

ACT 89

H.B. NO. 1093

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

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

SECTION 1. Section 356D-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

“‘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 2. Section 356D-8, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

“(a) The authority may acquire any real or personal property or interest therein by purchase, exchange, gift, grant, lease, or other means from any person or government to provide [public] housing. Exchange of real property shall be in accordance with section 171-50.”

2. By amending subsection (c) to read:

“(c) The authority may lease or rent all or a portion of any [public] housing project and establish and revise the rents or charges therefor. The authority may sell, exchange, transfer, assign, or pledge any property, real or personal, or any interest therein to any person or government.”

SECTION 3. Section 356D-10, Hawaii Revised Statutes, is amended to read as follows:

**“[§356D-10] Agents, including corporations.** The authority may exercise any or all of the powers conferred upon it, either generally or with respect to any specific [public] housing project through an agent that it may designate, including any corporation that is formed under the laws of this State, and for those purposes the authority may cause one or more corporations to be formed under the laws of this State or may acquire the capital stock of any corporation. Any for profit corporate agent, all of the stock of which shall be owned by the authority or its nominee, may to the extent permitted by law, exercise any of the powers conferred upon the authority in this chapter.”

SECTION 4. 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 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 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, housing 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 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 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, 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 the purposes of this subsection, “government assistance program” means a 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 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 housing development or a benefit to the community in which the properties are situated. The authority may designate any portions of the 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 5. Section 356D-11.2, Hawaii Revised Statutes, is amended to read as follows:

“[§356D-11.2] **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 6. 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 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<sup>1</sup> 356D-11.]”~~

SECTION 7. 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 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 development 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 housing project.

(b) For the development of 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 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<sup>2</sup> defined in section 356D-11.]”~~

SECTION 8. Section 356D-21, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (d) to read:

“(d) The authority may issue 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 [public] 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 [public] housing project or projects financed from the proceeds of bonds;
- (3) Income and revenues derived from a particular designated [public] housing project or projects whether or not financed, in whole or in part, from the proceeds of bonds;
- (4) Income and revenues of the authority generally; or
- (5) Any combination of paragraphs (1) through (4)."

2. By amending subsection (f) to read:

"(f) Any [public] housing project or projects authorized by, and undertaken pursuant to, this chapter shall constitute an [~~"undertaking"~~] undertaking within the meaning of that term as defined and used in part III, chapter 39. The authority shall constitute a [~~"department"~~] department and the board shall constitute a [~~"governing body"~~] governing body within the meaning of those terms as defined and used in part III, chapter 39."

SECTION 9. Section 356D-22, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The authority may include the costs of undertaking and maintaining any [public] housing project or projects 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 [public] housing project, the authority 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 determined by the authority."

SECTION 10. Section 356D-23, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) The trustee shall also be authorized by the authority to receive and receipt for, hold, and administer the revenues derived by the authority from any [public] housing project or projects for which the bonds are issued or the projects pledged to the payment of the bonds, and to apply the revenues to the payment of the cost of administering, operating, and maintaining the [public] housing project or projects, 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 11. Section 356D-24, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (b) to read:

"(b) A trust indenture may allow the authority to pledge and assign to the trustee agreements related to the [public] housing project or projects and the rights of the authority thereunder, including the right to receive revenues thereunder and to enforce the provision thereof."

2. By amending subsections (d) and (e) to read:

"(d) A trust indenture shall also contain provisions as to:

- (1) The investment of the proceeds of the bonds, the investment of any reserve for the bonds, the investment of the revenues of the [public] housing project or system of [public] housing projects, and the use and application of the earnings from investments; and

- (2) The terms and conditions upon which the holders of the bonds or any portion of them or any trustee thereof may institute proceedings for the enforcement of any agreement or any note or other undertaking, obligation, or property securing the payment of the bonds and the use and application of the moneys derived therefrom.
- (e) A trust indenture may also contain provisions deemed necessary or desirable by the authority to obtain or permit, by grant, interest subsidy, or otherwise, the participation of the federal government in the ~~[public]~~ housing projects or in the financing of the costs of administering, operating, or maintaining the ~~[public]~~ housing projects.”

SECTION 12. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 13. This Act shall take effect upon its approval.

(Approved May 27, 2025.)

#### Notes

1. So in original.
2. Prior to amendment, “is” appeared here.