A person is deemed to own lands herein if the person, the person's spouse, or both the person and the person's spouse (unless separated and living apart under a decree of a court of competent jurisdiction) own lands.

The amount set by the corporation for the leased fee interest in the lot for which the lessee must obtain a letter of credit, certificate of deposit, proof of funds, or approved application for loan pursuant to section 516-33(4) shall not be admissible for any reason in any action, suit, or proceeding brought under this chapter. Any financial information the corporation may request and obtain from the lessees shall not be discoverable or admissible in any action, suit, or proceeding brought under this chapter.

In the event of a wilful breach of contract of a lessee to purchase the leased fee interest, the corporation may sell or assign its interest without respect to the requirements of this section.

The corporation may require additional testimony or evidence under oath in connection with any application. The determination by the corporation of any applicant's eligibility under this part shall be conclusive as to all persons thereafter dealing with the property; provided that the making of any false statement knowingly by applicants or other person in connection with any application shall constitute perjury and shall be punishable as such. The corporation shall adopt rules pursuant to chapter 91 to effectuate the purposes of this section."

SECTION 3. New statutory material is underscored.

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

(Approved June 8, 1992.)