

ACT 308

S.B. NO. 2868

A Bill for an Act Relating to the Financing of Affordable Rental Housing.

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

SECTION 1. The purpose of this Act is to establish a rental housing trust fund. The legislature finds that there is an acute shortage of safe, decent, and affordable rental housing in the State of Hawaii. Consequently, many persons are forced to occupy overcrowded, unsafe, or unsanitary dwelling accommodations, or become homeless. The legislature also finds that a majority of Hawaii's housing problems stem from an inadequate supply of affordable housing, which has led in turn to low vacancy rates and high rents. Because of the high cost of housing development and the extent of rental expense burden among Hawaii's very low and low income households, funding must be made available to subsidize the development of affordable rental housing for these segments of the population.

The legislature has also determined that it is in the public interest to establish the rental housing trust fund as a continuous renewable resource to assist very low and low income families and individuals, including the homeless and special need groups, in obtaining rental housing.

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

**“CHAPTER
RENTAL HOUSING TRUST FUND**

§ -1 **Definitions.** The following terms, wherever used or referred to in this chapter, shall have the following meanings unless a different meaning clearly appears from the context:

“Commission” means the rental housing trust fund commission.

“Corporation” means the housing finance and development corporation.

“Department” means the department of budget and finance.

“Develop” or “development” means the planning, financing, acquisition of real and personal property; demolition of existing structures; clearance of real property; construction, reconstruction, alteration, or repairing of approaches, streets, sidewalks, utilities, and services, or other site improvements; or construction, reconstruction, repair, remodeling, extension, equipment, or furnishing of

buildings or other structures; or any combination of the foregoing, of any housing project. It also includes any undertakings necessary therefor, and the acquisition of any housing, in whole or in part.

"Federal government" includes the United States and any agency, instrumentality, corporate or otherwise, of the United States.

"Government" includes the State and the United States and any political subdivision, agency, or instrumentality, corporate or otherwise, or either of them.

"Housing" or "housing project" includes all real and personal property, buildings and improvements, commercial space, lands for farming and gardening, community facilities acquired or constructed or to be acquired or constructed, and all tangible or intangible assets held or used in connection with the housing project.

"Nonprofit organization" means a corporation, association, or other duly chartered entity which is registered with the State, and which has received charitable status under the Internal Revenue Code of 1986, as amended.

"Trust fund" or "fund" means the rental housing trust fund established in this chapter.

§ -2 Rental housing trust fund established. (a) There is established a rental housing trust fund to be placed within the department for administrative purposes but to be under the authority of the rental housing trust fund commission established by this chapter. The department and the corporation shall be responsible for specific duties as specified in this chapter.

(b) An amount, not to exceed one per cent of the rental housing trust fund, may be used for administrative expenses incurred by the commission in administering the fund; however, trust fund moneys may not be used to finance day-to-day administrative expenses of projects allotted trust fund moneys.

(c) The following may be deposited into the fund: appropriations made by the legislature, private contributions, repayment of loans, interest, other returns, and moneys from other sources.

§ -3 Purpose of the fund. (a) The trust fund shall be used to provide loans or grants for the development, pre-development, construction, acquisition, preservation, and substantial rehabilitation of rental housing units. Permitted uses of the fund may include but are not limited to planning, design, land acquisition, costs of options, agreements of sale, downpayments, equity financing, or other housing development services or activities as provided in rules adopted by the rental housing trust fund commission pursuant to chapter 91. The rules may provide for a means of recapturing loans or grants made from the rental housing trust fund if a rental housing project financed under the trust fund is refinanced or sold at a later date. The rules may also provide that moneys from the rental housing trust fund shall be leveraged with other financial resources to the extent possible.

(b) Moneys in the fund shall be used for the purpose of providing in whole or in part loans or grants for housing projects wherein:

(1) At least fifty per cent of the available units are for persons and families with incomes at or below sixty per cent of the median family income; and

(2) The remaining units are for persons and families with incomes at or below one hundred per cent of the median family income;

provided that the commission may establish rules to ensure full occupancy of fund projects.

(c) For the purposes of this part,¹ the applicable median family income

shall be the median family income for the county or standard metropolitan statistical area in which the project is located as determined by the United States Department of Housing and Urban Development, as adjusted from time to time.

§ **-4 Rental housing trust fund commission.** (a) There is established within the department the rental housing trust fund commission consisting of seven members, five of whom shall be appointed pursuant to section 26-34. The members of the commission shall serve four year staggered terms, provided that the initial appointments shall be as follows: two members to be appointed for four years; two members to be appointed for three years; two members to be appointed for two years; and one member to be appointed for one year. As part of this appointment process, an appropriate organization from each of the categories of organizations enumerated below shall submit a list of three public member nominees to the governor. The governor shall select and appoint one public member from each list.

The public members shall be representative of the following categories of organizations:

- (1) Real estate brokers/rental property managers;
- (2) Tenants/renters advocacy organizations;
- (3) Nonprofit housing developers/low income service providers;
- (4) Mortgage lenders;
- (5) Architects/planners.

A county government official appointed on a rotating basis among counties and the director of the department or the director's designated representative shall be ex officio voting members of the commission.

(b) The chairperson shall be a public member elected by the members of the commission and shall serve not more than two one-year terms as chair.

(c) The vice-chair shall be a public member elected by the members of the commission.

(d) Four members shall constitute a quorum. Four affirmative votes shall be necessary for all actions by the commission.

(e) The members shall receive no compensation for services, but shall be entitled to necessary expenses, including traveling expenses, incurred in the performance of their duties.

§ **-5 Powers and duties of the commission.** In addition to any other powers and duties granted by this part,¹ the commission shall:

- (1) Adopt rules, pursuant to chapter 91, to protect the interests of the fund and to best carry out the purposes of this chapter;
- (2) Define the guidelines, procedures, conditions, and details of loans under this section; provided that the commission shall establish loan-to-value ratios to protect the rental housing trust fund from inordinate risk and that under no circumstances shall the rules permit the loan-to-value ratio to exceed ninety-five per cent; and provided further that the underwriting guidelines include a debt-coverage ratio of not less than 1.05 to 1;
- (3) Evaluate the trust fund program every two years and report its evaluation with suggested changes to the legislature not fewer than twenty days before the convening of the regular session of the first year of each fiscal biennium, starting with the 1995-1997 fiscal biennium;
- (4) Obtain the services of technical and support staff from other government agencies, including the housing finance and development

corporation and the Hawaii housing authority to carry out the purposes of this chapter; and

- (5) Do all things necessary to carry out the functions, powers, and duties set forth in this chapter.

§ **-6 Eligible applicants for funds.** Eligible applicants for funds shall include nonprofit and for profit developers, including government agencies, who are qualified in accordance with rules adopted by the commission pursuant to chapter 91.

§ **-7 Eligible projects.** (a) The commission shall adopt rules pursuant to chapter 91 to establish procedures and criteria for identifying and selecting eligible projects for funding under this section.

(b) Activities eligible for assistance from the fund shall include but not be limited to:

- (1) New construction, rehabilitation, or preservation of low-income rental housing units that meet the criteria for eligibility described in subsection (c);
- (2) The leveraging of moneys with the use of fund assets;
- (3) Pre-development activity grants or loans to nonprofit organizations; and
- (4) Acquisition of housing units for the purpose of preservation as low-income or very low-income housing;

provided that preference shall be given to projects producing units in at least one of the following categories:

- (1) Multi-family units;
- (2) Attached single-family units;
- (3) Apartments;
- (4) Townhouses;
- (5) Housing units above commercial or industrial space;
- (6) Single room occupancy units;
- (7) Accessory apartment units;
- (8) Employee housing; and
- (9) Other types of units meeting the criteria for eligibility set forth in subsection (c).

(c) The commission shall establish an application process for fund allocation that gives preference to projects meeting the criteria set forth below that are listed in descending order of priority:

- (1) Serve the original target group;
- (2) Provide maximum number of units for the least amount of subsidy;
- (3) Are committed to serving the target population over a longer period of time;
- (4) Increase the integration of income levels of the immediate community area;
- (5) Meet the geographic needs of the target population, such as proximity to employment centers and services; and
- (6) Have favorable past performance with fund moneys.

The commission may include other criteria in the above process as it deems necessary to carry out the purposes of this chapter.

If the commission, after applying the process described in this subsection, finds a nonprofit project equally ranked with a for-profit or government project, the commission shall give preference to the nonprofit project in allotting fund moneys.

§ -8 **Role of the corporation.** The corporation shall provide technical and support services, and physical space to the commission at the commission's request, but shall have no legal authority to expend trust fund moneys.

§ -9 **Role of the department.** The department shall expend trust fund moneys at the request of the commission, but shall have no legal authority to expend trust fund moneys without prior approval from the commission."

SECTION 3. Section 26-8, Hawaii Revised Statutes, is amended to read as follows:

"§26-8 Department of budget and finance. The department of budget and finance shall be headed by a single executive to be known as the director of finance.

The department shall undertake the preparation and execution of the executive budget of the state government; conduct a systematic and continuous review of the finances, organization, and methods of each department of the State to assist each department in achieving the most effective expenditure of all public funds and to determine that such expenditures are in accordance with the budget laws and controls in force; have custody of state funds and be responsible for the safekeeping, management, investment, and disbursement thereof; and administer state debts.

The department of budget and finance shall develop and operate an information network in conjunction with its overall plans for establishing a communication backbone for state government. The state communication system shall be established to facilitate implementation of the State's distributed information processing and information resource management plans; improve data, voice, and video communications in state government; provide a means for connectivity among the state, university, and county computer systems; and provide a long-term means for public access to public information.

The functions and authority heretofore exercised by the bureau of the budget (except for insurance management, surplus property management, and central purchasing transferred to the department of accounting and general services) and the funds custody, cash management, debt management, and administering of veterans loan functions of the treasurer as heretofore constituted are transferred to the department of budget and finance established by this chapter.

The employees retirement system as constituted by chapter 88 is placed within the department of budget and finance for administrative purposes. The functions, duties, and powers, subject to the administrative control of the director of finance, and the composition of the board of trustees of the employees retirement system shall be as heretofore provided by law.

The public utilities commission is placed within the department of budget and finance for administrative purposes only.

The housing finance and development corporation is placed within the department of budget and finance for administrative purposes only.

The rental housing trust fund established under chapter _____, is placed within the department of budget and finance for administrative purposes only."

SECTION 4. For the purpose of expediting the implementation of this Act, the governor shall appoint an interim commission composed of members described in section -4 of the new chapter enacted under section 2, for the purpose of rule-making. The interim commission shall be dissolved upon adoption of

ACT 308

the rules, whereupon the commission established under section -4 shall be appointed.

SECTION 5. The director of finance is authorized to transfer \$15,000,000 from the rental assistance revolving fund, created pursuant to section 201E-132, to the rental housing trust fund for the purposes of this Act.

SECTION 6. If any part of this Act is found to be in conflict with federal requirements that are a prescribed condition for the allocation of federal funds to the State, the conflicting part of this Act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this Act in its application to the agencies concerned. The rules under this Act shall meet federal requirements that are a necessary condition to the receipt of federal funds by the State.

SECTION 7. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 8. Statutory material to be repealed is bracketed.² New statutory material is underscored.

SECTION 9. The provisions of this Act shall take effect on July 1, 1992.

(Approved June 30, 1992.)

Notes

1. So in original.

2. No bracketed material.