

A Bill for an Act Relating to the Housing and Community Development Corporation of Hawaii.

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

SECTION 1. Act 350, Session Laws of Hawaii 1997, is amended by amending section 1 to read as follows:

“SECTION 1. The legislature finds that housing affordability and availability are two of the most critical issues facing the people of Hawaii. Despite efforts to remedy the crisis, large segments of our population are still unable to find safe, decent, and affordable housing.

The legislature recognizes that the home is the basic source of shelter and security in society and is the center of our society that provides the basis for developing our future citizens. Frustration in the inability to obtain the basic necessity of decent shelter and to provide a decent home for one’s family, provokes unrest in our community that is harmful to the overall fiber of our society.

Studies have shown that the causes for the high-cost of housing are multiple. They include the cost and availability of land, the cost of development, the cost and availability of financing, the cost added by government regulation, the cost and availability of labor and materials, and the inflationary state of the economy that makes high-cost housing more profitable to produce and more attractive to “risk” capital. In the most elemental way, the housing shortage is caused by conflicting priorities in our pluralistic society. Additionally, the legislature is aware that the housing market is an all-encompassing market and that neglecting the interests of renters or potential homeowners would not be proper.

It is declared that as a result of the critical shortage of safe and sanitary housing units which are affordable to lower income residents of the State, many persons are forced to occupy overcrowded, unsafe, or unsanitary dwelling accommodations or become homeless. The legislature finds that:

- (1) These conditions cause an increase in discontent, despair, and crime and constitute a menace to the health, safety, morals, and welfare of the inhabitants of the State and impair economic values;
- (2) These conditions cannot be remedied by the ordinary operations of private enterprise;
- (3) The clearance, planning or replanning, financing, development, construction and reconstruction of units, and the providing of safe and sanitary dwelling accommodations are public uses and purposes for which public money may be spent and private property acquired;
- (4) It is in the public interest that work on such projects be instituted as soon as possible to relieve the burden of residents who are in need of shelter; and
- (5) The necessity for this Act is declared as a matter of legislative determination.

The State’s participation is necessary to ensure that decent and affordable housing or housing opportunities are available to all members of our community. The legislature recognizes that the lack of decent housing affects the quality of life of our residents. Resolution of the housing problem is complex due to the interrelatedness of other social and economic issues such as poverty, crime, and unemployment. No problem can be successfully resolved without considering the others. The legislature acknowledges that an integrated, rather than a fragmented, effort is required to cope with these multitude of problems. Thus, efforts on the part of the

State to improve the quality of life of our citizens and to address the impacts of welfare reform should be a coordinated one, taking into account shelter and the social, economic, and physical needs of the people. Coordination should also occur among federal, state, and county agencies, as well as with private sector and nonprofit entities, with each drawing on their strengths and working together in an integrated manner.

The legislature finds that, according to modern management theory, similar major functions of any large organization should be placed in the same organizational unit. Due to historical reasons, the various housing functions of state government are distributed to several different agencies.

The purpose of this Act is to consolidate all state housing functions now under the Hawaii housing authority, the housing finance and development corporation, and the rental housing trust fund, and state housing employees into a single housing and community development corporation. The new housing corporation will subsume the housing functions presently administered by the Hawaii housing authority, the housing finance and development corporation, and the rental housing trust fund. The housing and community development corporation of Hawaii will be headed by a decision making board. The corporation shall also contain various administrative and support services to carry out the common administrative duties of the two housing entities. Effective July 1, 1998, the functions and employees of the State's Hawaii housing authority, the housing finance and development corporation, and the rental housing trust fund will be transferred to the new housing and community development corporation of Hawaii. Effective July 1, 1998, the rental housing trust fund commission will inform and advise the board of the housing and community development corporation of Hawaii on matters concerning the administration of the rental housing trust fund.

A transition period is provided for this substantial consolidation effort, with full implementation to take effect on July 1, 1998.'

SECTION 2. Act 350, Session Laws of Hawaii 1997, is amended by amending section 21 to read as follows:

“SECTION 21. All officers and employees whose functions are transferred to the housing and community development corporation of Hawaii by this Act shall be transferred with their current functions and shall continue to perform their regular duties upon their transfer, subject to the state personnel laws and this Act. No officer or employee of the state shall suffer any loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefit or privilege as a consequence of this Act.

In the event that an office or position held by an officer or employee having tenure is abolished, the officer or employee shall not thereby be separated from public employment, but shall remain in the employment of the State with the same pay and classification and shall be transferred to some other office or position for which the officer or employee is eligible under the personnel laws of the State as determined by the head of the department of [personnel services] human resources development or the governor.

Employees who, prior to this Act were exempt from civil service, and who are transferred to the housing and community development corporation of Hawaii pursuant to this Act shall continue to retain their exempt status after the transfer and shall not suffer any loss of seniority, prior service credit, vacation, sick leave or other employee benefits as a consequence of this Act; provided that subsequent changes in status may be pursuant to applicable civil service and compensation laws. In order to facilitate a smooth transition of activities, temporary positions which are currently exempt from civil service may be temporarily continued as exempt from civil

service. Any exemption under this provision may cease at such time as the current employee terminates, or the position is converted to permanent status, or expires.”

SECTION 3. Act 350, Session Laws of Hawaii 1997, is amended by amending section 29 to read as follows:

- “SECTION 29. This Act shall take effect on July 1, 1998; provided that:
- (1) Section 11 shall take effect on June 30, 1997; [and]
 - (2) Sections [17, 21,] 19, 23, and 27 shall take effect upon approval[.]; and
 - (3) The language in § -73, § -76, § -122, and § -130 of section 2 shall not supersede, but shall incorporate, the amendments made to those sections by Act 2, Session Laws of Hawaii 1998.”

SECTION 4. Chapter 201G, Hawaii Revised Statutes, is amended by adding to part II a new subpart to read as follows:

“B. State Low Income Housing

§201G-41 Definitions. The following terms, wherever used or referred to in this subpart, shall have the following respective meanings, unless a different meaning clearly appears from the context:

“Administer” or “administration” means the management, operation, maintenance, and regulation of any housing project, and includes the leasing of any housing project, in whole or in part, from the federal government, management and operation of any housing project under a contract with or permit from the federal government, fixing of rentals, selection of tenants, rental of living quarters and accommodations, rental or leasing of commercial structures and spaces, and providing of recreational and other facilities. It also includes any and all undertakings necessary therefor.

“Veteran” includes any person who served in the military or naval forces of the United States during World War II and who has been discharged or released therefrom under conditions other than dishonorable. The term “veteran” includes Filipino World War II veterans who served honorably in an active duty status under the command of the United States Armed Forces in the Far East (USAFEF), or within the Philippine Army, the Philippine Scouts, or recognized guerilla units. The Filipino World War II veterans must have: served at any time between September 1, 1939, and December 31, 1946; been born in the Philippines; and resided in the Philippines prior to the military service.

§201G-42 Housing, tenant selection. Subject to the following limitations and preferences, the corporation shall select tenants upon the basis of those in greatest need for such housing. The corporation may limit the tenants of any housing project to classes of persons when required by federal law or regulation as a term or condition of obtaining assistance from the federal government. Within the priorities established by the corporation recognizing need, veterans with a permanent disability of ten per cent or more as certified by the Veterans Administration, the dependent parents of the veteran and the deceased veteran’s widow shall be given first preference.

§201G-43 Rentals. (a) Notwithstanding any provision of law to the contrary, the corporation shall fix the rates of the rentals for dwelling accommodations and other facilities in the housing projects provided for by this subpart, at rates that will produce revenues that will be sufficient to pay all expenses of management, operation, and maintenance, including the cost of insurance, a proportionate share of the

administrative expenses of the corporation to be fixed by it, and the costs of repairs, equipment, and improvements, to the end that the housing projects shall be and always remain self-supporting. The corporation, in its discretion, may fix the rates in such amounts as will produce additional revenues (in addition to the foregoing) sufficient to amortize the cost of the housing project or projects, including equipment, over a period or periods of time that the corporation may deem advisable.

(b) Notwithstanding any provision of law to the contrary, if any such housing project or projects have been specified in any resolution of issuance adopted pursuant to part III, or if the income or revenues from any such project or projects have been pledged by the corporation to the payment of any bonds issued under part III, or if any of the property of any such housing project or projects is security for any such bonds, the corporation shall fix the rates of the rentals for dwelling accommodations and other facilities in the housing project or projects so specified or encumbered at increased rates that will produce the revenues required by subsection (a) and, in addition, those amounts that may be required by part III, by any resolution of issuance adopted under part III and by any bonds or mortgage or other security issued or given under part III.

§201G-44 Administration of state low income housing projects and programs. (a) The corporation may construct, develop, and administer property or housing for the purpose of state low income housing projects and programs.

(b) The corporation shall adopt necessary rules in accordance with chapter 91 including the establishment and collection of reasonable fees for administering the projects or programs and to carry out any state program under (a).

§201G-45 State low income housing, revolving fund. The director of finance shall establish a revolving fund to be known as “the state low income housing revolving fund”. Notwithstanding any law to the contrary, moneys received by the corporation under or pursuant to this subpart, including refunds, reimbursements, rentals, fees, and charges received from tenants, shall be deposited in the state low income housing revolving fund. Except as otherwise provided in this chapter, the state low income housing revolving fund may be expended by the corporation for any and all of the purposes of this subpart, including, without prejudice to the generality of the foregoing, the expenses of management, operation, and maintenance of state low income housing, including but not limited to the cost of insurance, a proportionate share of the administrative expenses of the corporation, and the cost of repairs, equipment, and improvement; the acquisition, clearance, and improvement of property; the construction and reconstruction of building sites; the construction, reconstruction, repair, remodeling, extension, equipment, and furnishing of any housing project; the development and administration of any housing project; the payment of rentals; and administration and other expenses.

§201G-46 Investigatory powers. (a) The corporation may:

- (1) Investigate living, dwelling, and housing conditions and the means and methods of improving those conditions;
- (2) Enter upon any building or property in order to conduct investigations or to make surveys or soundings;
- (3) Conduct examinations and investigations, hear testimony and take proof under oath at public or private hearings on any matter material for its information;
- (4) Issue subpoenas requiring the attendance of witnesses or the production of books and papers, and order the examination of witnesses who are unable to attend before the corporation, are excused from attendance, or by leave of courts as provided by chapter 624, are out of the State; and

- (5) Make available to any government agency charged with the duty of abating or requiring the correction of nuisances or like conditions, or of demolishing unsafe or unsanitary structures within its jurisdictional limits, its findings and recommendations with regard to any building or property where conditions exist which are dangerous to the public health, morals, safety, or welfare.

(b) Investigations or examinations may be conducted by the corporation or by a committee appointed by it, consisting of one or more members, or by counsel, or by an officer or employee specially authorized by the corporation to conduct it. Any person designated by the corporation to conduct an investigation or examination may administer oaths, take affidavits, and issue subpoenas or orders for the taking of depositions.

§201G-47 Housing, government aid, political subdivisions. Any political subdivision may appropriate money for the purposes of meeting any local participation in housing costs or expenses required in order to obtain assistance from the federal government in the development and administration of housing projects and programs under this subpart, or of providing funds for use by the corporation in developing and administering housing projects.

§201G-48 Additional powers. The powers conferred upon the corporation by this subpart shall be in addition and supplemental to the powers conferred upon it by any other law, and nothing in this subpart shall be construed as limiting any powers, rights, privileges, or immunities conferred upon it.”

SECTION 5. Section 201G-1, Hawaii Revised Statutes, is amended by adding two new definitions to be appropriately inserted and to read as follows:

““Trustee” means a national or state bank or trust company located within or outside the State which enters into a trust indenture.

“Trust indenture” means an agreement by and between the corporation and the trustee, which sets forth the duties of the trustee with respect to the bonds, the security therefor, and other provisions as deemed necessary or convenient by the corporation to secure the bonds.”

SECTION 6. Section 201G-1, Hawaii Revised Statutes, is amended by amending the definitions of “housing project” or “project”, “mortgage holder”, and “mortgage lender” to read as follows:

““Housing project” or “project” includes all real and personal property, buildings and improvements, commercial spaces, lands for farming and gardening, and 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.

The term “housing project” or “project” may also be applied to the planning of the buildings and improvements, the acquisition of property[,] by purchase, lease, or otherwise, the demolition of existing structures, the construction, reconstruction, alteration, and repair of the improvements, and all other work in connection therewith.

“Mortgage holder” includes the United States Department of Housing and Urban Development, Federal Housing Administration, the United States Department of Agriculture [Rural Development], or other federal or state agency engaged in housing activity, Administrator of Veterans Affairs, Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan

Mortgage Corporation, private mortgage lender, private mortgage insurer, and their successors, grantees, and assigns.

“Mortgage lender” means any bank [or], trust company, savings bank, national banking association, savings and loan association [maintaining an office in the State, any insurance company authorized to transact business in the State, or any mortgagee approved by the Federal Housing Administration and maintaining an office in the State.], building and loan association, mortgage banker, credit union, insurance company, or any other financial institution, or a holding company for any of the foregoing, which:

- (1) Is authorized to do business in the State;
- (2) Customarily provides service or otherwise aids in the financing of mortgages on single-family or multifamily residential property; and
- (3) Is a financial institution whose accounts are federally insured or is an institution that is an approved mortgagee for the Federal Housing Administration, an approved lender for the Department of Veterans Affairs or the United States Department of Agriculture, or an approved mortgage loan servicer for the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation.”

SECTION 7. Section 201G-3, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) There is created a board consisting of nine members, of whom six shall be public members appointed by the governor as provided in section 26-34. Public members shall be appointed from each of the counties of Honolulu, Hawaii, Maui, and Kauai. One public member shall be the chairperson of the rental housing trust fund advisory commission. The public members of the board 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; and [two members] one member to be appointed for two years. The chairperson of the rental housing trust fund advisory commission shall serve a concurrent term on the board. The director of business, economic development, and tourism and the director of human services, or their designated representatives, and a representative of the governor’s office, shall be ex officio voting members. The corporation shall be headed by the board.

(b) The board of directors shall select a chairperson and vice-chairperson from among its members. The director of [finance] business, economic development, and tourism or the director of human services shall be ineligible to serve as [chairpersons] chairperson of the board.”

SECTION 8. Section 201G-10, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) For the purpose of aiding and cooperating in the planning, construction, and operation of housing projects located within their respective territorial boundaries, the state or county government, upon those terms, with or without consideration, as it determines, may:

- (1) Dedicate, grant, sell, convey, or lease any of its property, or grant easements, licenses, or any other rights or privileges therein to the corporation or to the federal government;
- (2) To the extent that it is within the scope of each of their respective functions:

- (A) Cause the services customarily provided by each of them to be rendered for the benefit of housing projects and the occupants thereof;
 - (B) Provide and maintain parks and sewage, water, lights, and other facilities adjacent to or in connection with housing projects;
 - (C) Open, close, pave, install, or change the grade of streets, roads, roadways, alleys, sidewalks, or other related facilities; and
 - (D) Change the map of a political subdivision or plan, replan, zone, or rezone any part of a political subdivision;
- (3) Enter into agreements with the corporation with respect to the exercise of their powers relating to the repair, closing, or demolition of unsafe, unsanitary, or unfit dwellings;
 - (4) Employ, notwithstanding any other law as to what constitutes legal investments, any available funds belonging to them or within their control, including funds derived from the sale or furnishing of property or facilities to the corporation, in the purchase of the bonds or other obligations of the corporation to the extent provided by section [201G-167;] 201G-161; and exercise all the rights of any holder of the bonds or other obligations;
 - (5) Do any and all things necessary or convenient to aid and cooperate in the planning, undertaking, and construction of such housing projects; and
 - (6) Enter into contracts with the corporation or the federal government for any period agreeing to exercise any of the powers conferred hereby or to take any other action in aid of such housing projects.

In connection with the exercise of this power, any political subdivision may incur the entire expense of any such public improvements located within its territorial boundaries without assessment against abutting property owners.

For the purpose of aiding and cooperating in the planning, construction, and operation of housing projects, the department of land and natural resources, the Hawaiian homes commission, and any other agency of the State having power to manage or dispose of its public lands, may, with the approval of the governor and with or without consideration, grant, sell, convey, or lease for any period, any parts of such public lands, without limit as to area, to the corporation or to the federal government.

Any law to the contrary notwithstanding, any gift, grant, sale, conveyance, lease, or agreement provided for in this section may be made by the state or county government without appraisal, public notice, advertisement, or public bidding.

If at any time title to, or possession of, any housing project is held by any government authorized by law to engage in the development or administration of low-rent housing or slum clearance projects, any agreement made under this chapter relating to the project shall inure to the benefit of and may be enforced by that government.

Insofar as this subsection is inconsistent with the provisions of any other law, this subsection shall be controlling.”

SECTION 9. Section 201G-13, Hawaii Revised Statutes, is amended to read as follows:

“[[§201G-13]] Development of property; additional powers. Notwithstanding any provision to the contrary, whenever the bids submitted for any development or rehabilitation project authorized pursuant to [part II.A, II.F, and II.G and chapter 359] subparts A, B, G, and H of part II exceed the amount of funds available for that project, the corporation, with the approval of the governor, may disregard the

bids and enter into an agreement to carry out the project, or undertake the project or participate in the project under the agreement, without regard to chapter 103D; provided that the total cost of the agreement and the corporation's participation, if any, shall not exceed the amount of funds available for the project; provided further that if the agreement is with a nonbidder, the scope of the project under agreement shall remain the same as that for which bids were originally requested."

SECTION 10. Section 201G-15, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The corporation may carry out federal programs designated to be carried out by a [housing finance or housing development entity.] housing finance entity, housing development entity, public housing agency, or entity designated by the corporation."

SECTION 11. Chapter 201G, Hawaii Revised Statutes, is amended by amending the title of subpart A of part II to read:

"A. FEDERAL LOW INCOME HOUSING"

SECTION 12. Chapter 201G, Hawaii Revised Statutes, is amended by redesignating subparts B, C, D, E, F, and G of part II to read as follows:

"[B.] C. PUBLIC HOUSING; EVICTIONS
[C.] D. PUBLIC HOUSING; LIENS
[D.] E. PUBLIC HOUSING; CORPORATION-COUNTY COOPERATION
[E.] F. HOUSING DEVELOPMENT PROGRAMS
[F.] G. TEACHERS HOUSING
[G.] H. HOUSING FOR ELDERS"

SECTION 13. Section 201G-51, Hawaii Revised Statutes, is amended by amending the definition of "public housing project" to read as follows:

"“Public housing project” means a housing project directly controlled, owned, developed, or managed by the corporation pursuant to [part II.A and chapter 359.] subparts A, B, and H."

SECTION 14. Section 201G-52, Hawaii Revised Statutes, is amended to read as follows:

"**[[§201G-52]] Termination and eviction.** Except as hereinafter provided, the corporation may terminate any lease, rental agreement, permit, or license covering the use and occupation of any dwelling unit or other premises located within a public housing project and evict from any premises any tenant, licensee, or other occupant for any of the following reasons:

- (1) Failure to pay rent when due;
- (2) Violation of any of the provisions of a lease rental agreement, permit, or license;
- (3) Violation of any of the rules of the corporation;
- (4) Failure to maintain the dwelling unit in a clean, sanitary, and habitable condition; or
- (5) The existence of any other circumstances giving rise to an immediate right to possession by the corporation."

SECTION 15. Section 201G-57, Hawaii Revised Statutes, is amended by amending subsection (g) to read as follows:

“(g) Upon review of the record the court may affirm the decision of the corporation or remand the case with instructions for further proceedings, or it may reverse or modify the decision and order if the substantial rights of the petitioners may have been prejudiced because the administrative findings, conclusions, decisions, or orders are:

- (1) In violation of constitutional or statutory provisions;
- (2) In excess of the statutory authority or jurisdiction of the [agency;] corporation;
- (3) Made upon unlawful procedure;
- (4) Affected by other error of law;
- (5) Clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or
- (6) Arbitrary, or capricious, or characterized by abuse of discretion or clearly unwarranted exercise of discretion.”

SECTION 16. Section 201G-71, Hawaii Revised Statutes, is amended by amending the definition of “housing project” to read as follows:

““Housing project” means and includes any housing project or projects owned, managed, administered, or operated by the corporation under or pursuant to [subpart] subparts A and B or under or pursuant to any other law[, including chapter 359].”

SECTION 17. Section 201G-92, Hawaii Revised Statutes, is amended to read as follows:

“[[§201G-92]] Facilities and services by counties to corporation and tenants. Each county within which the corporation may own, operate, or administer any housing project or projects under any law or laws, [except chapter 359,] and to which, or for whose benefit, the corporation has made (by payment to the [department of taxation]) county or may hereafter make, gifts or donations, including any payment in lieu of taxes, shall, upon request of the corporation, provide and furnish to the corporation, in regard to every such housing project or projects within the county, and to the tenants and other occupants of the same, free of charge and without condition or other requirement, all the facilities, services, and privileges as it provides or furnishes, with or without charge or other consideration, to any person or persons whomsoever, including, without limitation to the generality of the foregoing, police protection, fire protection, street lighting, or paving maintenance, traffic control, garbage or trash collection and disposal, use of streets or highways, use of county incinerators or garbage dumps, storm drainage, and sewage disposal. In addition, each county, upon request of the corporation and free of charge and without condition or other requirement, shall open or close, but not construct or reconstruct, streets, roads, highways, alleys, or other facilities within any housing project or projects within the county. Nothing in this section shall be construed to restrict or limit the power of the corporation to agree to pay, or to pay, for any and all of the facilities, services, and privileges, if in its discretion it deems such payment advisable.”

SECTION 18. Section 201G-93, Hawaii Revised Statutes, is amended to read as follows:

“**[§201G-93]** **Construction of additional powers.** Sections 201G-91 and 201G-92 shall not be construed as abrogating, limiting, or modifying [part II.A, including amendments to part II.A, or chapter 359,] subparts A, B, and H, including amendments thereto.”

SECTION 19. Section 201G-112, Hawaii Revised Statutes, is amended by amending the definition of “qualified resident” to read as follows:

““Qualified resident” means a person who:

- (1) Is a citizen of the United States or a resident alien;
- (2) Is at least eighteen years of age;
- (3) Is domiciled in the State and shall physically reside in the dwelling unit purchased or rented under this chapter;
- (4) In the case of the purchase of real property in fee simple or leasehold, has a gross income sufficient to qualify for the loan to finance the purchase; or in the case of a rental, demonstrates an ability to pay rent as determined by the corporation and meets any additional criteria established by the corporation for the respective rental housing development for which the applicant is applying; and
- (5) Meets the following qualifications:
 - (A) Is a person who either oneself or together with spouse or household member, does not own [more than one per cent] a majority interest in fee simple or leasehold lands suitable for dwelling purposes or [more than one per cent] a majority interest in lands under any trust agreement or other fiduciary arrangement in which another person holds the legal title to the land; and
 - (B) Is a person whose spouse or household member does not own [more than one per cent] a majority interest in fee simple or leasehold lands suitable for dwelling purposes or more than a majority interest in lands under any trust agreement or other fiduciary arrangement in which another person holds the legal title to the land, except when husband and wife are living apart under a decree of separation from bed and board issued by the family court pursuant to section 580-71;

provided that for purchasers of market-priced units in an economically integrated housing project, the term “qualified resident” means a person who is a citizen of the United States or a resident alien; is domiciled in the State and shall physically reside in the dwelling unit purchased; is at least eighteen years of age; and meets other qualifications as determined by the developer.”

SECTION 20. Section 201G-112, Hawaii Revised Statutes, is amended by deleting the definitions “housing” or “housing project”, “mortgage holder”, and “mortgage lender”.

[““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.

“Mortgage holder” includes the United States Department of Housing and Urban Development, Federal Housing Administration, the United States Department of Agriculture—Rural Development, or other federal or state agency engaged in housing activity, Administrator of Veterans Affairs, Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation, private mortgage lender, private mortgage insurer, and their successors, grantees, and assigns.

“Mortgage lender” means any bank or trust company, savings bank, national banking association, savings and loan association maintaining an office in the State, any insurance company authorized to transact business in the State, or any mortgagee approved by the Federal Housing Administration and maintaining an office in the State.”]

SECTION 21. Section 201G-113, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) Upon authorization by the legislature, the corporation shall cause the State to issue general obligation bonds to finance:

- (1) Land acquisition;
- (2) The development and improvement of land;
- (3) The construction of dwelling units;
- (4) The purchase, lease, or rental of land and dwelling units by qualified residents, nonprofit organizations, or government agencies under this chapter;
- (5) Payment of any services contracted for under this chapter, including profit or recompense paid to partners, and including community information and advocacy services deemed necessary by the corporation to provide for citizen participation in the development of housing projects, the implementation of this chapter, and the staffing of any citizen advisory committee the corporation may establish;
- (6) The cost of repurchase of units under section [201G-128;] 201G-127;
- (7) Loans for the rehabilitation and renovation of existing housing; and
- (8) Any other moneys required to accomplish the purposes of this chapter.”

SECTION 22. Section 201G-116, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) In accordance with section 237-29, the corporation may approve and certify for exemption from general excise taxes any qualified person or firm involved with a newly constructed, or moderately or substantially rehabilitated project:

- (1) Developed under this subpart;
- (2) Developed under a government assistance program approved by the corporation, including but not limited to, the United States Department of Agriculture [- Rural Development] 502 program and Federal Housing Administration 235 program; or
- (3) Developed under the sponsorship of a private nonprofit corporation providing home rehabilitation or new homes for qualified families in need of decent, low-cost housing.”

SECTION 23. Section 201G-118, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The corporation may develop, on behalf of the State or with an eligible developer, or may assist under a government assistance program in the development of, housing projects which shall be exempt from all statutes, ordinances, charter provisions, and rules of any governmental agency relating to planning, zoning, construction standards for subdivisions, development and improvement of land, and the construction of units thereon; provided that:

- (1) The corporation finds the project is consistent with the purpose and intent of this chapter, and meets minimum requirements of health and safety;
- (2) The development of the proposed project does not contravene any safety standards [or], tariffs, or rates and fees approved by the public utilities commission for public utilities[;] or the various boards of water supply authorized under chapter 54; and
- (3) The legislative body of the county in which the project is to be situated shall have approved the project.
 - (A) The legislative body shall approve or disapprove the project by resolution within forty-five days after the corporation has submitted the preliminary plans and specifications for the project to the legislative body. If on the forty-sixth day a project is not disapproved, it shall be deemed approved by the legislative body;
 - (B) No action shall be prosecuted or maintained against any county, its officials, or employees on account of actions taken by them in reviewing, approving, or disapproving the plans and specifications; and
 - (C) The final plans and specifications for the project shall be deemed approved by the legislative body if the final plans and specifications do not substantially deviate from the preliminary plans and specifications. The final plans and specifications for the project shall constitute the zoning, building, construction, and subdivision standards for that project. For purposes of sections 501-85 and 502-17, the executive director of the corporation, or the responsible county official may certify maps and plans of lands connected with the project as having complied with applicable laws and ordinances relating to consolidation and subdivision of lands, and the maps and plans shall be accepted for registration or recordation by the land court and registrar; and
- (4) The land use commission shall approve or disapprove a boundary change within forty-five days after the corporation has submitted a petition to the commission as provided in section 205-4. If on the forty-sixth day the petition is not disapproved, it shall be deemed approved by the commission."

SECTION 24. Section 201G-128, Hawaii Revised Statutes, is amended to read as follows:

“[[§201G-128]] Exception of current owners in corporation projects.

The corporation may allow a person who is a current owner of a multifamily dwelling unit in a project sponsored by the corporation to apply for the purchase of a larger dwelling unit in a project sponsored by the corporation if the applicant's family size exceeds the permissible [maximum] family size for the applicant's current dwelling unit, as determined by [the corporation.] prevailing county building or housing codes. The applicant shall be required to sell the applicant's current dwelling unit back to the corporation. Notwithstanding any law to the contrary, any applicant, as it pertains to for-sale housing, shall be a “qualified resident” who:

- (1) Is a citizen of the United States or a resident alien;
- (2) Is at least eighteen years of age;
- (3) Is domiciled in the State and shall physically reside in the dwelling unit purchased under this chapter;

- (4) In the case of purchase of real property in fee simple or leasehold, has a gross income sufficient to qualify for the loan to finance the purchase; and
- (5) Except for the applicant's current residence, meets the following qualifications:
 - (A) Is a person who either oneself or together with spouse, does not own a majority interest in fee simple or leasehold lands suitable for dwelling purposes, or a majority interest in lands under any trust agreement or other fiduciary arrangement in which another person holds the legal title to such land; and
 - (B) Is a person whose spouse does not own a majority interest in fee simple or leasehold lands suitable for dwelling purposes or a majority interest in lands under any trust agreement or other fiduciary arrangement in which another person holds the legal title to such land, except when husband and wife are living apart under a decree of separation from bed and board issued by the family court pursuant to section 580-71."

SECTION 25. Section 201G-133, Hawaii Revised Statutes, is amended to read as follows:

“[[§201G-133]] Rate of wages for laborers and mechanics. The corporation shall require an eligible bidder or eligible developer of a housing project developed under this [chapter] subpart to comply with the requirements of section 104-2 for those laborers and mechanics hired to work on that housing project; provided that this section shall not apply to a housing project developed under this chapter if the entire cost of the project is less than \$500,000 and the eligible bidder or eligible developer is a private nonprofit corporation.”

SECTION 26. Section 201G-143, Hawaii Revised Statutes, is amended to read as follows:

“[[§201G-143]] Annual statements. The corporation shall annually forward to the director of [human services] business, economic development, and tourism and the director of finance a full, detailed description and financial statement of the planning, construction, repair, maintenance, and operation of teacher housing.”

SECTION 27. Section 201G-151, Hawaii Revised Statutes, is amended by deleting the definition of “housing project” or “project”.

[[“Housing project” or “project” shall include all real and personal property, buildings, and improvements, corporations, lands for gardening or farming, and community facilities administered by the corporation 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 project administered under this subpart.”]]

SECTION 28. Section 201G-152, Hawaii Revised Statutes, is amended to read as follows:

“[[§201G-152]] Resident selection; dwelling accommodations; rentals. In the administration of housing projects[,], for the elderly, the corporation 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 projects;
- (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 project, in the case of illness or other disability of an elder who is a resident in the dwelling accommodation or in the project, a person designated by the elder as the elder's companion and who is approved by the corporation, 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 project of, the elder;
- (3) It may rent or lease to an elder a dwelling accommodation consisting of any number of rooms as the corporation deems necessary or advisable to provide safe and sanitary accommodations to the proposed resident or residents thereof without overcrowding; and
- (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 corporation 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 corporation 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."

SECTION 29. Section 201G-161, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) The corporation may issue such types of bonds as it may determine, including, without limitation, bonds payable from and secured, in whole or in part, by:

- (1) Income and revenues derived from the housing project or projects financed from the proceeds of bonds;
- (2) Receipts derived from any grant from the federal government made in aid of a housing project or projects financed from the proceeds of bonds;
- (3) Income and revenues derived from a particular designated housing project or projects whether or not financed, in whole or in part, from the proceeds of bonds;
- (4) Receipts derived from any payment for "eligible loans", "eligible improvement loans", or "eligible project loans", as such terms are defined in subpart B [of part III], or any other agreement or agreements entered into for a "housing loan program", as such term is defined in subpart B or E [of part III], or any other loan program administered by the corporation and financed from the proceeds of bonds;
- (5) Receipts derived from loans to mortgage lenders or from the payment on account of principal of or interest on loans purchased from mortgage lenders, as such terms are defined in subpart B [of part III] which loans to mortgage lenders or loans purchased are financed from the proceeds of bonds;
- (6) Moneys in any funds or accounts established in connection with the issuance of bonds, and any earnings thereon;
- (7) Proceeds derived from any insurance;
- (8) Income and revenues of the corporation generally; or

(9) Any combination of the above.

The terms “income and revenues” shall be deemed to include income and revenues derived from the sale of land or from both land and improvements thereon serviced from infrastructure financed from the proceeds of bonds as permitted by this subpart. The provisions of this subsection are in addition and supplemental to part III of chapter 39.”

SECTION 30. Section 201G-164, Hawaii Revised Statutes, is amended to read as follows:

“[[§201G-164]] Bonds; interest rate, price, and sale. (a) The bonds shall bear interest at rates payable at times [as] that the corporation, with the approval of the governor, may determine except for deeply discounted bonds that are subject to redemption or retirement at their accreted value; provided that the discounted value of the bonds shall not exceed ten per cent of any issue; and provided further that no bonds may be issued without the approval of the director of finance and the governor. Notwithstanding any other law to the contrary, the corporation may, subject to the approval of the director of finance and the governor, issue bonds pursuant to section [[201G-162]], in which the discounted value of the bonds exceeds ten per cent of the issue.

(b) The corporation may include the costs of undertaking and maintaining any housing project or projects or loan program for which the bonds are issued in determining the principal amount of bonds to be issued. In determining the cost of undertaking and maintaining the housing projects, the corporation may include the cost of studies and surveys; insurance premiums; underwriting fees; financial consultant, legal, accounting, and other services incurred; reserve account, trustee, custodian, and rating agency fees; and interest on the bonds for a period [not to exceed one year beyond the estimated completion of any housing project or projects,] determined by the corporation, or the estimated expenditure of borrowed funds[, or] for any loan program for which the bonds are issued.”

SECTION 31. Section 201G-165, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The trustee shall also be authorized by the corporation to hold and administer any housing project bond special funds established pursuant to section 201G-170, and to receive and receipt for, hold, and administer the revenues derived by the corporation from any housing project or projects or loan program for which the bonds are issued or the projects or loan programs pledged to the payment of the bonds, and to apply the revenues to the payment of the cost of administering, operating, and maintaining the housing project or projects or loan program, to pay the principal of and the interest on the bonds, to the establishment of reserves, and to other purposes as may be authorized in the proceedings providing for the issuance of the bonds.”

SECTION 32. Section 201G-167, Hawaii Revised Statutes, is amended to read as follows:

“[[§201G-167]] Investment of reserves, etc. The corporation may invest any funds held in reserves or sinking funds or any funds not required for immediate disbursement, including the proceeds of bonds, in property or securities in which the director of finance may legally invest, as provided in section 36-21, except that funds held outside the state treasury may be invested for terms not to exceed thirty-five years. No provisions with respect to the acquisition, operation, or disposition of

property by other public bodies shall be applicable to the corporation unless the legislature shall specifically so state.”

SECTION 33. Section 201G-170, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There is created a housing finance revolving fund to be administered by the corporation. Notwithstanding sections 36-21 and 201G-411, the proceeds in the fund shall be used for long-term and other special financings of the corporation and for the necessary expenses in administering this [chapter.] part.”

SECTION 34. Section 201G-171, Hawaii Revised Statutes, is amended to read as follows:

“**[“§201G-171”] Rate of wages for laborers and mechanics.** The corporation shall require an eligible bidder or eligible developer of a housing project developed under this [chapter] subpart to comply with the requirements of section 104-2 for those laborers and mechanics hired to work on that housing project; provided that this section shall not apply to a housing project developed under this chapter if the entire cost of the project is less than \$500,000 and the eligible bidder or eligible developer is a private nonprofit corporation.”

SECTION 35. Section 201G-181, Hawaii Revised Statutes, is amended by deleting the definition of “mortgage lender”.

[““Mortgage lender” means any bank, trust company, savings bank, national banking association, savings and loan association, building and loan association, mortgage banker, credit union, insurance company, or any other financial institution, or a holding company for any of the foregoing, which:

- (1) Is authorized to do business in the State;
- (2) Customarily provides service or otherwise aids in the financing of mortgages on single family or multifamily residential property; and
- (3) Is a financial institution whose accounts are federally insured or is an institution which is an approved mortgagee for the Federal Housing Administration or is an approved lender for the Veterans Administration or the United States Department of Agriculture—Rural Development or is an approved mortgage loan [servicer for] the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation.”]

SECTION 36. Section 201G-241, Hawaii Revised Statutes, is amended by amending the definition of “housing loan programs” to read as follows:

““Housing loan programs” include all or any part of the loan programs authorized in [sections 201G-242 and 201G-243.] section 201G-242.”

SECTION 37. Section 201G-241, Hawaii Revised Statutes, is amended by deleting the definitions of “mortgage lender”, “securities”, “trustee”, and “trust indenture”.

[““Mortgage lender” means any bank, trust company, savings bank, national banking association, savings and loan association, building and loan association, mortgage banker, credit union, insurance company, or any other financial institution, or a holding company for any of the foregoing, which:

- (1) Is authorized to do business in the State;

- (2) Customarily provides service or otherwise aids in the financing of mortgages on single-family or multifamily residential property; and
- (3) Is a financial institution whose accounts are federally insured or is an institution which is an approved mortgagee for the Federal Housing Administration or is an approved lender for the Veterans Administration or the United States Department of Agriculture—Rural Economic Community Development or is an approved mortgage loan servicer for the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation.

“Securities” as used in this subpart means revenue bonds, participation certificates, pass-through certificates, mortgage-backed obligations, and other obligations of the corporation issued to finance any of the housing loan programs under this subpart.

“Trustee” means a national or state bank or trust company within or without the State which enters into a trust indenture.

“Trust indenture” means an agreement by and between the corporation and the trustee, which sets forth the duties of the trustee with respect to the securities, the security therefor, and other provisions as deemed necessary or convenient by the corporation to secure the securities.”]

SECTION 38. Section 201G-244, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) Subject to any agreements with the holders of its [securities,] bonds, the corporation may renegotiate, refinance, or foreclose any loan in default; and may commence any action to protect or enforce any right conferred upon it by any law, or as provided in any mortgage, insurance policy, contract, or other agreement; and may bid for and purchase the property secured by the loan at any foreclosure or other sale; or acquire, or take possession of the property secured by the loan and may operate, manage, lease, dispose of, or otherwise deal with the property securing the loan.”

SECTION 39. Section 201G-311, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) To be eligible for loans under this section, a qualified borrower shall be:

- (1) A citizen of the United States or a resident alien;
- (2) Qualified under the rules adopted by the corporation; and
- (3) Willing to comply with the rules as may be adopted by the [director of finance.] corporation.

The corporation may secure the services of a private lender to process all applications and determine who is a qualified borrower under this chapter.”

SECTION 40. Section 201G-391, Hawaii Revised Statutes, is amended to read as follows:

“**[§201G-391]] State sales housing.** Notwithstanding [sections 359-8, 359-9, 359-39, or] any [other] law to the contrary, but subject to any resolution of issuance under [chapter 359, part IV,] subpart A, the corporation may permit any member of a tenant family of a housing project administered under [chapter 359 or part II.A, or II.G,] subpart A, B, or H of part II, or any individual meeting the income standards under section 221(d)(3) of the National Housing Act to enter into a contract for the acquisition of a dwelling unit and lot or the acquisition of a dwelling unit and the lease of its lot, the lease to conform to chapter 171 with the exception

that the lease shall not require bid, auction, or negotiation, in any project under [part II.A and II.G, and chapter 359] subparts A, B, and H of part II which is suitable for sale and for occupancy by such purchaser or a member or members of the purchaser's family, upon the following terms:

- (1) The purchaser shall pay at least:
 - (A) A pro rata share cost of any services furnished the purchaser by the corporation, including but not limited to administration, maintenance, repairs, utilities, insurance, provision of reserves, and other expenses;
 - (B) Taxes on the purchaser's dwelling unit; and
 - (C) Monthly payments of interest and principal sufficient to amortize a sales price, equal to the greater of the unamortized debt or the appraised value (at the time such purchase contract is entered into) of the dwelling unit, in not more than forty years;
- (2) The interest rate shall be fixed at not less than the average interest cost of loans outstanding on the project, except that in the case of a project on which bonds are not outstanding the interest rate shall be fixed at not less than the going rate applicable to that project;
- (3) The principal payments shall be not less than one-half of one per cent a year of the sales price during the first five years after purchase, one per cent a year during the next five years, one and one-half per cent a year during the third five years, and thereafter not less than the principal payments resulting from a level debt service of interest and principal over the balance of the payment period; and
- (4) If at any time:
 - (A) A purchaser fails to carry out the purchaser's contract with the corporation and if no member of the purchaser's family who resides in the dwelling assumes such contract; or
 - (B) The purchaser or a member of the purchaser's family who assumes the contract does not reside in the dwelling, the corporation shall have an option to acquire the purchaser's interest under the contract upon payment to the purchaser or the purchaser's estate of an amount equal to the purchaser's aggregate principal payments plus the value to the corporation of any improvements made by the purchaser, less an amount equal to two and one-half per cent of the sales price."

SECTION 41. Section 201G-411, Hawaii Revised Statutes, is amended to read as follows:

"[[§201G-411]] Dwelling unit revolving fund. There is created a dwelling unit revolving fund. The funds appropriated for the purpose of the dwelling unit revolving fund and all moneys received or collected by the corporation for the purpose of the revolving fund shall be deposited in the revolving fund. The proceeds in the revolving fund shall be used to reimburse the general fund to pay the interest on general obligation bonds issued for the purposes of the revolving fund, for the necessary expenses in administering [this part,] subpart F, part II, and for carrying out the purposes of [this part,] subpart F, part II, including but not limited to the expansion of community facilities constructed in conjunction with housing projects, and supplementing building costs, federal guarantees required for operational losses, and all things required by any federal agency in the construction and receipt of federal funds for housing projects."

SECTION 42. Section 201G-433, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There is established within the corporation the rental housing trust fund advisory commission consisting of seven members, five of whom shall be public members and appointed pursuant to section 26-34. The public members of the advisory 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; and one member to be appointed for two years. 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 and rental property managers;
- (2) Tenants and renters advocacy organizations;
- (3) Nonprofit housing developers and low income service providers;
- (4) Mortgage lenders; and
- (5) Architects and planners.

A county government official who shall be appointed for a two-year term on a rotating basis among counties and the [governor’s special assistant for housing or the] governor’s designated representative shall be ex officio voting members of the advisory commission.”

SECTION 43. Section 201G-441, Hawaii Revised Statutes, is amended to read as follows:

“[§201G-441] Expenditures of revolving funds under the corporation exempt from appropriation and allotment. Except as to administrative expenditures, and except as otherwise provided by law, expenditures from these revolving funds administered by the corporation under [part III] subpart I, N, O, P, or Q[, sections] or section 201G-170, 201G-223, [201G-402,] 201G-401, 201G-411, 201G-421, or 516-44 may be made by the corporation without appropriation or allotment of the legislature; provided that no expenditure shall be made from and no obligation shall be incurred against any revolving fund in excess of the amount standing to the credit of the fund or for any purpose for which the fund may not lawfully be expended. Nothing in sections 37-31 to 37-41 shall require the proceeds of the revolving funds identified in [part] subpart I, N, O, P, or Q[,] or section 201G-170, 201G-223, 201G-401, 201G-411, 201G-421, or 516-44 to be reappropriated annually.”

SECTION 44. Section 201G-451, Hawaii Revised Statutes, is amended by amending the definition of “homeless” to read as follows:

““Homeless” means:

- (1) An individual or family who lacks a fixed, regular, and adequate nighttime residence; and
- (2) An individual or family who has a primary nighttime residence that is:
 - (A) A supervised publicly or privately operated shelter designed to provide temporary living accommodations;
 - (B) An institution that provides temporary residence for individuals intended to be institutionalized; or

- (C) A public or private place not designed for or ordinarily used as sleeping accommodations for human beings.

This term does not include any individual imprisoned or otherwise detained under an act of Congress or a state law.”

SECTION 45. All moneys in the housing authority revolving fund established under section 359-13, Hawaii Revised Statutes, as of June 30, 1998, shall be transferred to the state low income housing revolving fund created in section 4 of this Act.

The jurisdiction, functions, powers, duties, and authority heretofore exercised by the Hawaii housing authority shall be transferred to and conferred upon the housing and community development corporation of Hawaii and shall be performed and enforced in the same manner as previously authorized, entitled, or obligated except as otherwise authorized, directed, or instructed by this Act.

The housing and community development corporation of Hawaii shall succeed to all of the rights and powers previously exercised, and all of the duties and obligations incurred by the Hawaii housing authority in the exercise of the functions, powers, duties, and authority transferred, whether such functions, powers, duties, and authority are mentioned in or granted by any law, contract, or other document.

All rules, policies, procedures, guidelines, and other material adopted or developed by the Hawaii housing authority to implement provisions of the Hawaii Revised Statutes, the substance of which are reenacted or made applicable to the housing and community development corporation of Hawaii by this Act, shall remain in full force and effect until amended or repealed by the executive director of the housing and community development corporation of Hawaii pursuant to chapter 91, Hawaii Revised Statutes.

All deeds, leases, contracts, loans, agreements, permits, or other documents executed or entered into by or on behalf of the Hawaii housing authority pursuant to the provisions of the Hawaii Revised Statutes, the substance of which are reenacted or made applicable to the housing and community development corporation of Hawaii by this Act, shall remain in full force and effect.

It is the intent of this Act not to impair the obligation of the State or any agency thereof to the holders of any bond issued by the State or by any state agency, and to the extent, and only to the extent, necessary to effectuate this intent, the governor is authorized and empowered to modify the strict provisions in this Act, but shall promptly report any such modifications with the reasons therefor to the legislature at its next session thereafter for review by the legislature. Nothing contained in this Act shall affect the validity or the terms and provisions of any bond heretofore issued by the State, or the Hawaii housing authority under prior law.

SECTION 46. The revisor of statutes shall substitute all references made to “chapter 359” or any specific section or part of chapter 359, as the case may be, in sections 514A-14.5, 514A-108, and 516-31, Hawaii Revised Statutes, with the corresponding chapter, part, or section number of the new chapter enacted by Act 350, Session Laws of Hawaii 1997, or amended by this Act as appropriate.

SECTION 47. Effective July 1, 1998, parts I, II, IV, and IX of chapter 359, Hawaii Revised Statutes, are repealed.

SECTION 48. Statutory material to be repealed is bracketed. New statutory material is underscored.

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SECTION 49. This Act shall take effect on July 1, 1998; provided that section 3 of this Act shall take effect retroactive to July 3, 1997.

(Approved July 17, 1998.)