

ACT 299

S.B. NO. 1464

A Bill for an Act Relating to the Housing Finance and Development Corporation.
Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 201E-61, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§201E-61]]~~ **Owner-occupancy requirement.** (a) An eligible borrower shall utilize the dwelling unit purchased under this subpart as the eligible borrower’s permanent and primary residence.

(b) From time to time, the corporation may submit a verification of owner-occupancy form to the eligible borrower. Failure to respond to this verification in a timely manner may result in an immediate escalation of the interest rate or acceleration of the eligible loan.

(c) For eligible borrowers in the process of selling or transferring title to their property, the corporation may grant a waiver of subsection (a) for a period not to exceed three years and for reasons set forth in section 201E-222 on a case by case basis.”

SECTION 2. Section 201E-221, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) The following restrictions shall apply to the transfer of real property developed and sold under this chapter, whether in fee simple or leasehold:

- (1) For a period of [ten] three years after the purchase, whether by lease, assignment of lease, deed, or agreement of sale, if the purchaser wishes to transfer title to the real property, the corporation shall have the first option to purchase the real property at a price that shall not exceed the sum of:
 - (A) The original cost to the purchaser, as defined in rules adopted by the corporation;
 - (B) The cost of any improvements added by the purchaser, as defined in rules adopted by the corporation; and

- (C) Simple interest on the original cost and capital improvements to the purchaser at the rate of one per cent a year.
- (2) The corporation may purchase the real property either:
- (A) By conveyance free and clear of all mortgages and liens; or
 - (B) By conveyance subject to existing mortgages and liens.
- If the real property is conveyed in the manner provided in subparagraph (A), it shall be conveyed to the corporation only after all mortgages and liens are released. If the real property is conveyed in the manner provided in subparagraph (B), the corporation shall acquire the property subject to any first mortgage created for the purpose of securing the payment of a loan of funds expended solely for the purchase of the real property by the seller; and any mortgage or lien created for any other purpose provided that the corporation has previously consented to it in writing.
- The corporation's interest created by this subsection shall constitute a lien on the real property and shall be superior to any other mortgage or lien except for:
- (i) Any first mortgage created for the purpose of securing the payment of a loan of funds expended solely for the purchase of the real property by the seller;
 - (ii) Any mortgage insured or held by a federal housing agency; and
 - (iii) Any mortgage or lien created for any other purpose provided that the corporation has previously consented to it in writing. The amount paid by the corporation to the seller shall be the difference, if any, between the purchase price determined by paragraph (1)(A) to (C), and the total of the outstanding principal balances of the mortgages and liens assumed by the corporation.
- (3) A purchaser may refinance real property developed and sold under this chapter provided that the purchaser shall not refinance the real property, within ten years from the date of purchase, for an amount in excess of the purchase price as determined by paragraph (1)(A) to (C).
- (4) After the end of the [tenth] third year from the date of purchase, or execution of an agreement of sale, the purchaser may sell the real property and sell or assign the property free from any price restrictions; provided that the purchaser shall be required to pay to the corporation the sum of:
- (A) The balance of any mortgage note, agreement of sale, or other amount owing to the corporation;
 - (B) Any subsidy or deferred sales price made by the corporation in the acquisition, development, construction, and sale of the real property, and any other amount expended by the corporation not counted as cost under section 201E-220 but charged to the real property by good accounting practice as determined by the corporation whose books shall be prima facie evidence of the correctness of the costs;
 - (C) Interest on the subsidy or deferred sales price, if applicable, and any other amount expended at the rate of seven per cent a year computed as to the subsidy or deferred sales price, if applicable, from the date of purchase, or execution of the agreement of sale, and as to any amount expended, from the date of expenditure; provided that the computed interest shall not extend beyond thirty years from the date of purchase, or execution of the agreement of

sale, of the real property; and provided further that if any proposed sale or transfer will not generate an amount sufficient to pay the corporation the sum as computed under this paragraph, the corporation shall have the first option to purchase the real property at a price which shall not exceed the sum as computed under paragraphs (1) and (2); and

(D) The corporation's share of appreciation in the real property as determined under rules adopted pursuant to chapter 91 when applicable.

(5) Notwithstanding any provision above to the contrary, pursuant to rules adopted by the corporation, the subsidy or deferred sales price described in paragraph (4)(B) and any interest accrued pursuant to paragraph (4)(C) may be paid, in part or in full, at any time.

(b) For a period of [ten] three years after the purchase, whether by lease, assignment of lease, deed, or agreement of sale, if the purchaser wishes to transfer title to the real property, and if the corporation does not exercise the option to purchase the real property as provided in subsection (a), then the corporation shall require the purchaser to sell the real property to a "qualified resident" as defined in section 201E-2, and upon the terms that preserve the intent of sections 201E-221, 201E-222, and 201E-223, and in accordance with rules adopted by the corporation."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval and shall be repealed on December 31, 2000.

(Approved June 21, 1997.)