

ACT 120

S.B. NO. 797

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. The purpose of this Act is to make technical, housekeeping amendments to the laws relating to the operations of the housing and community development corporation of Hawaii.

SECTION 2. Section 201G-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

““Public housing project” or “complex” means a housing project directly controlled, owned, developed, or managed by the corporation pursuant to part II, except for subparts F and G.”

SECTION 3. Section 201G-31, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

““Public housing project” or “complex” means a housing project directly controlled, owned, developed, or managed by the corporation pursuant to part II, except for subparts F and G.”

SECTION 4. Section 201G-41, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

““Public housing project” or “complex” means a housing project directly controlled, owned, developed, or managed by the corporation pursuant to part II, except for subparts F and G.”

SECTION 5. Section 201G-71, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

““Public housing project” or “complex” means a housing project directly controlled, owned, developed, or managed by the corporation pursuant to part II, except for subparts F and G.”

SECTION 6. Section 201G-32, Hawaii Revised Statutes, is amended to read as follows:

“[E]§201G-32[] Rentals and tenant selection. (a) In the operation or management of a public housing [projects,] project, the corporation (acting directly or by an agent or agents) shall at all times, observe the following duties with respect to rentals and tenant selections:

- (1) It may establish maximum limits of annual net income for tenant selection in any public housing project, less such exemptions as may be authorized by federal regulations pertaining to public housing. The corporation may agree to conditions as to tenant eligibility or preference required by the federal government pursuant to federal law in any contract for financial assistance with the corporation;
- (2) It may rent or lease the dwelling accommodations therein only at rentals within the financial reach of persons who lack the amount of income which it determines to be necessary in order to obtain safe, sanitary, and uncongested dwelling accommodations within the area of operation of the corporation and to provide an adequate standard of living; and
- (3) It may rent or lease to a tenant a dwelling consisting of the number of rooms (but no greater number) which it deems necessary to provide safe and sanitary accommodations to the proposed occupants thereof, without overcrowding.

(b) Nothing in this part shall be construed as limiting the power of the corporation:

- (1) To vest in an obligee the right, in the event of a default by the corporation, to take possession of a public housing project or cause the appointment of a receiver thereof, free from all the restrictions imposed by this part with respect to rentals, tenant selection, manner of operation, or otherwise; or
- (2) To vest in obligees the right, in the event of a default by the corporation, to acquire title to a public housing project [~~or the property~~] mortgaged by the corporation, free from all the restrictions imposed by this part, except those imposed by section 201G-168.”

SECTION 7. Section 201G-41, Hawaii Revised Statutes, is amended by amending the definition of “administer” or “administration” to read as follows:

““Administer” or “administration” means the management, operation, maintenance, and regulation of any public housing project, and includes the leasing of any public housing project, in whole or in part, from the federal government, management and operation of any public 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.”

SECTION 8. Section 201G-42, Hawaii Revised Statutes, is amended to read as follows:

“**§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 public 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,~~] United States Department of Veterans’ Affairs, the dependent parents of the veteran and the deceased veteran’s widow shall be given first preference.”

SECTION 9. Section 201G-43, Hawaii Revised Statutes, is amended to read as follows:

“**§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 public housing [projects] project or complex 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 public housing [projects] project or complex 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 public housing project or [projects,] complex, 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 public housing project or [projects have] complex has been specified in any resolution of issuance adopted pursuant to part III, or if the income or revenues from any such public housing project or [projects] complex 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 public housing project or [projects] complex is security for any such bonds, the corporation shall fix the rates of the rentals for dwelling accommodations and other facilities in the public housing project or [projects] complex 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.”

SECTION 10. Section 201G-44, Hawaii Revised Statutes, is amended to read as follows:

“§201G-44 Administration of state [~~low-income~~] low-income public housing projects and programs. (a) The corporation may construct, develop, and administer property or housing for the purpose of state [~~low-income~~] low-income public 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 public housing projects or programs and to carry out any state program under [§]subsection[§] (a).”

SECTION 11. Section 201G-45, Hawaii Revised Statutes, is amended to read as follows:

“§201G-45 [§]State [~~low-income~~] low-income housing revolving fund.[§] The director of finance shall establish a revolving fund to be known as “the state [~~low-income~~] 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~~] low-income housing revolving fund. Except as otherwise provided in this chapter, the state [~~low-income~~] 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~~] 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 public housing project; the development and administration of any public housing project; the payment of rentals; and administration and other expenses.”

SECTION 12. Section 201G-47, Hawaii Revised Statutes, is amended to read as follows:

“§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 public housing projects and programs under this subpart, or of providing funds for use by the corporation in developing and administering public housing projects.”

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” or “complex” means a housing project directly controlled, owned, developed, or managed by the corporation pursuant to [subparts A, B, and H.] part II, except for subparts F and G.”

SECTION 14. Section 201G-71, Hawaii Revised Statutes, is amended by amending the definition of “tenant” to read as follows:

““Tenant” includes any person occupying a room, dwelling accommodation, living quarters, or space in any public housing project[,] or complex, under or by virtue of any tenancy, lease, license, or permit under or from the corporation.”

SECTION 15. Section 201G-72, Hawaii Revised Statutes, is amended to read as follows:

“**[§201G-72] Lien on personalty for rent, etc.** The corporation shall have a statutory lien on all personal property, not exempt from execution, belonging to, or in the lawful possession of, every tenant while the personal property is in or upon any public housing project, for the amount of its proper charges against the tenant for rent of a room, dwelling accommodation, living quarters, or space in the public housing project, or for utilities, facilities, or services in the public housing project. The lien shall commence with the tenancy or occupancy of the tenant and continue for one year after the charge or charges are due and owing to the corporation. Whenever any tenant fails or refuses to pay the charge or charges after the same are so due and owing, the corporation shall have the right and power, acting by its authorized agents or representatives, without process of law and without any liability for the taking, seizure, and retention of the personal property, to take and seize any of the personal property belonging to, or in the lawful possession of, the tenant which is found in or upon the public housing project, and to hold and retain the same, as security for the payment of the charge or charges, until the amount of the charge or charges is paid and discharged. If the charge or charges, so due and owing, are not paid and discharged within thirty days after the taking and seizure, the corporation may sell the personal property in the manner provided in section 201G-73.”

SECTION 16. Section 201G-76, Hawaii Revised Statutes, is amended to read as follows:

“**§201G-76 Lien on abandoned personalty, sale, etc.** Whenever the corporation has in its possession for four months after the termination of any residence or occupancy herein mentioned any personal property that has been left in or about any public housing project by any person who formerly resided in, or occupied a room, dwelling accommodation, living quarters, or space in the public housing project, the corporation may sell the same at public auction and apply the proceeds thereof to the payment of its charges for storage of the personal property, and for public notice and sale, and to the payment of other amounts, if any, then due and owing to it from the former resident or occupant for rent or for any utility or service. Before any sale is made, the corporation shall first give public notice of the time and place of sale at least two times in the county in which the personal property is located. The notice shall contain a brief description of the property; the name, if known, of the former resident or occupant who so left the property in or about the public housing project; the amount of the charges for storage, if any, and the indebtedness, if any; and the time and place of the sale. The charges for storage, if any, and for notice and sale, and the indebtedness, if any, shall be a lien upon the personal property. Notices of several sales may be combined and given in one notice, and whenever so combined and given the expenses of notice and sale shall be a lien and shall be satisfied in ratable proportion according to the amount received for each lot of property so noticed for sale.”

SECTION 17. Section 201G-78, Hawaii Revised Statutes, is amended to read as follows:

“**[§201G-78] Lien attaches to personalty in possession.** Sections 201G-76 and 201G-77 shall also apply to any personal property which, before May

2, 1949, was left in or about any public housing project, and was taken into the possession of the corporation, as herein set forth and provided.”

SECTION 18. 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 public housing project or [projects] complex under any law or laws, and to which, or for whose benefit, the corporation has made (by payment to the 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 public housing project or [projects] complex 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 public housing project or [projects] complex 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 19. Section 201G-94, Hawaii Revised Statutes, is amended to read as follows:

“**[H]§201G-94[H] Charges for prior services by counties to corporation.** Every county (including departments, boards, or instrumentalities thereof) which has, prior to May 14, 1949, provided or furnished any facilities, services, or privileges, including, without limitation to the generality of the foregoing, garbage and trash collection and disposal, use of streets or highways, and use of county incinerators or garbage dumps, to the corporation in regard to any public housing project or [projects] complex owned, operated, or administered by the corporation under any law or laws, or to the tenants or occupants of [~~any such~~] the public housing project or [projects,] complex, for which facilities, services, or privileges the corporation, or the tenants or occupants have not paid, is prohibited from charging, collecting, or receiving any privileges, except such sum or sums as the corporation, in its discretion, may hereafter agree to pay for the same.”

SECTION 20. Section 201G-95, Hawaii Revised Statutes, is amended to read as follows:

“**[H]§201G-95[H] Garbage, trash disposal.** Every county [~~which~~] that maintains or operates any garbage or trash collection and disposal service shall, free of charge, collect[;] and dispose of garbage and trash at and from any public housing project or [projects,] complex located within a county, which is owned, operated, or administered by the corporation. Upon request of the corporation, each county shall allow the corporation to establish, maintain, or operate its own garbage and trash collection and disposal service for any or all public housing project or [projects] complex located within the county, and[;] in regard to such service, shall allow the

corporation to use, free of charge, all incinerators, garbage dumps, and other facilities that the county may own, control, or operate.

Nothing in this section shall prohibit or prevent the corporation from paying, and any such county from receiving, any sum or sums which the corporation in its discretion may agree to pay as reasonable compensation for the services or facilities provided by any county pursuant to this section.”

SECTION 21. Section 201G-96, Hawaii Revised Statutes, is amended to read as follows:

“~~[[~~**§201G-96**~~]]~~ **Furnishing of free water not required.** Sections 201G-92 to 201G-95 shall not be construed to require the furnishing of any free water to the corporation or to the tenants or occupants of any public housing ~~[projects]~~ project or complex owned, operated, or administered by the corporation.”

SECTION 22. Section 201G-98, Hawaii Revised Statutes, is amended to read as follows:

“~~[[~~**§201G-98**~~]]~~ **Regulation of traffic within public housing projects in city and county of Honolulu.** Any law to the contrary notwithstanding, the city council of the city and county of Honolulu may regulate traffic within the various public housing projects of the corporation in the city and county of Honolulu by ordinance.”

SECTION 23. Section 201G-99, Hawaii Revised Statutes, is amended to read as follows:

“~~[[~~**§201G-99**~~]]~~ **Regulation of traffic within public housing projects in other counties.** Any law to the contrary notwithstanding, the county councils of the counties of Hawaii, Maui, and Kauai may regulate traffic within the various public housing projects of the corporation within their respective counties by ordinance as provided by law.”

SECTION 24. Section 201G-100, Hawaii Revised Statutes, is amended to read as follows:

“~~[[~~**§201G-100**~~]]~~ **Regulations, effective when.** No ordinance or laws enacted by the council of any county regulating traffic within the public housing projects of the corporation within the county~~;~~ shall be valid or effective~~;~~ unless prior thereto, the corporation has entered into a written contract with the county absolving the county from any and all responsibility or liability for the construction, maintenance, and repair of any streets, lanes, alleys, or highways or street markers, traffic signs, or signal devices within the projects of the corporation.”

SECTION 25. Section 201G-152, Hawaii Revised Statutes, is amended to read as follows:

“**§201G-152 Resident selection~~;~~; dwelling accommodations; rentals.** (a) In the administration of elder or elderly public housing, the corporation shall observe the following with regard to resident selection, dwelling accommodations, and rentals:

- (1) Except as hereinafter provided, it shall accept only elder or elderly households as residents in the elder or elderly public 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 elder or elderly public housing project, in the case of illness or other disability of an elder who is a resident in the dwelling accommodation or in the elder or elderly public housing project, a person designated by the elder as the elder's live-in aide whose qualifications as a live-in aide are verified 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 elder or elderly public housing 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.

(b) For purposes of this section, "public housing project" or "complex" means a housing project directly controlled, owned, developed, or managed by the corporation pursuant to part II, except for subparts F and G.'

SECTION 26. Section 201G-391, Hawaii Revised Statutes, is amended to read as follows:

“§201G-391 State sales housing. Notwithstanding any law to the contrary, but subject to [~~any resolution of issuance under subpart A,~~] the sales provisions of sections 201G-125 through 201G-130, the corporation may permit any qualified member of a tenant family of a public housing project [~~administered under subpart A, B, or H of part II,~~] or any qualified 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 public housing project [~~under 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 27. Section 201G-31, Hawaii Revised Statutes, is amended by repealing the definition of "housing project" or "project".

~~["Housing project" or "project" includes any housing project or projects as defined in part I which is acquired or constructed or to be acquired or constructed pursuant to a single plan or undertaking:~~

- ~~(1) To demolish, clear, remove, alter, or repair unsanitary or unsafe housing;~~
- ~~(2) To provide safe and sanitary dwelling accommodations; or~~
- ~~(3) To do both."']~~

SECTION 28. Section 201G-71, Hawaii Revised Statutes, is amended by repealing the definition of "housing project."

~~["Housing project" means and includes any housing project or projects owned, managed, administered, or operated by the corporation under or pursuant to subparts A and B or under or pursuant to any other law."']~~

SECTION 29. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 30. This Act shall take effect upon its approval.

(Approved June 14, 2005.)