

ACT 307

S.B. NO. 2867

A Bill for an Act Relating to Affordable Housing.

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

SECTION 1. Section 201E-110, Hawaii Revised Statutes, is amended by amending the definitions of “eligible borrower” and “eligible loan” to read as follows:

““Eligible borrower” means: [any]

- (1) Any person or family, irrespective of race, creed, national origin, or sex, who:
 - [(1)] (A) Is a citizen of the United States or a declarant alien;
 - [(2)] (B) Is a bona fide resident of the State;
 - [(3)] (C) Is at least of legal age;
 - [(4)] (D) Does not personally, or whose spouse if the person is married, own [any] a majority interest in any residential property in the State; and
 - [(5)] (E) Meets other qualifications as established by rules adopted by the corporation[.]; or
 - (2) A qualified sponsor of an affordable housing project who meets the qualification requirements as established by rules adopted by the corporation.
- “Eligible loan” or “loan” means: [a]
- (1) A loan to an eligible borrower for the purchase of a housing unit, including a condominium unit; provided that the property financed is located in the State, will be occupied as the principal place of residence by the eligible borrower, and meets other requirements as established by rules adopted by the corporation[.]; or
 - (2) An interim or permanent loan, which may be federally insured or guaranteed, made to a qualified sponsor for the financing of an affordable housing project, and which meets other requirements as established by rules adopted by the corporation.”

SECTION 2. Section 201E-130, Hawaii Revised Statutes, is amended to read as follows:

“**[[§201E-130]] Purpose; findings and determinations.** The legislature finds and declares that the health and general welfare of the people of the State require that the people of this State have safe and sanitary rental housing accommodations available at affordable rents; that a grave shortage in the number of such accommodations affordable by families and individuals of low and moderate income in the State exists; that it is essential that owners of rental housing accommodations be provided with appropriate additional means to assist in reducing the cost of rental housing accommodations to the people of the State[.];

Additionally, the legislature finds that the high cost of infrastructure development and the obtaining of interim construction financing are two of the greatest impediments to the production of affordable rental housing in this State. It is especially difficult for private nonprofit and profit entities to participate in the development of affordable housing due to the difficulty in amassing the capital necessary to plan and carry a project to completion.

[that it] It is the purpose of this part to:

- (1) [assist] Assist such owners in maintaining the rentals at levels affordable by families and individuals of low and moderate income by providing such owners with rental assistance payments which, with rentals received by tenants of low and moderate income, will provide such owners with limited but acceptable rates of return on their investments in rental housing accommodations; and that assisting such owners by entering into contracts with them which provide for rental assistance payments is a valid public purpose and in the public interest[.]; and
- (2) Provide a funding source for interim construction financing for the development of affordable rental housing by private nonprofit and

profit entities, as well as the corporation; provided that in allotting this financing, the corporation shall give preference to qualified sponsors who are private nonprofit and profit entities."

SECTION 3. Section 201E-132, Hawaii Revised Statutes, is amended to read as follows:

"§201E-132 Rental assistance revolving fund. (a) There is created a rental assistance revolving fund to be administered by the corporation.

(b) The aggregate principal sum in the rental assistance revolving fund which may without limitation include sums made available from any government program or grant, from private grants or contributions, from the proceeds of any bond issue, or by appropriation, shall be invested by the corporation in a manner which will [preserve the principal sum and] maximize the rate of return on investment of the fund; provided that any investment shall be consistent with section 201E-54 but need not comply with section 36-21.

(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.] The corporation may use, as needed, the aggregate principal sum and the accumulated earnings in the rental assistance revolving fund to make payments under the rental assistance contracts or to subsidize tenants' rents in projects developed under part II; provided that the corporation shall use up to \$25,000,000 plus any bond proceeds to provide interim construction financing to:

- (1) Qualified sponsors who are private nonprofit or profit entities; or
- (2) The corporation,

for the development of affordable rental housing; provided further that the corporation, in allotting interim construction financing moneys pursuant to this part, shall give preference to rental housing projects developed by qualified sponsors who are private nonprofit or profit entities."

SECTION 4. Section 201E-133, Hawaii Revised Statutes, is amended to read as follows:

"§201E-133 Rental assistance contracts. (a) The corporation may enter into a rental assistance contract and a regulatory agreement with the owner of an eligible project, when the owner of an eligible project is other than the corporation.

(b) Prior to the execution of a rental assistance contract, the corporation may execute an agreement to enter into a rental assistance contract with an owner, which agreement shall provide for the execution of a rental assistance contract upon satisfaction of the terms set forth in such agreement and otherwise established by the corporation.

[(c) The corporation shall not enter into any rental assistance contract which would require the corporation to make payments at any time in excess of the amount available at such time or times in the rental assistance revolving fund pursuant to section 201E-132 for the funding of such payments.] Each rental assistance contract [shall provide] heretofore entered into by the corporation which provided that rental assistance payments shall be made solely from the earnings on the investment of the rental assistance revolving fund[.] shall hereafter, without modification of such contracts, be payable from the aggregate principal sum and the accumulated earnings in the rental assistance revolving fund.

[(d)] (c) A rental assistance contract and any subsidy of tenants' rents in projects developed under this part II shall be for a term [of not less than ten years and shall not be for a term in excess of the period for which the corporation has invested the principal of the rental assistance revolving fund at a known rate of return.] not in excess of thirty-five years and shall be approved by the board of directors of the corporation. Upon such approval by the corporation, the director of finance shall be authorized to guarantee the obligation of the corporation for the term of the rental assistance contract or the subsidy of tenants' rents in an amount equal to the aggregate obligation of the corporation to make assistance payments; provided that the aggregate of all such outstanding guarantees shall not exceed \$100,000,000. Pursuant to such guarantee, the corporation shall make annual rental payments to the owner in accordance with the approved rental assistance contract or to the tenants in accordance with the approved subsidy.

[(e)] (d) Each rental assistance contract shall set forth a maximum annual rental assistance payment amount. The corporation shall establish procedures for determining the maximum annual rental assistance payment amount and may consider, but not be limited to, the following:

- (1) The cost of constructing the eligible project;
- (2) The estimated annual operating cost of the eligible project;
- (3) The estimated maximum rentals which may be charged for units in the eligible project;
- (4) The amount of funds available for the funding of rental assistance contracts;
- (5) The number of eligible projects requiring assistance under this part; and
- (6) A restricted rate of return on equity to the owner, which rate shall be established by the corporation by rule."

SECTION 5. Section 201E-134, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) Annually, following the approval of the rental schedule submitted pursuant to the preceding section, the corporation shall determine the amount of rental assistance payments payable to the owner for the forthcoming year, which amount shall under no circumstances exceed the maximum annual rental assistance payment amount determined in accordance with section 201E-133. The amount determined pursuant to this subsection shall take into account the estimated amount to be derived by the owner from rentals to be charged for the forthcoming year and the limited rate of return on equity permitted in accordance with section [201E-133(e)(6).] 201E-133(d)(6)."

SECTION 6. Pursuant to Article VII, section 13, clause 8, of the State Constitution that states: "Bonds constituting instruments of indebtedness under which the State or any political subdivision incurs a contingent liability as a guarantor, but only to the extent the principal amount of¹ outstanding general obligation bonds not otherwise be¹ excluded under this section; provided that the State or political subdivision shall establish and maintain a reserve in an amount in reasonable proportion to the outstanding loans guaranteed by the State or political subdivision as provided by law," the legislature finds and declares that the amount presented in section 7 satisfies the reasonable reserve requirement of the State Constitution.

SECTION 7. The housing finance and development corporation shall

reserve an amount equal to ten per cent of the aggregate amount of outstanding guarantees made by the director of finance pursuant to section 201E-133(c), Hawaii Revised Statutes.

SECTION 8. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 9. This Act shall take effect upon its approval, and shall apply to rental assistance contracts executed prior to the effective date of this Act.

(Approved June 30, 1992.)

Note

1. So in original.