
A BILL FOR AN ACT

RELATING TO AN AFFORDABLE HOUSING DEVELOPMENT AUTHORITY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The Hawaii Revised Statutes is amended by
2 adding a new chapter to be appropriately designated and to read
3 as follows:

4 "CHAPTER

5 **HONOLULU DEVELOPMENT AUTHORITY**

6 § -1 **Findings and purpose.** The legislature finds that
7 the lack of affordable housing continues to be a critical
8 problem in Hawaii, especially in the heavily populated Honolulu
9 area. The problem is exacerbated by record housing prices that
10 have caused a shrinking rental market and a growing homeless
11 population. Thus far, the State has failed to respond to this
12 crisis.

13 The legislature also finds that a new and comprehensive
14 state authority dedicated to the development of affordable
15 housing in Honolulu must be created to meet the city's growing
16 housing needs in the twenty-first century.

17 The purpose of this Act is to establish a Honolulu
18 development authority to better respond to the affordable



1 housing needs of the people of Honolulu. Because the great
2 majority of the State's population resides in the city and
3 county of Honolulu, the legislature finds that this issue is a
4 matter of statewide concern.

5 § -2 **Definitions.** As used in this chapter, the
6 following words and terms have the following meanings unless the
7 context indicates otherwise:

8 "Affordable housing" means housing provided to a family
9 whose income is one hundred per cent or less of the median
10 family income established by the federal Department of Housing
11 and Urban Development and qualifies under other criteria
12 established by the authority under rules adopted pursuant to
13 chapter 91.

14 "Authority" means the Honolulu development authority
15 established in section -4.

16 "County" or "local governing body" means the city and
17 county of Honolulu.

18 "Mortgage lender" means any bank, trust company, savings
19 bank, national banking association, savings and loan
20 association, building and loan association, mortgage banker,
21 credit union, insurance company, or any other financial
22 institution, or a holding company that:



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

13 "Project" means an affordable housing project, including
14 real and personal properties, or any interest therein, acquired,
15 owned, constructed, reconstructed, rehabilitated, or improved by
16 the Honolulu development authority.

17 "Real property" means:

- 18 (1) Lands, structures, and interests in land, including
- 19 lands under water and riparian rights, space rights,
- 20 and air rights and any and all other things and rights
- 21 usually included within the term; and

1 (2) Any and all interests in such property less than full
2 title, such as easements, incorporeal hereditaments
3 and every estate, interest, or right, legal or
4 equitable, including terms for years and liens thereon
5 by way of judgments, mortgages, or otherwise.

6 § -3 **Honolulu development authority boundaries;**
7 **jurisdiction.** The Honolulu development authority shall have
8 jurisdiction in the area bounded by:

- 9 (1) Mapunapuna street to the West;
- 10 (2) Moanalua Valley to the North;
- 11 (3) Koko Head avenue to the East; and
- 12 (4) The south shore of Oahu to the South;

13 provided that the jurisdiction of the Honolulu development
14 authority shall not extend into, or interfere with, the Hawaii
15 community development authority's Kakaako community development
16 district, as specified by its boundaries under section 206E-32.

17 § -4 **Honolulu development authority; established.** (a)
18 There is established the Honolulu development authority, which
19 shall be a body corporate and a public instrumentality of the
20 State, for the purpose of implementing this chapter. The
21 authority shall be placed within the department of business,
22 economic development, and tourism for administrative purposes.



1 (b) The authority shall consist of seventeen voting
2 members. The director of finance, the director of business,
3 economic development, and tourism, the comptroller, and the
4 director of transportation, or their respective designated
5 representatives shall serve as ex officio, voting members. Four
6 members shall be appointed by the governor for staggered terms
7 pursuant to section 26-34. Five members shall be county members
8 selected from a list of ten prospective appointees recommended
9 by the Honolulu city council and confirmed by the mayor. Two
10 members shall be appointed by the president of the senate and
11 two members shall be appointed by the speaker of the house of
12 representatives. Notwithstanding section 92-15, a majority of
13 all members shall constitute a quorum, and the concurrence of a
14 majority of all members shall be necessary to make any action of
15 the authority valid. All members shall continue in office until
16 their respective successors have been appointed and qualified.
17 Except as provided in this chapter, no member appointed under
18 this subsection shall be an officer or employee of the State or
19 any county.

20 (c) The authority shall appoint the executive director who
21 shall be the chief executive officer. The authority shall set



1 the salary of the executive director, who shall serve at the
2 pleasure of the authority and shall be exempt from chapter 76.

3 (d) The authority shall annually elect the chairperson and
4 vice chairperson from among its members.

5 (e) The members of the authority appointed under
6 subsection (b) shall serve without compensation, but each shall
7 be reimbursed for expenses, including travel expenses, incurred
8 in the performance of their duties.

9 § -5 **Authority powers; generally.** Except as otherwise
10 provided by this chapter, the authority may:

- 11 (1) Sue and be sued;
- 12 (2) Have a seal and alter the same at its pleasure;
- 13 (3) Make and execute contracts and all other instruments
14 necessary or convenient for the exercise of its powers
15 and functions under this chapter;
- 16 (4) Make and alter bylaws for its organization and
17 internal management;
- 18 (5) Adopt rules, pursuant to chapter 91, with respect to
19 its projects, operations, properties, and facilities;
- 20 (6) Through its executive director appoint officers,
21 agents, and employees, prescribe their duties and



- 1 qualifications, and fix their salaries, without regard
2 to chapter 76;
- 3 (7) Prepare a master affordable housing development plan;
- 4 (8) Acquire, reacquire, or contract to acquire or
5 reacquire by grant or purchase real or personal
6 property or any interest therein; to own, hold, clear,
7 improve, and rehabilitate, and to sell, assign,
8 exchange, transfer, convey, lease, or otherwise
9 dispose of or encumber;
- 10 (9) Acquire or reacquire by condemnation real, personal,
11 or mixed property for the purposes of this chapter,
12 including but not limited to streets, sidewalks,
13 parks, schools, and other public improvements;
- 14 (10) By itself, or in partnership with other persons:
15 acquire, reacquire, construct, reconstruct,
16 rehabilitate, improve, alter, or repair or provide for
17 the construction, reconstruction, improvement,
18 alteration, or repair of any project; own, hold, sell,
19 assign, transfer, convey, exchange, lease, or
20 otherwise dispose of or encumber any project, and in
21 the case of the sale of any project, accept a purchase
22 money mortgage in connection therewith; and repurchase



1 or otherwise acquire any project that the authority
2 has theretofore sold or otherwise conveyed,
3 transferred, or disposed of;

4 (11) Arrange or contract for the planning, replanning,
5 opening, grading, or closing of streets, roads,
6 roadways, alleys, or other places, or for the
7 furnishing of facilities or for the acquisition of
8 property or property rights or for the furnishing of
9 property or services in connection with a project;

10 (12) Grant options to purchase any project or to renew any
11 lease entered into by it in connection with any of its
12 projects, on such terms and conditions as it deems
13 advisable;

14 (13) Prepare or cause to be prepared plans, specifications,
15 designs, and estimates of costs for the construction,
16 reconstruction, rehabilitation, improvement,
17 alteration, or repair of any project and, from time to
18 time, modify such plans, specifications, designs, or
19 estimates;

20 (14) Provide advisory, consultative, training, and
21 educational services, technical assistance, and advice
22 to any person, partnership, or corporation, either



1 public or private, in order to carry out the purposes
2 of this chapter, and engage the services of
3 consultants on a contractual basis for rendering
4 professional and technical assistance and advice;

5 (15) Procure insurance against any loss in connection with
6 its property and other assets and operations in such
7 amounts and from such insurers as it deems desirable;

8 (16) Contract for and accept gifts or grants in any form
9 from any public agency or from any other source; and

10 (17) Do any and all things necessary to carry out its
11 purposes and exercise the powers given and granted in
12 this chapter.

13 § -6 Authority duties; generally. (a) The authority
14 shall assess the affordable housing needs within its
15 jurisdiction and develop a master plan and timetable to address
16 those needs.

17 (b) The authority may enter into cooperative agreements as
18 necessary to for the purposes of this chapter.

19 (c) Whenever possible, planning activities of the
20 authority shall be coordinated with federal, state, and county
21 plans. Consideration shall be given to state goals and

1 policies, adopted state plan or land use guidance policies,
2 county general plans, development plans, and ordinances.

3 (d) The governor shall submit to the legislature requests
4 for appropriations, authorization to issue bonds, or both, to
5 implement this chapter in an orderly, affordable, and feasible
6 manner. The governor shall submit the requests to the
7 legislature as part of the executive budget or supplemental
8 budget, as appropriate. In addition to the information, data,
9 and materials required under chapter 37, the requests shall be
10 accompanied by:

11 (1) Plans, maps, narrative descriptions, and other
12 appropriate materials on the:

13 (A) Locations and design of projects proposed to be
14 funded; and

15 (B) Phases of plans proposed to be implemented with
16 the requested funds; and

17 (2) Other information deemed by the governor of
18 significance to the legislature regarding the projects
19 proposed to be funded, including a discussion of the
20 public benefits intended by, and adverse effects that
21 may result from, implementation of the projects.



1 (e) The authority may amend its plans as may be necessary
2 in accordance with chapter 91.

3 **§ -7 Honolulu development revolving fund.** There is
4 created the Honolulu community development revolving fund into
5 which all receipts and revenues of the authority shall be
6 deposited. Proceeds from the fund shall be used for the
7 purposes of this chapter.

8 **§ -8 Honolulu development authority rules.** The
9 authority shall adopt rules pursuant to chapter 91 regarding
10 health, safety, building, planning, zoning, and land use that,
11 upon final adoption, shall supersede all other inconsistent
12 ordinances and rules relating to the use, zoning, planning, and
13 development of land and construction thereon. Rules adopted
14 under this section shall follow existing law, rules, ordinances,
15 and federal regulations as closely as is consistent with
16 standards meeting minimum requirements of good design, pleasant
17 amenities, health, safety, and coordinated development. The
18 authority may provide by rule, adopted pursuant to chapter 91,
19 that lands shall not be developed beyond existing uses or that
20 improvements thereon shall not be demolished or substantially
21 reconstructed, or provide other restrictions on the use of the
22 lands.



1 **§ -9 Use of public lands; acquisition of state lands.**

2 (a) Any provision of chapter 171 to the contrary
3 notwithstanding, the governor may set aside public lands to the
4 authority for its use pursuant to this chapter.

5 (b) If state lands under the control and management of
6 other public agencies are required by the authority for its
7 purposes, the agency having the control and management of those
8 required lands, upon request by the authority and with the
9 approval of the governor, shall convey or lease the lands to the
10 authority upon terms and conditions as may be agreed to by the
11 parties.

12 (c) Notwithstanding the foregoing, no public lands shall
13 be set aside, conveyed, or leased to the authority as provided
14 in this section, if the setting aside, conveyance, or lease
15 would impair any covenant between the State or the county or any
16 department or board thereof and the holders of bonds issued by
17 the State or the county, department, or board.

18 **§ -10 Acquisition of real property from the county.**

19 Notwithstanding the provision of any law or charter, the county
20 by resolution and without public auction, sealed bids, or public
21 notice, may sell, lease for a term not exceeding sixty-five
22 years, grant, or convey to the authority any real property owned



1 by it which the authority certifies to be necessary for its
2 purposes. The sale, lease, grant, or conveyance shall be made
3 with or without consideration and upon such terms and conditions
4 as may be agreed upon by the county and the authority.
5 Certification shall be evidenced by a formal request from the
6 authority. Before the sale, lease, grant, or conveyance may be
7 made to the authority, a public hearing shall be held by the
8 county. Notice of the hearing shall be published at least ten
9 days before the date set for the hearing in a publication and in
10 a manner as may be designated by the county.

11 § -11 **Condemnation of real property.** The authority,
12 upon finding that it is necessary to acquire any real property
13 for its immediate or future use for the purposes of this
14 chapter, may acquire the property by condemnation pursuant to
15 chapter 101, including property already devoted to a public use.
16 The property shall not thereafter be taken for any other public
17 use without the consent of the authority. No award of
18 compensation shall be increased by reason of any increase in the
19 value of real property or the actual or proposed acquisition,
20 use, or disposition of any other real property by the authority.

21 § -12 **Relocation.** (a) Any law to the contrary
22 notwithstanding, the authority shall adopt rules pursuant to



1 chapter 91 to ensure the appropriate relocation of displaced
2 persons, families, and businesses. The rules may include, but
3 are not limited to: the establishment and operation of a
4 central relocation office; relocation payments for actual moving
5 costs; fixed payments for losses suffered; payments for
6 replacement housing or business locations; relocation payments
7 and loans to displaced businesses for certain costs related to
8 the re-establishment of their business operations; and other
9 similar relocation matters.

10 (b) The authority shall provide relocation assistance to
11 displaced persons, families, and businesses; provided that the
12 assistance shall not include any form of direct monetary
13 payments, except that the authority may make relocation loans to
14 displaced businesses in accordance with rules adopted by the
15 authority, in accordance with chapter 91, for the purposes of
16 this section. Temporary relocation facilities may be made
17 available to displacees; provided that those displaced shall be
18 afforded priority to the facilities.

19 § -13 **Construction contracts.** The authority shall award
20 construction contracts in conformity with the applicable
21 provisions of chapter 103D.



1 § -14 **Public projects.** Any applicable project or
2 activity of the county or agency of the State shall be
3 constructed, renovated, or improved in consultation with the
4 authority.

5 § -15 **Sale or lease of development projects.** (a) The
6 authority, without recourse to public auction, may sell, or
7 lease for a term not exceeding sixty-five years, all or any
8 portion of the real or personal property constituting a
9 development project to any person, upon such terms and
10 conditions as may be approved by the authority, if the authority
11 finds that the sale or lease is in conformity with its master
12 plan.

13 (b) The terms of the sale shall provide for the repurchase
14 of the property by the authority at its option, in the event
15 that the purchaser, if other than a state agency, desires to
16 sell the property within ten years, provided that this
17 requirement may be waived by the authority. The authority shall
18 establish at the time of original sale a formula setting forth a
19 basis for a repurchase price based on market considerations
20 including but not limited to interest rates, land values,
21 construction costs, and federal tax laws.



1 If the purchaser in a project is a state agency, the
2 authority may include as a term of the sale a provision for the
3 repurchase of the property in conformance with this section.

4 **§ -16 Cooperative agreements.** The authority may enter
5 into an agreement with qualified persons, as determined by the
6 authority, to construct, maintain, operate, or otherwise dispose
7 of a project. The sale, lease, or rental of dwelling units in
8 the project shall be as provided by rules adopted by the
9 authority pursuant to chapter 91. The authority may enter into
10 cooperative agreements for the financing, development,
11 construction, sale, lease, or rental of dwelling units and
12 projects.

13 **§ -17 Loans to lenders program.** (a) The authority may
14 make loans to mortgage lenders under terms and conditions
15 requiring that the loan proceeds be used within a time period
16 prescribed by the authority to make loans, as determined by the
17 authority, to individual borrowers in an aggregate principal
18 amount substantially equal to the amount of the loan to mortgage
19 lenders.

20 (b) The loan made to a mortgage lender shall be a general
21 obligation of the respective mortgage lender.

22 (c) The loan as determined by the authority shall:



- 1 (1) Bear a date or dates;
- 2 (2) Mature at a time or times;
- 3 (3) Be evidenced by a note, bond, or other certificate of
- 4 indebtedness;
- 5 (4) Contain other provisions consistent with this chapter.
- 6 (d) Subject to any agreement with the holders of its
- 7 revenue bonds, the authority may consent to any modification to
- 8 the rate of interest, time, and payment of any installment of
- 9 principal or interest, security, or any other term of any loan
- 10 to a mortgage lender or any bond, note, contract, or agreement
- 11 of any kind to which the authority is a party.

12 § -18 **Loan to lenders program; collateral security.** (a)

13 Loans made to mortgage lenders shall be additionally secured by

14 a pledge of a lien upon collateral security in an amount as the

15 authority deems necessary to ensure the payment of principal of

16 and interest on the loans as they become due.

17 (b) The authority shall determine the nature and type of

18 collateral security required.

19 (c) A statement designating the collateral security

20 pledged, the mortgage lender pledging the collateral, and the

21 authority's interest in the pledged collateral may be filed with

22 the bureau of conveyances. Where a statement has been filed, no



1 possession, further filing, or other action under any state law
2 shall be required to perfect any security interest that may be
3 deemed to have been created in favor of the authority. The
4 mortgage lender shall be deemed the trustee of an express trust
5 for the benefit of the authority in all matters relating to the
6 pledged collateral.

7 (d) Subject to any agreement with the holders of its
8 revenue bonds, the authority may collect, enforce the collection
9 of, and foreclose on any collateral securing its loans to
10 mortgage lenders. The authority may acquire, take possession,
11 sell at public or private sale with or without bidding, or
12 otherwise deal with the collateral to protect its interests.

13 **§ -19 Purchase of existing loans program.** (a) The
14 authority may contract with a mortgage lender to purchase, in
15 whole or in part, existing loans. The contract may contain
16 provisions as determined by the authority to be necessary or
17 appropriate to provide security for its revenue bonds, including
18 but not limited to provisions requiring the:

- 19 (1) Repurchase of the loans, in whole or in part, by
20 mortgage lenders at the option of the authority;
- 21 (2) Payments of premiums, fees, charges, or other amounts
22 by mortgage lenders to provide a reserve or escrow



1 fund for the purposes of protecting against loan
2 defaults; and

3 (3) Guarantee by, or for recourse against, mortgage
4 lenders, with respect to defaults on these loans of
5 the authority.

6 (b) The authority shall require as a condition of each
7 purchase of existing loans from a mortgage lender that the
8 mortgage lender proceed to make and disburse loans in an
9 aggregate principal amount substantially equal to the amount of
10 the proceeds from the purchase by the authority of loans
11 therefrom.

12 § -20 **Advance commitments program.** (a) The authority
13 may contract with a mortgage lender for the advance commitment
14 to purchase loans or project loans.

15 (b) The contract may contain provisions as determined by
16 the authority to be necessary or appropriate to provide security
17 for its revenue bonds.

18 § -21 **Loans; service and custody.** The authority may
19 contract for the service and custody of its loans. The contract
20 may provide for the payment of fees or charges for the services
21 rendered; provided that the fees or charges shall not exceed the



1 usual, customary, and reasonable charges for the services
2 rendered.

3 § -22 **Loans; sale, pledge, or assignment.** (a) Subject
4 to any agreement with the holders of its revenue bonds, the
5 authority may sell its loans at public or private sale at a
6 price and upon terms and conditions as it determines.

7 (b) Subject to any agreement with the holders of its
8 revenue bonds, the authority may pledge or assign its loans,
9 other agreements, notes, or property to secure the loans or
10 agreements.

11 § -23 **Loans; insurance and guarantees.** The authority
12 may procure insurance or guarantees against any default of its
13 loans, in amounts and from insurers or guarantors, as it deems
14 necessary or desirable.

15 § -24 **Loans; default.** The authority may renegotiate,
16 refinance, or foreclose any loan in default.

17 The authority may waive any default or consent to the
18 modification of the terms of any loan or security agreement.

19 The authority may commence any action to protect or enforce
20 any right conferred upon it by any law, mortgage, insurance
21 policy, contract, or other agreement.



1 The authority may bid for and purchase the property secured
2 by the loan at any foreclosure or other sale, or acquire or take
3 possession of the property secured by the loan.

4 The authority may operate, manage, lease, dispose of, or
5 otherwise deal with the property secured by the loan."

6 SECTION 2. This Act shall take effect upon its approval.

7

INTRODUCED BY:

Michael P. Kalishnia
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JAN 25 2006



HB 2792

Report Title:

Honolulu Development Authority; Affordable Housing

Description:

Establishes the Honolulu development authority to provide affordable housing in Honolulu.

