

A Bill for an Act Relating to the Public Housing Authority.

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

SECTION 1. Chapter 356D, Hawaii Revised Statutes, is amended by adding a new section to part I to be appropriately designated and to read as follows:

“§356D- Ceded lands; vacancy; development. (a) No housing projects developed or constructed pursuant to this part shall be developed or constructed on ceded land that is vacant on or after January 1, 2022.

(b) For the purposes of this section, “housing project” shall have the same meaning as that term is defined in section 356D-11.”

SECTION 2. Section 356D-1, Hawaii Revised Statutes, is amended by amending the definition of “public housing project”, “housing project”, or “complex” to read as follows:

““Public housing project”[~~,”~~“~~housing project~~”], or “complex” means a housing project directly controlled, owned, developed, or managed by the authority pursuant to any federally assisted housing as defined in title 24 Code of Federal Regulations section 5.100, but does not include state low-income housing projects as defined in section 356D-51.”

SECTION 3. Section 356D-11, Hawaii Revised Statutes, is amended to read as follows:

“§356D-11 Development of property. (a) The authority, in its own behalf or on behalf of any government, may:

- (1) Clear, improve, and rehabilitate property; and
- (2) Plan, develop, construct, and finance ~~[public]~~ housing projects.

(b) The authority may develop public land in an agricultural district subject to the prior approval of the land use commission when developing lands greater than five acres in size. The authority shall not develop state monuments, historical sites, or parks. When the authority proposes to develop public land, it shall file with the department of land and natural resources a petition setting forth ~~[such]~~ that purpose. The petition shall be conclusive proof that the intended use is a public use superior to that to which the land had been appropriated.

(c) The authority may develop or assist in the development of federal lands with the approval of appropriate federal authorities.

(d) The authority shall not develop any public land where the development may endanger the receipt of any federal grant, impair the eligibility of any government agency for a federal grant, prevent the participation of the federal government in any government program, or impair any covenant between the government and the holder of any bond issued by the government.

(e) The authority may contract or sponsor with any county, housing authority, or person, subject to the availability of funds, ~~[an experimental or demonstration]~~ housing ~~[project]~~ projects designed to meet the needs of elders, disabled, displaced or homeless persons, low- and moderate-income persons, government employees, teachers, or university and college students and faculty.

(f) The authority may enter into contracts with eligible developers to develop ~~[public]~~ housing projects in exchange for mixed use development rights. Eligibility of a developer for an exchange pursuant to this subsection shall be determined pursuant to rules adopted by the authority in accordance with chapter 91.

As used in this subsection, “mixed use development rights” means the right to develop a portion of a ~~[public]~~ housing project for commercial use.

(g) The authority may develop, with an eligible developer, or may assist under a government assistance program in the development of, [public] housing projects. The land planning activities of the authority shall be coordinated with the county planning departments and the county land use plans, policies, and ordinances.

Any person, if qualified, may act simultaneously as developer and contractor.

In selecting eligible developers or in contracting any services or materials for the purposes of this subsection, the authority shall be subject to all federal procurement laws and regulations.

For purposes of this subsection, "government assistance program" means a [public] housing program qualified by the authority and administered or operated by the authority or the United States or any of their political subdivisions, agencies, or instrumentalities, corporate or otherwise.

(h) In connection with the development of any [public] housing dwelling units under this chapter, the authority may also develop commercial properties and industrial properties and sell or lease other properties if it determines that the uses will be an integral part of the [public] housing development or a benefit to the community in which the properties are situated. The authority may designate any portions of the [public] housing development for commercial, industrial, or other use and shall have all the powers granted under this chapter with respect thereto. The authority may use any funding authorized under this chapter to implement this subsection.

The net proceeds of all sales or leases, less costs to the authority, shall be deposited in the public housing special fund established by section 356D-28.

(i) For purposes of this section, "housing" or "housing project" means any home, house, residence, building, apartment, living quarters, abode, domicile, or dwelling unit that is designed principally for the purposes of sheltering people."

SECTION 4. Section 356D-12, Hawaii Revised Statutes, is amended to read as follows:

"[§356D-12] Development of property; additional powers. (a) Notwithstanding any other law to the contrary, whenever the bids submitted for the development or rehabilitation of any [public] housing project authorized pursuant to this chapter exceed the amount of funds available for that project, the authority, with the approval of the governor, may disregard the bids and enter into an agreement to carry out the project, undertake the project, or participate in the project under the agreement; provided that:

- (1) The total cost of the agreement and the authority's participation, if any, shall not exceed the amount of funds available for the project; and
- (2) 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.

(b) For purposes of this section, "housing project" shall have the same meaning as that term is defined in section 356D-11."

SECTION 5. Section 356D-12.5, Hawaii Revised Statutes, is amended to read as follows:

"[§356D-12.5] Development of property; partnership or development agreement. (a) Any [public] housing project may be developed under sections 356D-11 and 356D-12 by the authority in partnership or under a development agreement with a private party; provided that a written partnership or develop-

ment agreement is executed by the authority. At a minimum, the partnership or development agreement shall provide for:

- (1) A determination by the authority that the partnership or development agreement is for a public purpose; and
- (2) Final approval by the authority of the plans and specifications for the [public] housing project.
- (b) For the development of [public] housing projects pursuant to subsection (a), except as provided by federal law or regulation, the authority shall not be subject to chapters 103 and 103D or any and all other requirements of law for competitive bidding for partnership or development agreements, construction contracts, or other contracts; provided that the authority shall develop internal policies and procedures for the procurement of goods, services, and construction, consistent with the goals of public accountability and public procurement practices.
- (c) The authority shall submit an annual report to the legislature, no later than twenty days prior to the convening of each regular session, on the status of all [public] housing projects being developed using partnership or development agreements pursuant to subsection (a).
- (d) The authority may adopt rules pursuant to chapter 91 necessary for the purposes of this section.
- (e) For the purposes of this section, "housing project" shall have the same meaning as that term is defined in section 356D-11."

SECTION 6. Section 356D-71, Hawaii Revised Statutes, is amended to read as follows:

"§356D-71 Resident selection; dwelling units; rentals. In the administration of elder or elderly housing, the authority shall observe the following with regard to resident selection, dwelling units, and rentals:

- (1) Except as provided in this section, the authority shall accept elder or elderly households as residents in the housing projects;
- (2) It may accept as residents in any dwelling unit one or more persons, related or unrelated by blood or marriage. It may also accept as a resident in any dwelling unit or in any housing project, in the case of illness or other disability of an elder who is a resident in the dwelling unit or in the 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 authority, 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 housing project of, the elder;
- (3) It may rent or lease to an elder a dwelling unit consisting of any number of rooms as the authority deems necessary or advisable to provide safe and sanitary accommodations to the proposed resident or residents without overcrowding; and
- (4) Notwithstanding that the elder has no written rental agreement or that the agreement has expired, during hospitalization of the elder due to illness or other disability so long as the elder continues to tender the usual rent to the authority 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 authority 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."

SECTION 7. Section 356D-102, Hawaii Revised Statutes, is amended to read as follows:

“~~§~~356D-102~~§~~ Facilities and services by counties to authority and tenants.

Each county within which the authority may own, operate, or administer any public housing project or complex and to which, or for whose benefit, the authority or its predecessors in interest has made (by payment to the county) or may hereafter make, gifts or donations including any payment in lieu of taxes, upon request of the authority, shall provide and furnish to the authority in regard to every public housing project or complex, and to the tenants and other occupants of the public housing project, 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. The facilities and services may include police protection, fire protection, street lighting, 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 authority 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 complex within the county. Nothing in this section shall be construed to restrict or limit the power of the authority to agree to pay, or to pay, for any and all of the facilities, services, and privileges, if in its discretion it deems the payment advisable.”

SECTION 8. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 9. This Act shall take effect upon its approval.

(Approved July 7, 2022.)

Note

1. Edited pursuant to HRS §23G-16.5.