
A BILL FOR AN ACT

RELATING TO HOUSING.

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

1 SECTION 1. Act 196, Session Laws of Hawaii 2005,
2 section 38, directed the housing and community development
3 corporation of Hawaii to "prepare an implementation plan for the
4 reorganization of the State's housing functions" including
5 "recommendations for any additional statutory amendments that
6 may be necessary to fully effectuate the implementation plan and
7 the purposes of this Act, and proposed legislation containing
8 the recommended statutory amendments."

9 The purpose of this Act is to effectuate the implementation
10 plan prepared by the housing and community development
11 corporation of Hawaii to create two separate state housing
12 agencies, the Hawaii housing finance and development
13 corporation, and the Hawaii public housing authority, and to
14 make necessary technical and conforming amendments to relevant
15 statutory provisions.



1 PART I

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

5 "CHAPTER

6 HAWAII PUBLIC HOUSING AUTHORITY

7 PART I. GENERAL POWERS

8 § -1 Definitions. The following terms, wherever used or
9 referred to in this chapter shall have the following respective
10 meanings, unless a different meaning clearly appears from the
11 context:

12 "Authority" means the Hawaii public housing authority.

13 "Board" means the board of directors of the Hawaii public
14 housing authority.

15 "Bonds" means any bonds, interim certificates, notes,
16 debentures, participation certificates, pass-through
17 certificates, mortgage-backed obligations, or other evidences of
18 indebtedness of the authority issued pursuant to this chapter.

19 "Community facilities" includes real and personal property;
20 buildings, equipment, lands, and grounds for recreational or
21 social assemblies, and for educational, health, or welfare
22 purposes; and necessary or convenient utilities, when designed



1 primarily for the benefit and use of the authority or the
2 occupants of the dwelling units.

3 "Contract" means any agreement of the authority with an
4 obligee or a trustee for the obligee, whether contained in a
5 resolution, trust indenture, mortgage, lease, bond, or other
6 instrument.

7 "Dwelling", "dwelling unit", or "unit" means any structure
8 or room, for sale, lease, or rent, that provides shelter.

9 "Elder" or "elderly" means a person who is a resident of
10 the state and has attained the age of sixty-two years.

11 "Elder or elderly households" means households in which at
12 least one member is sixty-two years of age, the spouse or
13 partner has attained eighteen years of age, and the remaining
14 members have attained the age of fifty-five years at the time of
15 application to the project.

16 "Elder or elderly housing" means:

- 17 (1) A housing project intended for and occupied by elder
18 or elderly households; or
- 19 (2) Housing provided under any state or federal program
20 that the Secretary of the United States Department of
21 Housing and Urban Development determines is
22 specifically designed and operated to assist elder or



1 elderly persons, or if the Secretary makes a
2 determination, the project may also be occupied by
3 persons with disabilities who have reached eighteen
4 years of age.

5 "Executive director" means the executive director of the
6 Hawaii public housing authority.

7 "Federal government" includes the United States and any
8 agency or instrumentality, corporate or otherwise, of the United
9 States.

10 "Government" or "government agency" includes the State and
11 the United States and any political subdivision, agency, or
12 instrumentality, corporate or otherwise, of either of them.

13 "Household member" means a person who:

- 14 (1) Is a co-applicant; or
- 15 (2) Will reside in the dwelling unit leased or rented from
16 the authority.

17 "Land" or "property" includes vacant land or land with site
18 improvements whether partially or entirely finished in
19 accordance with governmental subdivision standards, or with
20 complete dwellings.

21 "Live-in aide" means a person who:

- 22 (1) Is eighteen years of age or older;



1 (2) Is living in the unit solely to assist the elder or
2 elderly person in daily living activities including
3 bathing, meal preparation and delivery, medicinal
4 care, transportation, and physical activities;

5 (3) Is not legally obligated to support the elder or
6 elderly person; and

7 (4) Is verified by the authority as meeting these
8 requirements.

9 "Mortgage holder" includes the United States Department of
10 Housing and Urban Development, Federal Housing Administration,
11 the United States Department of Agriculture, or other federal or
12 state agency engaged in housing activity, United States
13 Department of Veterans Affairs, Federal National Mortgage
14 Association, Government National Mortgage Association, Federal
15 Home Loan Mortgage Corporation, private mortgage lender, private
16 mortgage insurer, and their successors, grantees, and assigns.

17 "Mortgage lender" means any bank, trust company, savings
18 bank, national banking association, savings and loan
19 association, building and loan association, mortgage banker,
20 credit union, insurance company, or any other financial
21 institution, or a holding company for any of the foregoing,
22 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 multifamily
4 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, an approved lender for the United
9 States Department of Veterans Affairs or the United
10 States Department of Agriculture, or an approved
11 mortgage loan servicer for the Federal National
12 Mortgage Association or the Federal Home Loan Mortgage
13 Corporation.

14 "Nonprofit organization" means a corporation, association,
15 or other duly chartered entity that is registered with the State
16 and has received a written determination from the Internal
17 Revenue Service that it is exempt under either Section
18 501(c)(3), Section 501(c)(4), or so much of Section 501(c)(2) as
19 applies to title holding corporations that turn over their
20 income to organizations that are exempt under either Section
21 501(c)(3) or 501(c)(4), of the Internal Revenue Code of 1986, as
22 amended.



1 "Obligee of the authority" or "obligee" includes any
2 bondholder, trustee or trustees for any bondholders, any lessor
3 demising property to the authority used in connection with a
4 housing project, or any assignee or assignees of the lessor's
5 interest or any part thereof, and the United States, when it is
6 a party to any contract with the authority.

7 "Public housing project", "housing project", or "complex"
8 means a housing project directly controlled, owned, developed,
9 or managed by the authority pursuant to the federal low-rent
10 public housing program.

11 "Real property" includes lands, land under water,
12 structures, and any and all easements, franchises, and
13 incorporeal hereditaments and every estate and right therein,
14 legal and equitable, including terms for years and liens by way
15 of judgment, mortgage, or otherwise.

16 "Trustee" means a national or state bank or trust company
17 located within or outside the State that enters into a trust
18 indenture.

19 "Trust indenture" means an agreement by and between the
20 authority and the trustee, that sets forth the duties of the
21 trustee with respect to the bonds, the security therefor, and



1 other provisions as deemed necessary or convenient by the
2 authority to secure the bonds.

3 **§ -2 Hawaii public housing authority; establishment,**
4 **staff.** (a) There is established the Hawaii public housing
5 authority to be placed within the department of human services
6 for administrative purposes only. The authority shall be a
7 public body and a body corporate and politic.

8 (b) The authority shall employ, exempt from chapter 76 and
9 section 26-35(a)(4), an executive director and an executive
10 assistant. The executive director shall be paid a salary not to
11 exceed eighty-five per cent of the salary of the director of
12 human resources development. The executive assistant shall be
13 paid a salary not to exceed ninety per cent of the executive
14 director's salary. The authority may employ, subject to chapter
15 76, technical experts and officers, agents, and employees,
16 permanent or temporary, as required. The authority may also
17 employ officers, agents, and employees; prescribe their duties
18 and qualifications; and fix their salaries, not subject to
19 chapter 76, when in the determination of the authority, the
20 services to be performed are unique and essential to the
21 execution of the functions of the authority; provided that if
22 the authority hires an officer, agent, or employee in a capacity



1 not subject to chapter 76, the authority shall include in an
2 annual report to the legislature, to be submitted not later than
3 twenty days prior to the convening of each regular session, the
4 position descriptions and reasons for hiring the personnel in a
5 civil service exempt capacity. The authority may call upon the
6 attorney general for legal services as it may require. The
7 authority may delegate to one or more of its agents or employees
8 the powers and duties it deems proper.

9 **§ -3 Board; establishment, functions, duties.** (a)

10 There is created a board of directors consisting of nine
11 members, of whom seven shall be public members appointed by the
12 governor as provided in section 26-34. Public members shall be
13 appointed from each of the counties of Honolulu, Hawaii, Maui,
14 and Kauai. At least one public member shall be a person who is
15 directly assisted by the authority under the federal low-rent
16 public housing or federal section 8 tenant-based housing
17 assistance payments program while serving on the board. The
18 director of human services, or a designated representative, and
19 a representative of the governor's office, shall be ex officio
20 voting members. The authority shall be headed by the board.

21 (b) The board of directors shall select a chairperson and
22 vice-chairperson from among its members. The director of human



1 services and the governor's representative shall be ineligible
2 to serve as chairperson of the board.

3 **§ -4 General powers of the authority.** (a) The
4 authority may:

5 (1) Sue and be sued;

6 (2) Have a seal and alter the same at pleasure;

7 (3) Make and execute contracts and other instruments
8 necessary or convenient to the exercise of its powers;
9 and

10 (4) Adopt bylaws and rules in accordance with chapter 91
11 for its organization, internal management, and to
12 carry into effect its purposes, powers, and programs.

13 (b) In addition to other powers conferred upon it, the
14 authority may do all things necessary and convenient to carry
15 out the powers expressly provided in this chapter.

16 **§ -5 Resident advisory boards; establishment.** (a) The
17 authority may establish a resident advisory board or boards,
18 which shall be comprised of federal public housing residents or
19 section 8 tenant-based housing assistance recipients, to assist
20 and make recommendations to the authority regarding the
21 development of the public housing agency plan and any
22 significant amendments or modifications to it. The members of



1 the resident advisory board or boards shall adequately reflect
2 and represent residents of federal public housing projects and
3 recipients of section 8 tenant-based assistance administered by
4 the authority.

5 (b) The members of the resident advisory board shall not
6 be compensated for their services but shall be reimbursed for
7 necessary expenses, including travel expenses, incurred while
8 engaged in business for the resident advisory board.

9 (c) The authority may adopt rules in accordance with
10 chapter 91 with respect to the establishment of the resident
11 advisory board or boards, including rules concerning the
12 composition, eligibility, selection, and term of members. This
13 section shall not apply if it conflicts with any federal law.

14 **§ -6 Nomination of resident board member.** (a) If a
15 vacancy occurs for the resident member seat on the board, the
16 resident advisory board shall compile a list of five individuals
17 for the governor's consideration for appointment to the board;
18 provided the nominees to the board shall be:

19 (1) Participants who are directly assisted by the
20 authority under the federal public housing or
21 section 8 tenant-based programs and who need not be
22 members of the resident advisory board;



1 (2) At least eighteen years of age; and
2 (3) Authorized members of the assisted household.
3 (b) Any individual satisfying the requirements of
4 subsection (a) may also submit that individual's name for the
5 governor's consideration for appointment to the board of
6 directors.

7 **§ -7 Fair housing law to apply.** Notwithstanding any law
8 to the contrary, chapter 515 shall apply in administering this
9 chapter.

10 **§ -8 Acquisition, use, and disposition of property.** (a)
11 The authority may acquire any real or personal property or
12 interest therein by purchase, exchange, gift, grant, lease, or
13 other means from any person or government to provide public
14 housing. Exchange of real property shall be in accordance with
15 section 171-50.

16 (b) The authority may own or hold real property. All real
17 property owned or held by the authority shall be exempt from
18 mechanics' or materialmen's liens and also from levy and sale by
19 virtue of an execution, and no execution or other judicial
20 process shall issue against the property of the authority nor
21 shall any judgment against the authority be a charge or lien
22 upon its real property; provided that this subsection shall not



1 apply to nor limit the right of obligees to foreclose or
2 otherwise enforce any mortgage of the authority or the right of
3 obligees to pursue any remedies for the enforcement of any
4 pledge or lien given by the authority on its rents, fees, or
5 revenues. The authority and its property shall be exempt from
6 all taxes and assessments.

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

12 (d) The authority may insure or provide for the insurance
13 of its property or operations against risks as it deems
14 advisable.

15 **§ -9 Cooperative agreements with other government**

16 **agencies.** (a) The authority may:

17 (1) Obtain the aid and cooperation of other government
18 agencies in the planning, construction, and operation
19 of public housing projects and enter into agreements
20 and arrangements as it deems advisable to obtain aid
21 and cooperation;



- 1 (2) Arrange or enter into agreements with any government
2 agency for the acquisition by that agency of property,
3 options, or property rights; for the furnishing,
4 installing, opening, or closing of streets, roads,
5 alleys, sidewalks, or other places; for the furnishing
6 of property, services, parks, sewage, water, and other
7 facilities in connection with public housing projects;
8 or for the changing of the map of a political
9 subdivision or the planning, replanning, zoning, or
10 rezoning of any part of a political subdivision;
- 11 (3) Procure insurance or guarantees from any government
12 agency for the payment of any debts or parts thereof
13 incurred by the authority, including the power to pay
14 premiums on any such insurance; and
- 15 (4) Agree to make payments to the state or county
16 government, if the government is authorized to accept
17 payments, as the authority deems consistent with the
18 maintenance of the character of public housing
19 projects or the purposes of this chapter.
- 20 (b) For the purpose of aiding and cooperating in the
21 planning, construction, and operation of public housing projects
22 located within their respective territorial boundaries, the



1 state or county government, upon those terms, with or without
2 consideration, as it determines, may:

3 (1) Dedicate, grant, sell, convey, or lease any of its
4 property, or grant easements, licenses, or any other
5 rights or privileges therein to the authority or to
6 the federal government;

7 (2) To the extent that it is within the scope of each of
8 their respective functions:

9 (A) Cause the services customarily provided by each
10 of them to be rendered for the benefit of public
11 housing projects and the occupants thereof;

12 (B) Provide and maintain parks; and sewage, water,
13 lights, and other facilities adjacent to or in
14 connection with public housing projects;

15 (C) Open, close, pave, install, or change the grade
16 of streets, roads, roadways, alleys, sidewalks,
17 or other related facilities; and

18 (D) Change the map of a political subdivision or
19 plan, replan, zone, or rezone any part of a
20 political subdivision;

21 (3) Enter into agreements with the authority with respect
22 to the exercise of the State or county's powers



- 1 relating to the repair, closing, or demolition of
2 unsafe, unsanitary, or unfit dwellings;
- 3 (4) Employ, notwithstanding any other law as to what
4 constitutes legal investments, any available funds
5 belonging to them or within their control, including
6 funds derived from the sale or furnishing of property
7 or facilities to the authority, in the purchase of the
8 bonds or other obligations of the authority, and
9 exercise all the rights of any holder of the bonds or
10 other obligations;
- 11 (5) Do any and all things necessary or convenient to aid
12 and cooperate in the planning, undertaking, and
13 construction of public housing projects; and
- 14 (6) Enter into contracts with the authority or the federal
15 government for any period agreeing to exercise any of
16 the powers conferred by this subsection or to take any
17 other action in aid of public housing projects.

18 In connection with the exercise of the powers conferred by
19 this subsection, any political subdivision may incur the entire
20 expense of any public improvements located within its
21 territorial boundaries without assessment against abutting
22 property owners.



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

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

14 If at any time title to, or possession of, any public
15 housing project is held by any government authorized by law to
16 engage in the development or administration of low-income
17 housing or slum clearance projects, any agreement made under
18 this section relating to the project shall inure to the benefit
19 of and may be enforced by that government.

20 Insofar as this subsection is inconsistent with the
21 provisions of any other law, this subsection shall control.



1 (c) Any county in which a public housing project is
2 located or is about to be located may make donations or advances
3 to the authority in sums as the county in its discretion may
4 determine. The advances or donations shall be made for the
5 purpose of aiding or cooperating in the construction and
6 operation of the public housing project. The authority, when it
7 has money available therefor, shall reimburse the county for all
8 advances made by way of a loan to it.

9 § -10 **Agents, including corporations.** The authority may
10 exercise any or all of the powers conferred upon it, either
11 generally or with respect to any specific public housing project
12 through an agent that it may designate, including any
13 corporation that is formed under the laws of this State, and for
14 those purposes the authority may cause one or more corporations
15 to be formed under the laws of this State or may acquire the
16 capital stock of any corporation. Any corporate agent, all of
17 the stock of which shall be owned by the authority or its
18 nominee, may to the extent permitted by law, exercise any of the
19 powers conferred upon the authority in this chapter.

20 § -11 **Development of property.** (a) The authority, in
21 its own behalf or on behalf of any government, may:

22 (1) Clear, improve, and rehabilitate property; and



1 (2) Plan, develop, construct, and finance public housing
2 projects.

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

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

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



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

7 **§ -12 Development of property; additional powers.**

8 Notwithstanding any other law to the contrary, whenever the bids
9 submitted for the development or rehabilitation of any public
10 housing project authorized pursuant to this chapter exceed the
11 amount of funds available for that project, the authority, with
12 the approval of the governor, may disregard the bids and enter
13 into an agreement to carry out the project, undertake the
14 project, or participate in the project under the agreement;
15 provided that:

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

19 (2) If the agreement is with a nonbidder, the scope of the
20 project under agreement shall remain the same as that
21 for which bids were originally requested.



1 **§ -13 Administration of federal programs.** (a) The
2 authority may carry out federal programs designated to be
3 carried out by a public housing agency, or entity designated by
4 the authority.

5 (b) The authority shall adopt necessary rules in
6 accordance with chapter 91, including the establishment and
7 collection of reasonable fees for administering the program, to
8 carry out any federal program in subsection (a).

9 (c) All fees collected for administering the program may
10 be deposited into an appropriate special fund of the authority
11 and may be used to cover the administrative expenses of the
12 authority.

13 **§ -14 Federal funds outside of state treasury.**

14 Notwithstanding chapter 38, the authority may establish and
15 manage federal funds outside of the state treasury to be used
16 for federal housing programs. The authority shall invest the
17 funds in permitted investments in accordance with chapter 36.

18 **§ -15 Eminent domain, exchange, or use of public**

19 **property.** (a) The authority may acquire any real property,
20 including fixtures and improvements, or interest therein,
21 through:

22 (1) Voluntary negotiation;



1 (2) Exchange of land in accordance with section 171-50,
2 provided that the public land to be exchanged need not
3 be of like use to that of the private land; or

4 (3) By the exercise of the power of eminent domain which
5 it deems necessary by the adoption of a resolution
6 declaring that the acquisition of the property
7 described therein is in the public interest and
8 required for public use.

9 The authority shall exercise the power of eminent domain granted
10 by this section in the same manner and procedure as is provided
11 by chapter 101, and otherwise in accordance with all applicable
12 provisions of the general laws of the State; provided that
13 condemnation of parcels greater than fifteen acres shall be
14 subject to legislative disapproval expressed in a concurrent
15 resolution adopted by majority vote of the senate and the house
16 of representatives in the first regular or special session
17 following the date of condemnation.

18 (b) The authority may acquire by the exercise of the power
19 of eminent domain property already devoted to a public use;
20 provided that no property belonging to any government may be
21 acquired without its consent, and that no property belonging to
22 a public utility may be acquired without the approval of the



1 public utilities commission; and provided further that the
2 acquisition is subject to legislative disapproval expressed in a
3 concurrent resolution adopted by majority vote of the senate and
4 the house of representatives in the first regular or special
5 session following the date of condemnation.

6 **§ -16 Contracts with the federal government.** (a) The
7 authority may:

- 8 (1) Borrow money or accept grants from the federal
9 government for or in aid of any public housing project
10 that the authority is authorized to undertake;
- 11 (2) Take over any land acquired by the federal government
12 for the construction or operation of a public housing
13 project;
- 14 (3) Take over, lease, or manage any public housing project
15 constructed or owned by the federal government, and to
16 these ends, enter into contracts, mortgages, leases,
17 or other agreements as the federal government may
18 require, including agreements that the federal
19 government shall have the right to supervise and
20 approve the construction, maintenance, and operation
21 of the public housing project;



- 1 (4) Procure insurance or guarantees from the federal
2 government for the payment of any debts or parts
3 thereof secured by mortgages made or held by the
4 authority on any property included in any public
5 housing project;
- 6 (5) Agree to any conditions attached to federal financial
7 assistance relating to the determination of prevailing
8 salaries or wages, payment of not less than prevailing
9 salaries or wages, or compliance with labor standards,
10 in the development or administration of public housing
11 projects, and include in any construction contract let
12 in connection with a project stipulations requiring
13 that the contractor and any subcontractors comply with
14 requirements as to minimum salaries or wages and
15 maximum hours of labor;
- 16 (6) Comply with any conditions required by the federal
17 government in any contract for financial assistance;
18 and
- 19 (7) Execute contracts with the federal government.
- 20 (b) In any contract for annual contributions with the
21 federal government, the authority may obligate itself to convey
22 to the federal government possession of or title to the public



1 housing project to which the contract relates, if a substantial
2 default, as defined by contract, occurs. Notwithstanding any
3 other law to the contrary, this obligation shall be specifically
4 enforceable and shall not constitute a mortgage.

5 The contract may provide further that if a conveyance
6 occurs, the federal government may complete, operate, manage,
7 lease, convey, or otherwise deal with the project in accordance
8 with the terms of the contract; provided that the contract shall
9 require that as soon as practicable after the federal government
10 is satisfied that all defaults with respect to the project have
11 been cured and that the project will thereafter be operated in
12 accordance with the terms of the contract, the federal
13 government shall reconvey to the authority the project as then
14 constituted.

15 (c) It is the purpose and intent of this section to
16 authorize the authority to do any and all things necessary to
17 secure the financial aid and the cooperation of the federal
18 government in the undertaking, construction, maintenance, and
19 operation of any public housing project that the authority is
20 empowered to undertake.

21 **§ -17 Public works contracts.** The authority may make,
22 execute, and carry out contracts for, or in connection with, any



1 public housing project in the manner provided in chapter 103D
2 and section 103-53; and, with regard to the contracts, the term
3 "procurement officer", as used in chapter 103D, shall mean the
4 authority or officer authorized by the authority to act as its
5 contracting officer. Unless made and executed in the name of
6 the State, each contract made and executed as authorized in this
7 section shall state therein that it is so made and executed.

8 **§ -18 Remedies of an obligee; mandamus; injunction;**
9 **possessory action; receiver; accounting; etc.** An obligee of the
10 authority shall have the right, in addition to all other rights
11 that may be conferred on the obligee subject only to any
12 contractual restrictions binding upon the obligee, and subject
13 to the prior and superior rights of others:

14 (1) By mandamus, suit, action, or proceeding in law or
15 equity to compel the authority, and the members of the
16 board, officers, agents, or employees thereof to
17 perform each and every item, provision, and covenant
18 contained in any contract of the authority, and to
19 require the carrying out of any or all covenants and
20 agreements of the authority and the fulfillment of all
21 duties imposed upon the authority by this chapter;



- 1 (2) By suit, action, or proceeding in equity to enjoin any
2 acts or things which may be unlawful, or the violation
3 of any of the rights of the obligee of the authority;
- 4 (3) By suit, action, or proceeding in any court of
5 competent jurisdiction to cause possession of any
6 public housing project or any part thereof to be
7 surrendered to any obligee having the right to
8 possession pursuant to any contract of the authority;
- 9 (4) By suit, action, or proceeding in any court of
10 competent jurisdiction, upon the happening of an event
11 of default (as defined in a contract of the
12 authority), to obtain the appointment of a receiver
13 for any public housing project of the authority or any
14 part or parts thereof. If a receiver is appointed,
15 the receiver may enter and take possession of the
16 public housing project or any part or parts thereof,
17 operate and maintain the project, and collect and
18 receive all fees, rents, revenues, or other charges
19 thereafter arising therefrom in the same manner as the
20 authority itself might do and shall keep the moneys in
21 a separate account or accounts and apply the moneys in



1 accordance with the obligations of the authority as
2 the court shall direct; and

3 (5) By suit, action, or proceeding in any court of
4 competent jurisdiction to require the authority and
5 the members of the board thereof to account as if it
6 and they were the trustees of an express trust.

7 **§ -19 Subordination of mortgage to agreement with**
8 **government.** The authority may agree in any mortgage made by it
9 that the mortgage shall be subordinate to a contract for the
10 supervision by a government agency of the operation and
11 maintenance of the mortgaged property and the construction of
12 improvements thereon. In that event, any purchaser or
13 purchasers at a sale of the property of the authority pursuant
14 to a foreclosure of the mortgage or any other remedy in
15 connection therewith shall obtain title subject to the contract.

16 **§ -20 Duty to make reports.** Except as otherwise
17 provided by law, the authority shall be responsible for the
18 following reports:

19 (1) The authority shall file at least once a year with the
20 governor a report of its activities for the preceding
21 fiscal year;



1 (2) The authority shall report to the comptroller on
2 moneys deposited in depositories other than the state
3 treasury under section 40-81, and rules adopted
4 thereunder; and

5 (3) The authority shall submit an annual report to the
6 legislature on all program areas no later than twenty
7 days prior to the convening of each regular session,
8 that shall provide the following information on the
9 status of its programs and finances:

10 (A) A financial audit and report conducted on an
11 annual basis by a certified public accounting
12 firm; and

13 (B) Recommendations with reference to any additional
14 legislation or other action that may be necessary
15 to carry out the purposes of this chapter.

16 **§ -21 Bonds; authorization.** (a) The authority, with
17 the approval of the governor, may issue from time to time bonds
18 (including refunding bonds to pay, retire, or provide for the
19 retirement of bonds previously issued by the authority) in
20 amounts not exceeding the total amount of bonds authorized to be
21 issued by the legislature for any of its corporate purposes.



1 (b) All bonds shall be issued pursuant to part III of
2 chapter 39, except as provided in this part.

3 (c) The bonds shall be issued in the name of the
4 authority, and not in the name of the State. The final maturity
5 date of the revenue bonds may be any date not exceeding sixty
6 years from the date of issuance.

7 (d) The authority may issue bonds as it may determine,
8 including without limitation bonds payable from and secured, in
9 whole or in part, by:

10 (1) Income and revenues derived from the public housing
11 project or projects financed from the proceeds of
12 bonds;

13 (2) Receipts derived from any grant from the federal
14 government made in aid of a public housing project or
15 projects financed from the proceeds of bonds;

16 (3) Income and revenues derived from a particular
17 designated public housing project or projects whether
18 or not financed, in whole or in part, from the
19 proceeds of bonds;

20 (4) Income and revenues of the authority generally; or

21 (5) Any combination of paragraphs (1) through (4).



1 (e) Any pledge made by the authority shall create a
2 perfected security interest in the revenues, moneys, or property
3 so pledged and thereafter received by the authority from and
4 after the time that a financing statement with respect to the
5 revenues, moneys, or property so pledged and thereafter received
6 shall be filed with the bureau of conveyances. Upon the filing,
7 the revenues, moneys, or property so pledged and thereafter
8 received by the authority shall immediately be subject to the
9 lien of the pledge without any physical delivery thereof or
10 further act, and the lien of the pledge shall be prior to the
11 lien of all parties having claims of any kind in tort, contract,
12 or otherwise against the authority, irrespective of whether the
13 parties have notice thereof. This section shall apply to any
14 financing statement heretofore or hereafter filed with the
15 bureau of conveyances with respect to any pledge made to secure
16 revenue bonds issued under this part.

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



1 within the meaning of those terms as defined and used in
2 part III, chapter 39.

3 (g) Neither the members of the board nor any person
4 executing the bonds shall be liable personally on the bonds by
5 reason of the issuance thereof.

6 **§ -22 Bonds; interest rate, price, and sale.** (a) The
7 bonds shall bear interest at rates payable at times that the
8 authority, with the approval of the governor, may determine
9 except for deeply discounted bonds that are subject to
10 redemption or retirement at their accreted value; provided that
11 the discounted value of the bonds shall not exceed ten per cent
12 of any issue; and provided further that no bonds may be issued
13 without the approval of the director of finance and the
14 governor. Notwithstanding any other law to the contrary, the
15 authority may, subject to the approval of the director of
16 finance and the governor, issue bonds pursuant to
17 section -21, in which the discounted value of the bonds
18 exceeds ten per cent of the issue.

19 (b) The authority may include the costs of undertaking and
20 maintaining any public housing project or projects for which the
21 bonds are issued in determining the principal amount of bonds to
22 be issued. In determining the cost of undertaking and



1 maintaining the public housing project, the authority may
2 include the cost of studies and surveys; insurance premiums;
3 underwriting fees; financial consultant, legal, accounting, and
4 other services incurred; reserve account, trustee, custodian,
5 and rating agency fees; and interest on the bonds for a period
6 determined by the authority.

7 **§ -23 Trustee; designation, duties.** (a) The authority
8 may designate a trustee for each issue of bonds secured under
9 the same trust indenture; provided that the trustee shall be
10 approved by the director of finance.

11 (b) The trustee shall be authorized by the authority to
12 receive and receipt for, hold, and administer the proceeds of
13 the bonds, and to apply the proceeds to the purposes for which
14 the bonds are issued.

15 (c) The trustee shall also be authorized by the authority
16 to hold and administer any housing project bond special funds
17 established pursuant to section -28, and to receive and
18 receipt for, hold, and administer the revenues derived by the
19 authority from any public housing project or projects for which
20 the bonds are issued or the projects pledged to the payment of
21 the bonds, and to apply the revenues to the payment of the cost
22 of administering, operating, and maintaining the public housing



1 project or projects, to pay the principal of and the interest on
2 the bonds, to the establishment of reserves, and to other
3 purposes as may be authorized in the proceedings providing for
4 the issuance of the bonds.

5 (d) Notwithstanding section 39-68, the director of finance
6 may appoint the trustee to serve as fiscal agent for:

7 (1) The payment of the principal of and interest on the
8 bonds; and

9 (2) The purchase, registration, transfer, exchange, and
10 redemption of the bonds.

11 (e) The trustee shall perform additional functions with
12 respect to the payment, purchase, registration, transfer,
13 exchange, and redemption, as the director of finance may deem
14 necessary, advisable, or expeditious, including the holding of
15 the bonds and coupons, if any, that have been paid and the
16 supervision of their destruction in accordance with law.

17 (f) Nothing in this part shall limit or be construed to
18 limit the powers granted to the director of finance in sections
19 36-3, 39-13, and 39-68(a), to appoint the trustee or others as
20 fiscal agents, paying agents, and registrars for the bonds or to
21 authorize and empower those fiscal agents, paying agents, and



1 registrars to perform the functions referred to in those
2 sections.

3 **§ -24 Trust indenture.** (a) A trust indenture may
4 contain covenants and provisions authorized by part III of
5 chapter 39, and as deemed necessary or convenient by the
6 authority for the purposes of this part.

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

12 (c) Where a trust indenture provides that any bond issued
13 under that trust indenture is not valid or obligatory for any
14 purpose unless certified or authenticated by the trustee, all
15 signatures of the officers of the State upon the bonds required
16 by section 39-56 may be facsimiles of their signatures.

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

18 (1) The investment of the proceeds of the bonds, the
19 investment of any reserve for the bonds, the
20 investment of the revenues of the public housing
21 project or system of public housing projects, and the



1 use and application of the earnings from investments;
2 and

3 (2) The terms and conditions upon which the holders of the
4 bonds or any portion of them or any trustee thereof
5 may institute proceedings for the enforcement of any
6 agreement or any note or other undertaking,
7 obligation, or property securing the payment of the
8 bonds and the use and application of the moneys
9 derived therefrom.

10 (e) A trust indenture may also contain provisions deemed
11 necessary or desirable by the authority to obtain or permit, by
12 grant, interest subsidy, or otherwise, the participation of the
13 federal government in the public housing projects or in the
14 financing of the costs of administering, operating, or
15 maintaining the public housing projects.

16 § -25 **Investment of reserves, etc.** The authority may
17 invest any funds held in reserves or sinking funds or any funds
18 not required for immediate disbursement, including the proceeds
19 of bonds, in property or securities in which the director of
20 finance may legally invest, as provided in section 36-21;
21 provided that funds held outside the state treasury may be
22 invested for terms not to exceed thirty-five years. No



1 provisions with respect to the acquisition, operation, or
2 disposition of property by other government agencies shall be
3 applicable to the authority unless the legislature shall
4 specifically so state.

5 **§ -26 Security for funds deposited by the authority.**

6 The authority, by resolution, may provide that all moneys
7 deposited by it shall be secured:

8 (1) By any securities by which funds deposited by the
9 director of finance may be legally secured as provided
10 in section 38-3; or

11 (2) By an undertaking with sureties as are approved by the
12 authority faithfully to keep and pay over upon the
13 order of the authority any deposits and agreed
14 interest thereon, and all banks and trust companies
15 are authorized to give any such security for those
16 deposits.

17 **§ -27 Arbitrage provisions; interest rate. (a)**

18 Notwithstanding any other law to the contrary, neither the
19 authority nor the director of finance shall make loans or
20 purchase mortgages with the proceeds of general obligation bonds
21 of the State or from a revolving fund established or maintained
22 from the proceeds of bonds, at a rate of interest or upon terms



1 and conditions that would cause any general obligation bond of
2 the State or any bond to be an "arbitrage bond" within the
3 meaning of that term as defined in the Internal Revenue Code of
4 1986, as amended, and the regulations of the Internal Revenue
5 Service adopted pursuant thereto.

6 (b) The rate of interest on loans made under this chapter
7 from the proceeds of general obligation bonds of the State shall
8 be established by the authority, with the approval of the
9 director of finance, after each sale of general obligation bonds
10 of the State, the proceeds of which are to be used for the
11 purposes of making loans or purchasing mortgages under this
12 chapter. If no sale of general obligation bonds of the State
13 intervenes in a twelve-month period after the last rate fixing,
14 the authority may review the then existing rates on loans or
15 mortgages made under this chapter from the proceeds of general
16 obligation bonds of the State and retain the existing rate or,
17 with the approval of the director of finance, establish
18 different rates.

19 (c) The director of finance shall approve those rates so
20 as to produce up to, but not in excess of, the maximum yield to
21 the State or the authority permitted under the Internal Revenue
22 Code of 1986, as amended, and the regulations of the Internal



1 Revenue Service adopted pursuant thereto, on the assumption that
2 the general obligation bonds of the State, the proceeds of which
3 have been or are to be used for the purposes of making loans or
4 purchasing mortgages under this chapter, would otherwise be
5 "arbitrage bonds" under the Internal Revenue Code of 1986, as
6 amended, and the regulations of the Internal Revenue Service
7 adopted pursuant thereto, were the maximum yield to be exceeded.
8 The establishment of the rates of interest shall be exempt from
9 chapter 91.

10 **§ -28 Public housing revolving fund; housing project**

11 **bond special funds.** (a) There is established the public
12 housing revolving fund to be administered by the authority.
13 Notwithstanding section 36-21, the proceeds in the fund shall be
14 used for long-term and other special financings of the authority
15 and for necessary expenses in administering this chapter.

16 (b) All moneys received and collected by the authority,
17 not otherwise pledged, obligated, or required by law to be
18 placed in any other special fund, shall be deposited into the
19 public housing revolving fund.

20 (c) A separate special fund shall be established for each
21 public housing project or projects financed from the proceeds of
22 bonds secured under the trust indenture. Each fund shall be



1 designated "housing project bond special fund" and shall bear
2 any additional designation as the authority deems appropriate to
3 properly identify the fund.

4 (d) Notwithstanding any other law to the contrary, all
5 revenues, income, and receipts derived from a public housing
6 project or projects financed from the proceeds of bonds or
7 pledged to the payment of principal of and interest and premium
8 on bonds, shall be paid into the housing project bond special
9 fund established for the public housing project or projects and
10 applied as provided in the proceedings authorizing the issuance
11 of bonds.

12 **§ -29 Quitclaim deeds.** Unless otherwise provided by
13 law, the authority shall issue quitclaim deeds and leases
14 whenever it conveys, transfers, sells, or assigns any property
15 developed, constructed, or sponsored under this chapter.

16 **PART II. FEDERAL LOW-INCOME HOUSING**

17 **§ -31 Rentals and tenant selection.** (a) In the
18 operation or management of federal public housing projects, the
19 authority (acting directly or by an agent or agents) at all
20 times shall observe the following duties with respect to rentals
21 and tenant selection:



- 1 (1) It may establish maximum limits of annual net income
2 for tenant selection in any public housing project,
3 less such exemptions as may be authorized by federal
4 regulations pertaining to public housing. The
5 authority may agree to conditions as to tenant
6 eligibility or preference required by the federal
7 government pursuant to federal law in any contract for
8 financial assistance with the authority;
- 9 (2) It may rent or lease the dwelling units therein only
10 at rentals within the financial reach of persons who
11 lack the amount of income that it determines to be
12 necessary to obtain safe, sanitary, and uncongested
13 dwelling accommodations within the area of operation
14 of the authority and to provide an adequate standard
15 of living; and
- 16 (3) It may rent or lease to a tenant a dwelling consisting
17 of the number of rooms (but no greater number) that it
18 deems necessary to provide safe and sanitary
19 accommodations to the proposed occupants thereof,
20 without overcrowding.
- 21 (b) Nothing in this part shall be construed as limiting
22 the power of the authority to:



1 (1) Vest in an obligee the right, in the event of a
2 default by the authority, to take possession of a
3 public housing project or cause the appointment of a
4 receiver thereof, free from all the restrictions
5 imposed by this part with respect to rentals, tenant
6 selection, manner of operation, or otherwise; or

7 (2) Vest in obligees the right, in the event of a default
8 by the authority, to acquire title to a public housing
9 project or the property mortgaged by the authority,
10 free from all the restrictions imposed by this part.

11 **§ -32 Delinquent accounts.** (a) Notwithstanding section
12 40-82, the authority, with the approval of the attorney general,
13 may delete from its accounts receivable records delinquent
14 accounts for vacated units within federal low-income public
15 housing projects that have been delinquent for at least ninety
16 days.

17 (b) The delinquent accounts may be assigned to a
18 collection agency.

19 (c) When the authority seeks eviction of a tenant due to
20 delinquency in payment of rent, the authority shall comply with



1 the procedures set forth in section -92(b) before proceeding
2 with the eviction hearing.

3 **§ -33 Investigatory powers.** (a) The authority may:

4 (1) Investigate living, dwelling, and housing conditions
5 and the means and methods of improving the conditions;

6 (2) Enter upon any building or property to conduct
7 investigations or to make surveys or soundings;

8 (3) Conduct examinations and investigations and hear
9 testimony and take proof under oath at public or
10 private hearings on any matter material for its
11 information;

12 (4) Issue subpoenas requiring the attendance of witnesses
13 or the production of books and papers, and order the
14 examination of witnesses who are unable to attend
15 before the authority, are excused from attendance, or
16 by leave of courts as provided by chapter 624, are out
17 of the State; and

18 (5) Make available to any government agency charged with
19 the duty of abating or requiring the correction of
20 nuisances or like conditions, or of demolishing unsafe
21 or unsanitary structures within its territorial
22 limits, its findings and recommendations with regard



1 to any building or property where conditions exist
2 that are dangerous to the public health, morals,
3 safety, or welfare.

4 (b) Investigations or examinations may be conducted by the
5 authority, by a committee appointed by it consisting of one or
6 more members of the board, or by counsel, or by an officer or
7 employee specially authorized by the authority to conduct it.
8 Any person designated by the authority to conduct an
9 investigation or examination shall have the power to administer
10 oaths, take affidavits, and issue subpoenas or orders for the
11 taking of depositions.

12 **§ -34 Additional powers.** The powers conferred upon the
13 authority by this part shall be in addition and supplemental to
14 the powers conferred by any other law, and nothing in this part
15 shall be construed as limiting any powers, rights, privileges,
16 or immunities so conferred.

17 **PART III. STATE LOW-INCOME HOUSING**

18 A. State Low-Income Housing; Administration

19 **§ -41 Definitions.** As used in this subpart, unless a
20 different meaning clearly appears from the context:

21 "Administer" or "administration" means the management,
22 operation, maintenance, and regulation of any state low-income



1 housing project. It also includes any and all undertakings
2 necessary therefor.

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

15 § -42 **Housing; tenant selection.** Subject to the
16 following limitations and preferences, the authority shall
17 select tenants upon the basis of those in greatest need for the
18 particular housing. The authority may limit the tenants of any
19 state low-income housing project to classes of persons when
20 required by federal law or regulation as a term or condition of
21 obtaining assistance from the federal government. Within the
22 priorities established by the authority recognizing need,



1 veterans with a permanent disability of ten per cent or more as
2 certified by the United States Department of Veterans Affairs,
3 the dependent parents of the veteran, and the deceased veteran's
4 widow shall be given first preference.

5 **§ -43 Rentals.** (a) Notwithstanding any other law to
6 the contrary, the authority shall fix the rates of the rentals
7 for dwelling units and other facilities in state low-income
8 housing projects provided for by this subpart, at rates that
9 will produce revenues that will be sufficient to pay all
10 expenses of management, operation, and maintenance, including
11 the cost of insurance, a proportionate share of the
12 administrative expenses of the authority to be fixed by it, and
13 the costs of repairs, equipment, and improvements, to the end
14 that the state low-income housing projects shall be and always
15 remain self-supporting. The authority, in its discretion, may
16 fix the rates in amounts as will produce additional revenues (in
17 addition to the foregoing) sufficient to amortize the cost of
18 the state low-income housing project or projects, including
19 equipment, over a period or periods of time that the authority
20 may deem advisable.

21 (b) Notwithstanding any other law to the contrary, if:



1 (1) Any state low-income housing project or projects have
2 been specified in any resolution of issuance adopted
3 pursuant to part I;

4 (2) The income or revenues from any project or projects
5 have been pledged by the authority to the payment of
6 any bonds issued under part I; or

7 (3) Any of the property of any state low-income housing
8 project or projects is security for the bonds,
9 the authority shall fix the rates of the rentals for dwelling
10 units and other facilities in the state low-income housing
11 project or projects so specified or encumbered at increased
12 rates that will produce the revenues required by subsection (a)
13 and, in addition, those amounts that may be required by part I,
14 by any resolution of issuance adopted under part I, and by any
15 bonds or mortgage or other security issued or given under part
16 I.

17 **§ -44 Administration of state low-income housing**
18 **projects and programs.** (a) The authority may construct,
19 develop, and administer property or housing for the purpose of
20 state low-income housing projects and programs.

21 (b) The authority may offer any decommissioned low-income
22 public housing project, except for federal housing projects, to



1 nonprofit or for-profit organizations or government agencies for
2 rehabilitation into emergency or transitional shelter facilities
3 for the homeless or rehabilitation into rental units that set
4 aside at least fifty per cent of the units to persons or
5 families with incomes at or below fifty per cent of the area
6 median family income:

7 (1) The housing project is wholly owned by the State on
8 either state-owned or ceded lands;

9 (2) The authority has determined that the housing project
10 is not eligible for rehabilitation using the
11 authority's current resources; and

12 (3) The nonprofit or for-profit organization or government
13 agency demonstrates expertise in rehabilitation of
14 housing projects and has community, public, and
15 private resources to substantially pay for the
16 rehabilitation.

17 The land and improvements may be leased to the nonprofit or for-
18 profit organization or government agency for a period not to
19 exceed ninety-nine years for a sum of \$1 per year.

20 (c) State low-income housing projects shall be subject to
21 chapter 521.



1 (d) The authority shall adopt rules in accordance with
2 chapter 91 including the establishment and collection of
3 reasonable fees for administering the state low-income housing
4 projects or programs and to carry out any state program under
5 subsection (a).

6 **§ -45 State low-income housing revolving fund.** There is
7 established a revolving fund to be known as the state low-income
8 housing revolving fund. Notwithstanding any law to the
9 contrary, moneys received by the authority under or pursuant to
10 this subpart, including refunds, reimbursements, rentals, fees,
11 and charges received from tenants, shall be deposited in the
12 state low-income housing revolving fund. Except as otherwise
13 provided in this chapter, the state low-income housing revolving
14 fund may be expended by the authority for any and all of the
15 purposes of this subpart, including without prejudice to the
16 generality of the foregoing, the expenses of management,
17 operation, and maintenance of state low-income housing projects,
18 including but not limited to:

19 (1) The cost of insurance, a proportionate share of the
20 administrative expenses of the authority, and the cost
21 of repairs, equipment, and improvement;



- 1 (2) The acquisition, clearance, and improvement of
2 property;
- 3 (3) The construction and reconstruction of building sites;
- 4 (4) The construction, reconstruction, repair, remodeling,
5 extension, equipment, and furnishing of any state low-
6 income housing project;
- 7 (5) Administration and other expenses;
- 8 (6) The payment of rentals; and
- 9 (7) The development and administration of any state low-
10 income housing project.
- 11 **§ -46 Investigatory powers.** (a) The authority may:
- 12 (1) Investigate living, dwelling, and housing conditions
13 and the means and methods of improving those
14 conditions;
- 15 (2) Enter upon any building or property to conduct
16 investigations or to make surveys or soundings;
- 17 (3) Conduct examinations and investigations, and hear
18 testimony and take proof under oath at public or
19 private hearings on any matter material for its
20 information;
- 21 (4) Issue subpoenas requiring the attendance of witnesses
22 or the production of books and papers, and order the



1 examination of witnesses who are unable to attend
2 before the authority, are excused from attendance, or
3 by leave of courts as provided by chapter 624, are out
4 of the State; and

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

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

21 **§ -47 Government aid; political subdivisions.** Any
22 political subdivision may appropriate moneys for the purposes of



1 meeting any local participation in housing costs or expenses
2 required to obtain assistance from the federal government in the
3 development and administration of state low-income housing
4 projects and programs under this subpart, or of providing funds
5 for use by the authority in developing and administering state
6 low-income housing projects.

7 **§ -48 Additional powers.** The powers conferred upon the
8 authority by this subpart shall be in addition and supplemental
9 to the powers conferred by any other law, and nothing in this
10 subpart shall be construed as limiting any powers, rights,
11 privileges, or immunities conferred.

12 B. State Low-Income Housing; Liens

13 **§ -51 Definitions.** As used in this subpart, unless a
14 different meaning clearly appears from the context:

15 "State low-income housing project" means any state low-
16 income housing project or projects owned, managed, administered,
17 or operated by the authority.

18 "Tenant" includes any person occupying a room, dwelling
19 unit, living quarters, or space in any state low-income housing
20 project, under or by virtue of any tenancy lease, license, or
21 permit under or from the authority.



1 § -52 **Lien on personalty for rent, etc.** (a) The
2 authority shall have a statutory lien on all personal property,
3 not exempt from execution, belonging to, or in the lawful
4 possession of, every tenant while the personal property is in or
5 upon any state low-income housing project, for the amount of its
6 proper charges against the tenant for rent of a room, dwelling
7 unit, living quarters, or space in the state low-income housing
8 project, or for utilities, facilities, or services in the state
9 low-income housing project. The lien shall commence with the
10 tenancy or occupancy of the tenant and continue for one year
11 after the charge or charges are due and owing to the authority.
12 (b) Whenever any tenant fails or refuses to pay the charge
13 or charges after the same are so due and owing, the authority
14 shall have the right and power, acting by its authorized agents
15 or representatives, without process of law and without any
16 liability for the taking, seizure, and retention of the personal
17 property, to take and seize any of the personal property
18 belonging to, or in the lawful possession of, the tenant that is
19 found in or upon the public housing project. The authority may
20 hold and retain the property as security for the payment of the
21 charge or charges, until the amount of the charge or charges is
22 paid and discharged. If the charge or charges, so due and



1 owing, are not paid and discharged within thirty days after the
2 taking and seizure, the authority may sell the personal property
3 in the manner provided in section -53.

4 **§ -53 Foreclosure of lien, notice, etc.** (a) The lien
5 of the authority upon personal property that has been taken and
6 retained by it as provided in section -52 may be foreclosed
7 by the authority by selling the property at public auction:

8 (1) After first mailing by United States mail, postage
9 prepaid, a notice of the foreclosure addressed to the
10 tenant who owns, or was in possession of, the personal
11 property at the tenant's last address shown on the
12 records of the authority. The notice shall state
13 that, unless the charge or charges then due and owing
14 from the tenant to the authority are paid within ten
15 days from the time of mailing the notice, the personal
16 property will be sold at public auction; and

17 (2) After first giving public notice of the foreclosure
18 and sale at least two times in the county in which the
19 personal property is located. Each notice shall
20 contain a brief description of the personal property;
21 the name of the tenant, if known; the name of the
22 owner of the personal property, if known; the amount



1 of the charge or charges; and the time and place of
2 the sale. Notices of several foreclosures and sales
3 may be combined in one notice; and whenever so
4 combined and given, the expenses of notice and sale
5 shall be a statutory lien upon the property described
6 in the notice in a ratable proportion according to the
7 amount received for each lot of property so noticed
8 for sale.

9 (b) If the tenant fails to pay to the authority within ten
10 days after the mailing of the notice of foreclosure the charge
11 or charges, the authority may sell the property at public
12 auction at the time and place stated in the notice, or at a time
13 or times or place or places to which the sale may be postponed
14 or adjourned at the time and place stated in the notice, and may
15 apply the proceeds thereof to the payment of the charge or
16 charges and the expenses of notice and sale. The balance, if
17 any remaining, shall be paid over to the tenant who formerly
18 owned, or was in possession of, the property. If the balance is
19 not claimed by the tenant within thirty days after the sale,
20 then the balance shall be paid over to the director of finance
21 and it shall be kept by the director in a special deposit for a
22 period not to exceed six months. If claimed by the tenant



1 during that period, it shall be paid to the tenant. If no claim
2 is made during the period, the sum shall become a government
3 realization and be paid into the general fund.

4 **§ -54 Sheriff or police to assist.** The authority, in
5 taking, seizing, holding, retaining, or selling any personal
6 property pursuant to sections -52 and -53, may require the
7 assistance of the sheriff or any authorized police officer of
8 any county. Any sheriff or officer, when required, shall assist
9 the authority.

10 **§ -55 Existing contracts not impaired.** Sections -52
11 and -53 shall not be construed as to impair or affect the
12 obligation of any contract existing on or before May 9, 1949.

13 **§ -56 Lien on abandoned personalty, sale, etc.** Whenever
14 the authority has in its possession for four months after the
15 termination of any residency or occupancy mentioned in this
16 subpart, any personal property that has been left in or about
17 any state low-income housing project by any person who formerly
18 resided in, or occupied a room, dwelling unit, living quarters,
19 or space in the state low-income housing project, the authority
20 may sell the same at public auction. The proceeds of sale shall
21 be applied to the payment of its charges for storage of the
22 personal property, for public notice and sale, and to the



1 payment of other amounts, if any, then due and owing to it from
2 the former resident or occupant for rent or for any utility or
3 service. Before any sale is made, the authority shall first
4 give public notice of the time and place of sale at least two
5 times in the county in which the personal property is located.
6 The notice shall contain a brief description of the property;
7 the name, if known, of the former resident or occupant who left
8 the property in or about the housing project; the amount of the
9 charges for storage, if any; and the indebtedness, if any; and
10 the time and place of the sale. The charges for storage, if
11 any, and for notice and sale, and the indebtedness, if any,
12 shall be a lien upon the personal property. Notices of several
13 sales may be combined and given in one notice, and whenever
14 combined and given, the expenses of notice and sale shall be a
15 lien and shall be satisfied in ratable proportion according to
16 the amount received for each lot of property so noticed for
17 sale.

18 **§ -57 Disposition of surplus proceeds.** After the sale,
19 the authority shall apply the proceeds as provided in section
20 -56. The balance, if any remaining, shall be paid over to
21 the former resident or occupant. If the balance is not claimed
22 by the former resident or occupant within thirty days after the



1 sale thereof, then the balance shall be paid over to the
2 director of finance and shall be kept by the director in a
3 special deposit for a period not to exceed six months. If
4 claimed by the former resident or occupant during that period,
5 it shall be paid to the former resident or occupant. If no
6 claim is made during the period, the sum shall become a
7 government realization and shall be paid into the general fund.

8 **§ -58 Lien attaches to personalty in possession.**

9 Sections -56 and -57 shall also apply to any personal
10 property which, before May 2, 1949, was left in or about any
11 public housing project, and was taken **into** the possession of the
12 authority or its predecessor in interest, as herein set forth
13 and provided.

14 **§ -59 Priority of housing lien.** The statutory liens
15 provided for in this subpart shall be preferred and have
16 priority over all other liens or claims and over all attachments
17 or other process.

18 **§ -60 Rights and powers; supplemental.** The rights and
19 powers conferred upon the authority by this subpart shall be in
20 addition and supplemental to the rights and powers conferred
21 upon the authority by any other law.

22 **PART IV. HOUSING FOR ELDERS AND TEACHERS**



1 A. Housing for Elders

2 § -71 Resident selection; dwelling units; rentals. In
3 the administration of elder or elderly housing, the authority
4 shall observe the following with regard to resident selection,
5 dwelling units, and rentals:

6 (1) Except as provided in this section, the authority
7 shall accept elder or elderly households as residents
8 in the housing projects;

9 (2) It may accept as residents in any dwelling unit one or
10 more persons, related or unrelated by blood or
11 marriage. It may also accept as a resident in any
12 dwelling unit or in any housing project, in the case
13 of illness or other disability of an elder who is a
14 resident in the dwelling unit or in the project, a
15 person designated by the elder as the elder's live-in
16 aide whose qualifications as a live-in aide are
17 verified by the authority, although the person is not
18 an elder; provided that the person shall cease to be a
19 resident therein upon the recovery of, or removal from
20 the project of, the elder;

21 (3) It may rent or lease to an elder a dwelling unit
22 consisting of any number of rooms as the authority



1 deems necessary or advisable to provide safe and
2 sanitary accommodations to the proposed resident or
3 residents without overcrowding;

4 (4) Notwithstanding that the elder has no written rental
5 agreement or that the agreement has expired, during
6 hospitalization of the elder due to illness or other
7 disability so long as the elder continues to tender
8 the usual rent to the authority or proceeds to tender
9 receipts for rent lawfully withheld, no action or
10 proceeding to recover possession of the dwelling unit
11 may be maintained against the elder, nor shall the
12 authority otherwise cause the elder to quit the
13 dwelling unit involuntarily, demand an increase in
14 rent from the elder, or decrease the services to which
15 the elder has been entitled; and

16 (5) Elder or elderly housing shall be subject to chapter
17 521.

18 § -72 **Housing for elders revolving fund.** There is
19 created a housing for elders revolving fund to be administered
20 by the authority. Notwithstanding any law to the contrary,
21 moneys received or collected by the authority pursuant to this
22 subpart shall be deposited into the revolving fund. Revenues



1 from the fund may be used to pay the expenses of management,
2 operation, and maintenance of housing projects for elders,
3 including but not limited to the cost of insurance, a
4 proportionate share of the administrative expenses of the
5 authority, and the costs of repairs, equipment, and
6 improvements.

7 **§ -73 Additional powers.** The powers conferred upon the
8 authority by this subpart shall be in addition and supplemental
9 to the powers conferred by any other law, and nothing in this
10 subpart shall be construed as limiting any powers, rights,
11 privileges, or immunities so conferred.

12 B. Housing for Teachers

13 **§ -81 Purpose.** The purpose of this subpart is to create
14 a special fund for the accounting and control of receipts and
15 disbursements in connection with the authority's functions of
16 planning, construction, repair, maintenance, and operation of
17 housing for teachers employed and assigned by the department of
18 education. Teachers' housing shall be provided only if the
19 community does not have adequate housing for teachers at
20 reasonable cost.

21 **§ -82 Teachers' housing revolving fund.** There is
22 established a revolving fund to be known as the teachers'



1 housing revolving fund. All unexpended balances of
2 appropriations, allocations, allotments, special or revolving
3 funds or other funds heretofore created and made available for
4 the purposes of developing or administering teachers' housing
5 projects shall be transferred to the teachers' housing revolving
6 fund. Notwithstanding any law to the contrary, all moneys,
7 including refunds, reimbursements, and rentals for housing from
8 teacher tenants shall be deposited in the revolving fund.

9 The revolving fund may be used by the authority for any and
10 all of the purposes of teachers' housing, including without
11 prejudice to the generality of the foregoing, the planning,
12 construction, maintenance, and operation of teachers' housing,
13 as well as for the salaries of the necessary personnel in charge
14 thereof.

15 Whenever the governor determines that the amount in the
16 teachers' housing revolving fund is in excess of the
17 requirements of the teachers' housing program, the authority
18 shall transfer that excess to the state general fund.

19 **§ -83 Annual statements.** The authority shall annually
20 forward to the director of human services and the director of
21 finance a full, detailed description and financial statement of



1 the planning, construction, repair, maintenance, and operation
2 of teachers' housing.

3 **§ -84 Rules.** The authority may adopt rules pursuant to
4 chapter 91 necessary or desirable for the purpose of this
5 subpart.

6 **§ -85 Annual review; disposal of units.** The authority,
7 in consultation with the department of education, shall annually
8 review the status of and necessity for subsidized teachers'
9 housing throughout the state and upon determination that any
10 particular housing unit is no longer necessary shall have all
11 necessary power and shall proceed to dispose of that unit by
12 sale, demolition, or otherwise. Any net proceeds from the
13 disposal of each teacher housing unit shall be paid to the
14 government agency vested with fee title to the unit at the time
15 of disposition and any deficit incurred in the disposal shall be
16 paid by the State.

17 **§ -86 Additional powers.** The powers conferred upon the
18 authority by this subpart shall be in addition and supplemental
19 to the powers conferred by any other law, and nothing in this
20 subpart shall be construed as limiting any powers, rights,
21 privileges, or immunities so conferred.

22 **PART V. PUBLIC HOUSING; EVICTIONS**



1 **§ -91 Definitions.** As used in this part unless the
2 context otherwise requires:

3 "Party" means each person or agency named or admitted as a
4 party or properly seeking and entitled as of right to be
5 admitted as a party in any court or agency proceeding.

6 "Public housing project" or "complex" means a housing
7 project directly controlled, owned, developed, or managed by the
8 authority pursuant to part II.

9 "Tenant" means any person occupying a room, dwelling unit,
10 living quarters, or space in any public housing project, under
11 or by virtue of any tenancy, lease, license, or permit under or
12 from the authority.

13 **§ -92 Termination and eviction.** (a) Except as
14 otherwise provided, the authority may terminate any lease,
15 rental agreement, permit, or license covering the use and
16 occupation of any dwelling unit or other premises located within
17 a public housing project and evict from any premises any tenant,
18 licensee, or other occupant for any of the following reasons:

- 19 (1) Failure to pay rent when due;
- 20 (2) Violation of any of the provisions of a lease, rental
21 agreement, permit, or license;
- 22 (3) Violation of any of the rules of the authority;



1 (4) Failure to maintain the dwelling unit in a clean,
2 sanitary, and habitable condition; or

3 (5) The existence of any other circumstances giving rise
4 to an immediate right to possession by the authority.

5 (b) When any tenant has been delinquent in payment of
6 rent, the authority, either directly or through its managing
7 agent, shall provide the tenant with a written notice no later
8 than forty-five days from the date of delinquency that shall
9 inform the tenant of the delinquency and schedule a meeting
10 between the tenant and the authority or its agent. The written
11 notice shall:

12 (1) Inform the tenant that continued delinquency shall
13 result in the tenant's eviction;

14 (2) Inform the tenant of the tenant's right to apply for
15 an interim adjustment in rent;

16 (3) Explain to the tenant the steps of the grievance and
17 eviction processes and how the processes protect the
18 tenant;

19 (4) Provide the tenant with a sample letter for demanding
20 a grievance hearing;

21 (5) Set forth the location, date, and time, which shall be
22 no earlier than fourteen days from the date of the



1 written notice, at which the tenant may meet with the
2 authority or its agent to discuss the delinquency in
3 rent; and

4 (6) Inform the tenant that the tenant shall either attend
5 the meeting or, if applicable, contact the authority
6 or the authority's agent before the meeting time to
7 reschedule the meeting.

8 (c) At the meeting described in subsection (b), the
9 authority or its agent shall:

10 (1) Inquire into the cause of the tenant's delinquency and
11 offer suggestions, if any, that the authority may feel
12 appropriate to address the causes of delinquency;

13 (2) Consider whether a reasonable payment plan is
14 appropriate for the tenant's situation and, if
15 appropriate, offer a payment plan to the tenant; and

16 (3) Inform the tenant of and explain the issues as
17 required under subsection (b)(1), (2), and (3).

18 (d) The authority shall develop a checklist outlining all
19 of the requirements listed in subsection (c). The authority or
20 its agent and the tenant shall complete, sign, and date the
21 checklist to memorialize the meeting.



1 (e) If the tenant fails to attend or reschedule the
2 meeting provided for in subsection (b), the authority shall
3 provide the tenant with a second written notice. The notice
4 shall inform the tenant that:

5 (1) The authority shall proceed to terminate the tenant's
6 tenancy because of the tenant's outstanding rent
7 delinquency and the tenant's failure to respond to the
8 authority's written notice issued pursuant to
9 subsection (b);

10 (2) The tenant has ten business days from receipt of the
11 second written notice to request a grievance hearing;
12 and

13 (3) If the tenant fails to request a grievance hearing
14 within ten business days, the authority has the right
15 to proceed with the eviction hearing pursuant to
16 section -93.

17 (f) If the tenant meets with the authority as provided for
18 in subsection (b), the authority shall decide, based upon the
19 facts discussed at the meeting, what action is appropriate to
20 address the tenant's case. The authority shall notify the
21 tenant of its decision in writing. If the authority decides to



1 proceed with an action to terminate the tenancy, the authority
2 shall further inform the tenant in the same written notice that:

3 (1) The tenant has thirty days from receipt of this notice
4 to request a grievance hearing; and

5 (2) If the tenant fails to request a grievance hearing
6 within thirty days, the authority has the right to
7 proceed with the eviction hearing pursuant to section

8 -93.

9 **§ -93 Hearings.** (a) Where the authority proposes to
10 terminate a lease or rental agreement and evict a tenant under
11 section -92, a hearing shall be held to determine whether
12 cause exists for the action. The authority shall give written
13 notice to the person concerned specifying the reason for which
14 the eviction is proposed and fixing the date and place of
15 hearing. The written notice shall further inform the tenant of
16 the right to inspect and copy the tenant file at the tenant's
17 expense before the hearing is held. The notice shall be given
18 at least five days before the date set for the hearing. At the
19 hearing, before final action is taken, the person concerned
20 shall be entitled to be heard in person or through counsel, and
21 shall be accorded a full and fair hearing in accordance with the
22 requirements of a contested case hearing provided for under



1 sections 91-9 and 91-10 to 91-13. This full and fair hearing
2 shall be deemed to be a contested case hearing before the
3 authority that is required pursuant to chapter 91.

4 (b) Hearings shall be conducted by an eviction board
5 appointed by the authority. The eviction board shall consist of
6 not fewer than three persons, of which one member shall be a
7 tenant. At least one eviction board shall be established in
8 each county of the State. The findings, conclusions, decision,
9 and order of the eviction board shall be final unless an appeal
10 is taken as hereinafter provided.

11 (c) The eviction board shall have the same powers
12 respecting administering oaths, compelling the attendance of
13 witnesses and the production of documentary evidence, and
14 examining witnesses, as are possessed by circuit courts. In
15 case of disobedience by any person of any order of the eviction
16 board, or of any subpoena issued by the eviction board, or the
17 refusal of any witness to testify to any matter regarding which
18 the witness may lawfully be questioned, any circuit judge, on
19 application by the eviction board, shall compel obedience as in
20 the case of disobedience of the requirements of a subpoena
21 issued by a circuit court, or a refusal to testify therein.



1 **§ -94 Eviction.** (a) If it is proven to the
2 satisfaction of the eviction board that there is cause to
3 terminate a lease or rental agreement and evict the tenant, the
4 authority shall provide the tenant with a written notice of the
5 authority's decision to terminate the tenancy. The notice shall
6 inform the tenant that a writ of possession may be issued by the
7 authority within ten business days. The notice shall also
8 inform the tenant whether the grounds for eviction are
9 considered curable and, if so, what the tenant must do to remedy
10 the grounds, by when it must be done, and what the tenant must
11 do to document for the authority that the grounds have been
12 remedied.

13 (b) When the grounds for termination of the tenancy may be
14 cured by the tenant, the tenant shall have ten business days
15 from receipt of the notice provided for in subsection (a) to
16 cure the grounds. If the grounds are cured within the ten-day
17 period, no writ of possession may be issued. If the grounds are
18 not cured within the ten-day period, the authority may issue a
19 writ of possession forthwith.

20 (c) The authority may adopt rules pursuant to chapter 91
21 to define curable and noncurable grounds for eviction. The
22 authority may consider a tenant's history in determining



1 noncurable grounds for eviction. A tenant's history may include
2 chronic or consistent delinquency, or repeated violations of the
3 terms of the rental agreement.

4 (d) Enforcement of the order by a writ of possession shall
5 be effected either by an officer appointed by the authority, who
6 shall have all of the powers of a police officer for all action
7 in connection with the enforcement of the order, or by a sheriff
8 or any other law enforcement officer of the State or any county,
9 whose duty it shall be to carry out the order. The person
10 enforcing the order shall remove all persons from the premises
11 and put the authority in full possession thereof.

12 (e) Upon eviction, the household goods and personal
13 effects of the person against whom the order is entered, and
14 those of any persons using the premises incident to the person's
15 holding, may be removed from the premises and stored by the
16 authority. If the action is taken, the authority shall have a
17 lien on the property so taken for the expenses incurred by it in
18 moving and storing the same, and the authority is authorized to
19 sell or otherwise dispose of the property if unclaimed after
20 thirty days.

21 **§ -95 Ex parte motion.** If a tenant cannot be served
22 with an order of eviction or writ of possession, and the facts



1 shall appear by affidavit to the authority, service to the
2 tenant may be made according to the special order of the
3 authority. The order shall require the officer to affix a
4 certified copy of the order of eviction or writ of possession in
5 a conspicuous place upon the premises such as the door or wall
6 of the dwelling unit.

7 **§ -96 Judicial review.** (a) Any person aggrieved by a
8 final decision and order of the authority or by a preliminary
9 ruling of the nature that deferral of review pending entry of a
10 subsequent final decision would deprive the appellant of
11 adequate relief is entitled to judicial review thereof under
12 this part.

13 (b) Except as otherwise provided in this section,
14 proceedings for review shall be instituted in the circuit court
15 within thirty days after the preliminary ruling or within thirty
16 days after service of the certified copy of the final decision
17 and order of the authority pursuant to the rules of court,
18 except where a statute provides for a direct appeal to the
19 intermediate appellate court. In such cases, the appeal shall
20 be treated in the same manner as an appeal from the circuit
21 court, including payment of the fee prescribed by section 607-5



1 for filing the notice of appeal. The court in its discretion
2 may permit other interested persons to intervene.

3 (c) The proceedings for review shall not stay enforcement
4 of the decision of the authority; provided that the authority or
5 the reviewing court may order a stay upon such terms as it deems
6 proper.

7 (d) Within twenty days after the determination of the
8 contents of the record on appeal in the manner provided by the
9 rules of court, or within such further time as the court may
10 allow, the authority shall transmit to the reviewing court the
11 record of the proceeding under review. The court may require or
12 permit subsequent corrections or additions to the record when
13 deemed desirable.

14 (e) If, before the date set for hearing, application is
15 made to the court for leave to present additional evidence and
16 the evidence is material and good cause exists for the failure
17 to present the evidence in the proceeding before the authority,
18 the court may order the authority to hear the evidence upon the
19 conditions as the court deems proper. The authority may modify
20 its findings, decision, and order by reason of the additional
21 evidence and shall file with the reviewing court, to become a



1 part of the record, the additional evidence, together with any
2 modification of its findings or decision.

3 (f) The review shall be conducted by the court without a
4 jury and shall be confined to the record. In cases of alleged
5 irregularities in procedure before the authority and not shown
6 in the record, testimony thereon may be taken in court. The
7 court, upon request by any party, may hear oral argument and
8 receive written briefs.

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

- 15 (1) In violation of constitutional or statutory
16 provisions;
- 17 (2) In excess of the statutory authority or jurisdiction
18 of the authority;
- 19 (3) Made upon unlawful procedure;
- 20 (4) Affected by other error of law;
- 21 (5) Clearly erroneous in view of the reliable, probative,
22 and substantial evidence on the whole record; or



1 (6) Arbitrary, capricious, or characterized by abuse of
2 discretion or clearly unwarranted exercise of
3 discretion.

4 **§ -97 Appeals.** An aggrieved party may secure a review
5 of any final judgment of the circuit court under this part by
6 appeal to the intermediate appellate court, subject to
7 chapter 602. The appeal shall be taken in the manner provided
8 in the rules of court.

9 **§ -98 Rules.** The authority may adopt rules pursuant to
10 chapter 91 necessary for the purposes of this part.

11 **PART VI. AUTHORITY-COUNTY COOPERATION**

12 **§ -101 Gifts, etc., to counties from authority.** The
13 authority may make and pay gifts or donations of money directly
14 to any county. Any county may receive the gifts or donations as
15 a general fund realization, and expend the funds for any purpose
16 authorized by law.

17 **§ -102 Facilities and services by counties to authority**
18 **and tenants.** Each county within which the authority may own,
19 operate, or administer any public housing project or complex and
20 to which, or for whose benefit, the authority or its
21 predecessors in interest has made (by payment to the county) or
22 may hereafter make, gifts or donations including any payment in



1 lieu of taxes, upon request of the authority, shall provide and
2 furnish to the authority in regard to every public housing
3 project or complex, and to the tenants and other occupants of
4 the housing project, free of charge and without condition or
5 other requirement, all the facilities, services, and privileges
6 as it provides or furnishes, with or without charge or other
7 consideration, to any person or persons. The facilities and
8 services may include police protection, fire protection, street
9 lighting, paving maintenance, traffic control, garbage or trash
10 collection and disposal, use of streets or highways, use of
11 county incinerators or garbage dumps, storm drainage, and sewage
12 disposal. In addition, each county, upon request of the
13 authority and free of charge and without condition or other
14 requirement, shall open or close, but not construct or
15 reconstruct, streets, roads, highways, alleys, or other
16 facilities within any public housing project or complex within
17 the county. Nothing in this section shall be construed to
18 restrict or limit the power of the authority to agree to pay, or
19 to pay, for any and all of the facilities, services, and
20 privileges, if in its discretion it deems the payment advisable.

21 **§ -103 Construction of additional powers.** Sections
22 -101 and -102 shall not be construed as abrogating,



1 limiting, or modifying parts II, III, or IV, including
2 amendments thereto.

3 **§ -104 Charges for prior services by counties to**
4 **authority.** Every county (including departments, boards, or
5 instrumentalities thereof) which has, prior to May 14, 1949,
6 provided or furnished any facilities, services, or privileges,
7 including, without limitation to the generality of the
8 foregoing, garbage and trash collection and disposal, use of
9 streets or highways, and use of county incinerators or garbage
10 dumps, to the authority or its predecessors in interest in
11 regard to any public housing project or complex owned, operated,
12 or administered by the authority under any law or laws, or to
13 the tenants or occupants of the public housing project or
14 complex, for which facilities, services, or privileges the
15 authority, or the tenants or occupants have not paid, is
16 prohibited from charging, collecting, or receiving any
17 privileges, except such sum or sums as the authority, in its
18 discretion, may hereafter agree to pay for the same.

19 **§ -105 Garbage and trash disposal.** Every county that
20 maintains or operates any garbage or trash collection and
21 disposal service shall collect, free of charge, and dispose of
22 garbage and trash at and from any public housing project or



1 complex located within the county, which is owned, operated, or
2 administered by the authority. Upon request of the authority,
3 each county shall allow the authority to establish, maintain, or
4 operate its own garbage and trash collection and disposal
5 service for any or all public housing projects or complexes
6 located within the county, and in regard to the service, shall
7 allow the authority to use, free of charge, all incinerators,
8 garbage dumps, and other facilities that the county may own,
9 control, or operate.

10 Nothing in this section shall prohibit or prevent the
11 authority from paying, and any county from receiving, any sum or
12 sums that the authority in its discretion may agree to pay as
13 reasonable compensation for the services or facilities provided
14 by any county pursuant to this section.

15 **§ -106 Furnishing of free water not required.** Sections
16 -102 to -105 shall not be construed to require the
17 furnishing of any free water to the authority or to the tenants
18 or occupants of any public housing project or complex owned,
19 operated, or administered by the authority.

20 **§ -107 Regulation of traffic within public housing**
21 **projects in the various counties.** (a) Any law to the contrary
22 notwithstanding, the council of the city and county of Honolulu



1 may regulate traffic within the various public housing projects
2 of the authority in that county by ordinance.

3 (b) Any law to the contrary notwithstanding, the county
4 councils of the counties of Hawaii, Maui, and Kauai may regulate
5 traffic within the various public housing projects of the
6 authority within their respective counties by ordinance.

7 (c) No ordinance or regulations enacted by the council of
8 any county regulating traffic within the public housing projects
9 of the authority within the county shall be valid or effective
10 unless prior thereto, the authority has entered into a written
11 contract with the county absolving the county from any and all
12 responsibility or liability for the construction, maintenance,
13 and repair of any streets, lanes, alleys, or highways or street
14 markers, traffic signs, or signal devices within the public
15 housing projects of the authority.

16 § -108 **Additional powers.** The powers conferred upon the
17 authority by this part shall be in addition and supplemental to
18 the powers conferred by any other law, and nothing in this part
19 shall be construed as limiting any powers, rights, privileges,
20 or immunities of the authority.

21 **PART VII. HOMELESS ASSISTANCE**

22 **A. General Provisions**



1 **§ -121 Definitions.** As used in this part, unless the
2 context otherwise requires:

3 "Donor" means any individual, partnership, corporation,
4 joint-stock company, unincorporated organization, foundation,
5 estate, trust, or any other person or firm that donates money,
6 real property, goods, or services to a homeless facility, or any
7 other program for the homeless authorized by this part,
8 including members of any governing body, trustees, officers,
9 partners, principals, stockholders, members, managers,
10 employees, contractors, agents of these entities, or any person
11 who was involved with the donation.

12 "Emergency shelter" means a homeless facility designed to
13 provide temporary shelter and appropriate and available services
14 to homeless families or individuals for up to six weeks.

15 "Homeless" means:

- 16 (1) An individual or family who lacks a fixed, regular,
17 and adequate night-time residence; or
- 18 (2) An individual or family who has a primary night-time
19 residence that is:
- 20 (A) A supervised publicly or privately operated
21 shelter designed to provide temporary living
22 accommodations;



1 (B) An institution that provides temporary residence
2 for individuals intended to be institutionalized;
3 or

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

7 This term does not include any individual imprisoned or
8 otherwise detained under an Act of Congress or a state law.

9 "Homeless facility" means a development designed to provide
10 shelter for homeless families or individuals pursuant to this
11 part, or to facilitate any other homeless program authorized by
12 this part, and may include emergency or transitional shelters.

13 "Homeless shelter stipend" means a payment to a provider
14 agency or to the authority on behalf of a homeless family or
15 individual to assist with the costs of operating a homeless
16 facility and providing appropriate services.

17 "Provider agency" means an organization, including its
18 governing board, officers, employees, contractors, or agents,
19 contracted by the authority to provide labor and services to any
20 homeless facility, or any other program for the homeless
21 authorized by this part, that is:



1 (1) A for-profit organization incorporated under the laws
2 of the State or a nonprofit organization determined by
3 the Internal Revenue Service to be exempt from the
4 federal income tax; or

5 (2) A nonprofit organization, with a governing board whose
6 members have no material conflict of interest and who
7 serve without compensation, with bylaws or policies
8 that describe the manner in which business is
9 conducted and policies that relate to nepotism and
10 management of potential conflict of interest
11 situations.

12 "Transitional shelter" means a homeless facility designed
13 to provide temporary shelter and appropriate and available
14 services to homeless families or individuals for up to twenty-
15 four months, pursuant to rule.

16 **§ -122 Duties.** (a) In addition to any other power or
17 duty prescribed by law, the authority shall administer and
18 operate homeless facilities and any other program for the
19 homeless authorized by this part; establish programs for the
20 homeless; and take any other actions necessary to effectuate the
21 purposes of this part.



1 (b) The authority shall adopt rules pursuant to chapter 91
2 for the purposes of this part; provided that these rules or any
3 rules relating directly to homelessness authorized by any
4 statute, shall be exempt from the public notice, public hearing,
5 and gubernatorial approval requirements of chapter 91, and shall
6 take effect immediately upon filing with the office of the
7 lieutenant governor.

8 **§ -123 Exception to liability for donors.** (a) Any
9 donor who gives money to a provider agency, to a homeless
10 facility to or through the authority, or for any other program
11 for the homeless authorized by this part, shall not be liable
12 for any civil damages resulting from the donation.

13 (b) Any donor who gives land and improvements, or who
14 leases land and improvements at a nominal consideration, to a
15 provider agency, to a homeless facility to or through the
16 authority, or for any other program for the homeless authorized
17 by this part, shall not be liable for any civil damages
18 resulting from the donation except as may result from the
19 donor's gross negligence or wanton acts or omissions; provided
20 that, if the donor at the time of donation gave the authority a
21 full accounting of all the dangers concerning the land and



1 improvements known to the donor, then the donor shall not be
2 liable for any civil damages resulting from the donation.

3 (c) Any donor who in good faith and without remuneration
4 or expectation of remuneration provides services or materials
5 used to build and construct a facility for the homeless, or who
6 renovates, repairs, or maintains an existing or acquired
7 facility for the homeless, or who provides shelter to homeless
8 persons, shall not be liable for any civil damages resulting
9 from the donor's acts or omissions, except for damages resulting
10 from the donor's gross negligence relating to the donation.

11 (d) The authority shall be responsible for inspecting,
12 reviewing, analyzing, qualifying, and determining that the land,
13 structures, materials, or services donated to the authority for
14 use by the authority in facilities for the homeless are
15 reasonably safe for public use.

16 **§ -124 Contract or conveyance to the authority.**

17 Notwithstanding any other law to the contrary, the board of land
18 and natural resources or other state agency holding lands and
19 improvements, may contract or otherwise convey at a nominal
20 consideration, by direct negotiation and without recourse to
21 public auction, the land and improvements, or the management,
22 operation, and administrative responsibility over the land and



1 improvements, to the authority or its designee. The land and
2 improvements shall be used by the authority or its designee for
3 homeless facilities or for any other program for the homeless
4 authorized by this part.

5 **§ -125 Program administration.** To the extent that
6 appropriations are made available, the authority may contract
7 with a provider agency to administer homeless facilities, or any
8 other program for the homeless created by this part. The
9 selection of provider agencies to administer homeless
10 facilities, or any other program for the homeless authorized by
11 this part, shall not be subject to chapters 42F, 102, 103, and
12 103F. The selection of provider agencies shall be subject to
13 qualifying standards and criteria established by rule.

14 In addition, the provider agency shall be qualified by the
15 authority to operate and manage a homeless facility, or any
16 other program for the homeless authorized by this part, pursuant
17 to standards and criteria established by rules for eligibility.

18 **§ -126 Time limits.** To the extent that appropriations
19 are made available, a provider agency shall provide shelter or
20 any other program assistance authorized by this part to eligible
21 homeless families and homeless individuals not later than two
22 days, or such time as is set by rule which shall not be later



1 than seven days, after they apply and qualify for the shelter or
2 other program assistance. These time limits may be waived at
3 the discretion of the authority for a maximum period of fourteen
4 days for the purpose of implementing repairs to the subject
5 shelter, that the authority deems major or extensive.

6 **§ -127 Determination of eligibility and need.** (a) The
7 provider agency operating and managing a homeless facility, or
8 any other program for the homeless authorized by this part, or
9 the authority operating and managing its own homeless facility,
10 shall be responsible for determining if an applicant is eligible
11 for shelter or other services at the homeless facility or
12 through any other program for the homeless, pursuant to
13 standards and criteria established by rule.

14 (b) The provider agency or the authority operating and
15 managing its own homeless facility shall determine the degree of
16 need for each homeless family or individual and in its
17 determination shall consider the resources available and the
18 number of potential eligible applicants in the area served by
19 the homeless facility or other program for the homeless
20 authorized by this part.

21 (c) The authority may establish by rule standards and
22 criteria for eligibility, need, and priority for each program;



1 provided that the authority may establish by rule exceptions to
2 these eligibility requirements based on special circumstances.

3 **§ -128 Abuse of assistance.** (a) The provider agency
4 operating and managing a homeless facility, or any other program
5 for the homeless authorized by this part, or the authority
6 operating and managing its own homeless facility, shall be
7 responsible for determining whether a participant is no longer
8 eligible for shelter or other services at the homeless facility
9 or through any other program for the homeless, pursuant to
10 standards and criteria established by rule.

11 (b) Pursuant to rule and the right of due process, the
12 authority or its designee, or provider agencies together with
13 the authority, may act to bar homeless families or individuals
14 from participating further in any homeless facility, may issue a
15 writ of possession, and take such other actions as provided by
16 rule.

17 The enforcement of a writ of possession shall be effected
18 either by an officer appointed by the authority, who shall have
19 all of the powers of a police officer for all action in
20 connection with the enforcement of the writ, or any other law
21 enforcement officer of the State or any county, whose duty it
22 shall be to enforce the writ. The person enforcing the writ



1 shall remove all persons from the premises and put the authority
2 or its designee, or the provider agency designated by the
3 authority, in full possession thereof.

4 Upon eviction, the household goods and personal effects of
5 the person against whom the writ is entered, and those of any
6 persons using the premises incident to the person's holding, may
7 be removed from the premises immediately and sold or otherwise
8 disposed of by the authority or its designee, or the provider
9 agency. If the action is taken, the authority or its designee,
10 or the provider agency, shall have a lien on the property so
11 removed for the expenses incurred by it in moving the property.

12 (c) Any person who enters or remains unlawfully in or upon
13 the premises or living quarters of any homeless facility, or any
14 other program for the homeless authorized by this part, after
15 reasonable warning or request to leave by that provider agency's
16 agents, the authority or its designee, or a police officer,
17 shall be guilty of a misdemeanor; provided that the offense in
18 this subsection shall be in addition to any other applicable
19 offense in the Hawaii Penal Code. A warning or request shall
20 only be issued if the person has engaged in unlawful conduct or
21 has violated house rules and regulations; provided that the
22 warning or request related to a violation of house rules shall



1 be issued only if that provider agency, or the authority or its
2 designee, has filed a copy of its current house rules governing
3 tenancy or participation at the shelter, facility, or program,
4 and any changes thereto, with the director of commerce and
5 consumer affairs. The house rules shall be reasonable and a
6 copy shall be provided to each tenant or participant. The
7 warning or request shall supersede any invitation by a tenant or
8 participant at the shelter, facility, or program to that person
9 to visit the premises or living quarters.

10 **§ -129 Exemptions.** (a) Any compensation received by a
11 provider agency for services rendered to homeless families or
12 individuals, or in operating or managing a homeless facility
13 authorized by this part, is exempt from taxation under chapter
14 237.

15 (b) Any county mayor may exempt, by executive order,
16 donors and provider agencies from real property taxes, water and
17 sewer development fees, rates collected for water supplied to
18 consumers and for use of sewers, and any other county taxes,
19 charges, or fees; provided that any county may enact ordinances
20 to regulate the exemptions granted by this subsection.

21 (c) Any provider agency operating or managing a homeless
22 facility, or any other program for the homeless authorized by



1 this part, is exempt, for purposes of those facilities or
2 programs, from any requirements contained in part VIII of
3 chapter 346 and chapters 467 and 521.

4 **§ -130 Emergency or transitional shelter volunteers.**

5 (a) For the purposes of this section, "emergency or
6 transitional shelter volunteer" means an individual who:

- 7 (1) Is a tenant at an emergency or transitional shelter
8 administered pursuant to this part;
- 9 (2) Is not an employee of the provider agency operating or
10 managing the shelter;
- 11 (3) Is under the direction of the provider agency
12 operating or managing the shelter and not the
13 authority or the State; and
- 14 (4) Provides up to eighty hours of volunteer labor or
15 services per month to the provider agency operating or
16 managing the shelter, notwithstanding payment of
17 stipends or credits for the labor and services.

18 (b) Provider agencies may accept labor and services from
19 emergency or transitional shelter volunteers.

20 (c) In addition to any exemptions granted to nonpaid
21 labor, emergency or transitional shelter volunteers who
22 acknowledge in writing that they are emergency or transitional



1 shelter volunteers, shall not be construed to be in the employ
2 of the provider agency operating or managing the shelter. The
3 volunteers' labor and services provided to the provider agency
4 operating or managing the shelter shall not be construed to
5 constitute employment, and the volunteers shall not be construed
6 to be employees of the provider agency operating or managing the
7 shelter, under any labor law.

8 **§ -131 Annual performance audits.** (a) The authority
9 shall require any provider agency that dispensed shelter or
10 assistance for any homeless facility or any other program for
11 the homeless authorized by this part to submit to the authority
12 a financial audit and report on an annual basis conducted by a
13 certified public accounting firm. This audit and report shall
14 contain information specific to the funds received under state
15 homeless program contracts. The audit shall include
16 recommendations to address any problems found.

17 (b) Continuing contracts with provider agencies to
18 participate in any program for the homeless authorized by this
19 part shall require that the provider agency address the
20 recommendations made by the auditing agency, subject to
21 exceptions as set by the authority.



1 (c) Failure to carry out the recommendations made by the
2 auditing agency may be grounds for the authority to bar a
3 provider agency from further contracts for programs authorized
4 by this part until the barred provider has addressed all
5 deficiencies.

6 **§ -132 Provider agency and donor cooperation are not in**
7 **restraint of trade.** No provider agency or any other agency, or
8 donor or donors, or method or act thereof that complies with
9 this part, shall be deemed a conspiracy or combination in
10 restraint of trade or an illegal monopoly, or an attempt to
11 lessen competition or fix prices arbitrarily, or the creation of
12 a combination or pool, or to accomplish any improper or illegal
13 purpose. Any cooperation or agreement established pursuant to
14 rule shall not be considered as illegal, in restraint of trade,
15 or as part of a conspiracy or combination to accomplish an
16 illegal purpose or act.

17 **§ -133 Construction of part.** If there is any conflict
18 between this part and any other law, this part shall control.

19 **§ -134 Homeless shelter stipends.** (a) The stipend
20 limits per shelter unit of zero bedrooms shall be adjusted by
21 the authority annually on the first day of July pursuant to
22 standards established by rule which may consider changes in the



1 cost of operating homeless facilities, the fair market rents,
2 the consumer price index, or other relevant factors. A "shelter
3 unit of zero bedrooms" means a living unit that is a studio unit
4 or a single-room occupancy unit. The homeless shelter stipend
5 at transitional shelters for larger shelter units shall be
6 related to the difference in unit size, pursuant to standards
7 established by rule.

8 (b) The authority may make or may contract to make
9 homeless shelter stipend payments on behalf of one or more
10 homeless families or individuals to a provider agency operating
11 or managing an emergency or transitional shelter or, in the case
12 that the authority itself operates and manages a homeless
13 facility, to the authority in amounts and under circumstances as
14 provided by rule. The contract may specify a minimum total
15 amount of homeless shelter stipends to be received by a provider
16 agency for making its shelter and services available to eligible
17 homeless families or individuals, pursuant to rule.

18 (c) In making homeless shelter stipend payments to a
19 provider agency, the authority may establish minimum services to
20 be provided by the provider agency to homeless families or
21 individuals at the agency's shelter. The authority may also
22 direct provider agencies to establish and manage a savings



1 account program as described in subsection (d). Additionally,
2 the authority may direct provider agencies to subcontract for
3 outreach services from other private agencies specializing in
4 programs for the unsheltered homeless.

5 (d) Provider agencies and the authority may establish and
6 collect shelter and services payments from homeless families or
7 individuals in addition to the amount received in homeless
8 shelter stipend payments pursuant to rule. Provider agencies
9 and the authority may also set aside a portion of the payments
10 in a savings account to be made available to homeless families
11 or individuals when these families and individuals vacate the
12 shelter.

13 § -135 **Additional powers.** The powers conferred upon the
14 authority by this part shall be in addition and supplemental to
15 the powers conferred by any other law, and nothing in this part
16 shall be construed as limiting any powers, rights, privileges,
17 or immunities conferred.

18 B. Hale Kokua Program

19 § -141 **Findings and purpose.** The legislature finds that
20 the issue of homelessness should be regarded as one of the
21 State's most significant social problems. The severity of the
22 problem is visible in every area of the state, and evidence that



1 the problem is escalating is becoming more and more apparent.
2 The problem of homelessness impacts everyone, and the burden of
3 rectifying this problem should be approached comprehensively and
4 as a collective responsibility.

5 The purpose of this subpart is to establish a homeless
6 assistance program known as the Hale Kokua program that would
7 authorize the payment of a state grant and a monthly rent
8 supplement to an interested property owner who sets aside any
9 existing rental space or undertakes the improvement or
10 construction of an adjoining or separate dwelling unit, for the
11 purpose of renting the unit to any family or individual
12 classified as employed but homeless under the program, for a
13 period of five years.

14 The program will place a priority on assisting homeless
15 families in the greatest need. To ensure that no particular
16 district or community of the State is unduly burdened by the
17 sudden influx of homeless families holding rental contracts with
18 qualified homeowners under the program, the number of homeowners
19 authorized to take part in the Hale Kokua program will be
20 limited to ten per census tract.

21 The Hale Kokua program shall assist homeless families and
22 individuals who are willing to engage in self-improvement



1 programs and regular employment by providing an alternative to
2 living in homeless shelters where homeless families as well as
3 the special needs homeless are indiscriminately grouped
4 together. Developing the employment skills of participating
5 tenants is an integral component of the program.

6 The program will also allow other available programs to
7 focus more intently on the special needs of the homeless. The
8 Hale Kokua program calls for a cooperative effort between the
9 State, the counties, and the federal government to provide the
10 community and the Hale Kokua program with the resources and the
11 incentives needed to eliminate the condition of homelessness.
12 Since the Hale Kokua program involves the public and private
13 sectors, the cost of implementing this program should be far
14 less than the cost of building new homeless shelter facilities.

15 The program has the potential to drastically reduce the
16 number of homeless families and individuals living in public
17 areas, and to ultimately provide full and free access to
18 Hawaii's malls, streets, parks, and campgrounds. As a result,
19 Hawaii's overall quality of life will be enriched and Hawaii's
20 reputation as one of the most beautiful visitor destinations
21 will be enhanced.



1 **§ -142 Definitions.** As used in this subpart, unless the
2 context clearly requires otherwise:

3 "Employed but homeless" means any person who is homeless as
4 defined in subpart A who is employed at least nineteen hours a
5 week or participates in an employment training program and does
6 volunteer work for a total of nineteen hours per week until
7 employment can be found.

8 **§ -143 Hale Kokua program; established.** There is
9 established, within the authority, a homeless assistance program
10 known as the Hale Kokua program, to provide incentives and
11 assistance to private homeowners throughout the state who set
12 aside existing dwelling units, or construct or renovate dwelling
13 units, for rental for a period of five years by families or
14 individuals classified as employed but homeless. The authority
15 shall administer the Hale Kokua program and adopt the standards
16 and framework necessary to implement the program.

17 **§ -144 Powers and duties.** (a) The authority may
18 contract with private sector agencies to carry out the duties
19 and responsibilities of the program.

20 Notwithstanding any other law to the contrary, any
21 contracts entered into by the authority with a private sector



1 agency pursuant to this subsection shall not be subject to
2 chapters 76 and 89.

3 (b) The duties of the authority or contracted agency shall
4 include:

5 (1) Carrying out the requirements of the Hale Kokua
6 program under this subpart;

7 (2) Developing and adopting the requirements, eligibility,
8 registration, background check, initial screening
9 procedures, and procedures for follow-up after
10 placement to determine the ability to make rental
11 payments and the need for social services and
12 referrals for homeless families and individuals to
13 qualify them as tenants under this program;

14 (3) Developing and adopting the requirements,
15 qualifications, and registration procedures for
16 property owners who provide rental housing to
17 qualified homeless tenants; provided that priority
18 shall be given to those not requesting construction
19 grants;

20 (4) Developing appropriate procedures to address potential
21 liabilities of the State;



- 1 (5) Adopting procedures to place qualified homeless
2 tenants with property owners participating in the
3 program. Participating property owners shall
4 interview and make final tenant selection from lists
5 of prospective tenants compiled by the authority or
6 the contracted agency;
- 7 (6) Establishing the procedures and requirements for the
8 disbursement of building improvement grants and rental
9 subsidies and the amounts thereof to property owners
10 participating in the program;
- 11 (7) Working with the counties to develop and propose
12 uniform incentives to encourage and facilitate the
13 participation of property owners, including real
14 property tax waivers or reductions, and exemptions in
15 zoning or building code requirements which shall be
16 conditioned on participation in the program and which
17 shall lapse when program participation ends;
- 18 (8) Monitoring the financial status and progress of
19 homeless tenants and cooperating with other agencies
20 in establishing and coordinating job training and
21 other programs to help tenants to progress toward
22 self-sufficiency;



- 1 (9) Promoting and assisting in the development of
2 employer-employee relationships between homeless
3 tenants and participating property owners, including
4 but not limited to tenant caretaker, housekeeper, or
5 groundskeeper employment situations;
- 6 (10) Working towards securing financial, in-kind, and
7 administrative assistance from law enforcement and
8 other state and county agencies and the private sector
9 to implement the program;
- 10 (11) Working towards securing funding assistance from
11 federal agencies and programs involved in housing
12 development, job-training, or homeless assistance;
- 13 (12) Monitoring the progress of the Hale Kokua program, and
14 collecting annual statistics showing the numbers of
15 homeless people, homeless families, and homeless
16 children, using appropriate measurement systems; and
- 17 (13) Preparing recommendations to improve and expand the
18 program, including but not limited to incentives for
19 participating property owners to sign up for
20 additional terms.

21 **-145 Homeowner participation; limitation; payments and**
22 **assistance.** (a) The authority shall limit participation to not



1 more than ten property owners within each census tract at any
2 given period in time, without regard to the existence or
3 operation of shelters and other facilities to aid the homeless
4 in the tract. The authority or contracted agency shall notify
5 prospective participants registered on the waiting list in each
6 census tract of the opportunity to participate in the program as
7 these opportunities may arise in each tract.

8 (b) Assistance to any qualified property owner providing
9 rental housing to any homeless tenant under this subpart for a
10 period of five years shall include but not be limited to at
11 least one of the following:

12 (1) The payment of a state grant to offset the cost of
13 renovating, building any adjoining addition, or
14 constructing any separate structure upon the premises
15 of the owner's property in preparation for its use as
16 a homeless assistance unit under the program;

17 (2) The payment of a monthly state rent subsidy to
18 supplement the monthly rental payments made by the
19 homeless tenant;

20 (3) Real property tax rate waivers or reductions proposed
21 by the authority and approved by the council of the
22 county in which the property is located;



1 (4) Zoning and building code exemptions applicable to the
2 construction of adjoining or separate dwelling units
3 on the owner's property, provided that the county, by
4 ordinance, may establish minimum development and
5 construction standards for these units and procedures
6 for approval thereto; and

7 (5) Other incentives consistent with the purposes of this
8 subpart to assist in the participation of property
9 owners under the program.

10 **§ -146 Early withdrawal from program; recovery of grant.**

11 (a) Any property owner who withdraws without just cause from
12 the Hale Kokua program prior to the end of the five-year period
13 shall return the state grant for construction improvements
14 within ninety days of the date of withdrawal. The authority
15 shall effect the recovery of the grant, including but not
16 limited to the filing of liens against the real property of
17 withdrawing property owners. The authority shall be awarded
18 reasonable attorneys' fees and costs as determined by the court
19 in any action brought to enforce this subpart.

20 (b) The county government whose jurisdiction includes the
21 site shall determine the disposition of the additional unit



1 constructed with the grant in accordance with the due process of
2 law.

3 **§ -147 Availability of funding.** All rental subsidies,
4 grants, and payments allocated by the Hale Kokua program under
5 this subpart shall be subject to the availability of funds.

6 **PART VIII. STATE RENT SUPPLEMENT PROGRAM**

7 **§ -151 Rent supplements.** The authority is authorized to
8 make and contract to make annual payments to a "housing owner"
9 on behalf of a "qualified tenant", as those terms are defined in
10 this part, in amounts and under circumstances as prescribed in
11 or pursuant to this part. No payment on behalf of a qualified
12 tenant shall exceed a segregated amount of \$160 a month.

13 **§ -152 Housing owner; defined.** As used in this part,
14 the term "housing owner" means:

15 (1) A private nonprofit corporation or other private
16 nonprofit legal entity, a limited dividend corporation
17 or other limited dividend legal entity, or a
18 cooperative housing corporation, that is a mortgagor
19 under Section 202, 207, 213, 221(d)(3), 221(d)(5), or
20 231 of the United States Housing Act of 1937, as
21 amended, or that conforms to the standards of those
22 sections but that is not a mortgagor under those



1 sections or any other private mortgagor under the
2 United States Housing Act of 1937, as amended, for
3 very low-income, low-income, or moderate-income family
4 housing, regulated or supervised under federal or
5 state laws or by political subdivisions of the State,
6 or agencies thereof, as to rents, charges, capital
7 structure, rate of return, and methods of operation,
8 from the time of issuance of the building permit for
9 the project;

10 (2) Any other owner of a standard housing unit or units
11 deemed qualified by the authority; and

12 (3) The authority.

13 **§ -153 Qualified tenant; defined.** As used in this part,
14 the term "qualified tenant" means any single person or family,
15 pursuant to criteria and procedures established by the
16 authority, who has been determined to have an income not
17 exceeding the very low-income limit as determined by the
18 authority pursuant to rules adopted by the authority; provided
19 that the qualified tenant's primary place of residence shall be
20 in the state or the qualified tenant intends to make the state
21 the qualified tenant's primary place of residence. The terms
22 "qualified tenant" and "tenant" include a member of a



1 cooperative who satisfies the foregoing requirements and who,
2 upon resale of the member's membership to the cooperative, will
3 not be reimbursed for more than fifty per cent of any equity
4 increment accumulated through payments under this part. With
5 respect to members of a cooperative, the terms "rental" and
6 "rental charges" mean the charges under the occupancy agreements
7 between the members and the cooperative.

8 **§ -154 Relationship of annual payment to rental and**
9 **income.** The amount of the annual payment with respect to any
10 dwelling unit shall not exceed the amount by which the fair
11 market rental for that unit exceeds thirty per cent of the
12 tenant's income as determined by the authority pursuant to
13 procedures and rules pursuant to chapter 91.

14 **§ -155 Determination of eligibility of tenants and**
15 **rental charges.** (a) For purposes of carrying out this part,
16 the authority shall establish criteria and procedures for
17 determining the eligibility of tenants and rental charges,
18 including criteria and procedures with respect to periodic
19 review of the tenant's income and periodic adjustment of rental
20 charges. The authority shall issue, upon the request of a
21 housing owner, certificates as to the income of the individuals



1 and families applying for admission to, or residing in,
2 dwellings of that owner.

3 (b) Procedures adopted by the authority hereunder shall
4 provide for recertification of the incomes of tenants, except
5 elders, at intervals of two years, or at shorter intervals, for
6 the purpose of adjusting rental charges and annual payments on
7 the basis of tenants' incomes, but in no event shall rental
8 charges adjusted under this part for any dwelling exceed the
9 fair market rental of the dwelling.

10 (c) No payments under this part may be made with respect
11 to any property for which the costs of operation, including
12 wages and salaries, are determined by the authority to be
13 greater than similar costs of operation of similar housing in
14 the community where the property is situated.

15 **§ -156 Rules.** The authority may adopt under chapter 91
16 all rules necessary to carry out the purpose of this part,
17 including rules relating to determining preference among
18 applicants for state rent supplements.

19 **§ -157 Additional powers.** The powers conferred upon the
20 authority by this part shall be in addition and supplemental to
21 the powers conferred by any other law, and nothing in this part



1 shall be construed as limiting any powers, rights, privileges,
2 or immunities so conferred.

3 **PART IX. STATE SALES HOUSING PROGRAM**

4 **§ -161 State sales housing.** Notwithstanding any law to
5 the contrary, the authority shall have and may exercise the same
6 powers, subject to applicable limitations, as those granted the
7 Hawaii housing finance and development corporation pursuant to
8 the sales provisions of sections 201H-O through 201H-T, and may
9 permit any member of a tenant family of a public housing
10 project, or any qualified individual meeting the income
11 standards under Section 221(d)(3) of the United States Housing
12 Act of 1937, as amended, to enter into a contract for the
13 acquisition of a dwelling unit and lot or the acquisition of a
14 dwelling unit and the lease of its lot, the lease to conform to
15 chapter 171 with the exception that the lease shall not require
16 bid, auction, or negotiation, in any public housing project,
17 state low-income housing project, or elderly housing project
18 that is suitable for sale and for occupancy by the purchaser or
19 a member or members of the purchaser's family.

20 **§ -162 Additional powers.** The powers conferred upon the
21 authority by this part shall be in addition and supplemental to
22 the powers conferred by any other law, and nothing in this part



1 shall be construed as limiting any powers, rights, privileges,
2 or immunities so conferred."

3 PART II

4 SECTION 3. Chapter 201H, Hawaii Revised Statutes, is
5 amended by adding a new part to be appropriately designated and
6 to read as follows:

7 "PART . HOUSING DEVELOPMENT PROGRAMS

8 §201H-A Criteria. In administering this chapter and other
9 laws of the State applicable to the supplying of housing or the
10 assistance in obtaining housing, the corporation shall give
11 preference to those applicants most in need of assistance in
12 obtaining housing, in light of the amount of moneys available
13 for the various programs. In doing so, the corporation shall
14 take into consideration the applicant's household income and
15 number of dependents; the age of the applicant; the physical
16 disabilities of the applicant or those living with the
17 applicant; whether or not the present housing of the applicant
18 is below standard; whether or not the applicant's need for
19 housing has arisen by reason of displacement of the applicant by
20 governmental actions; and other factors as it may deem
21 pertinent.



1 **§201H-B Definitions.** The following terms, wherever used
2 or referred to in this part, shall have the following respective
3 meanings unless a different meaning clearly appears from the
4 context:

5 "Develop" or "development" means the planning, financing
6 and acquisition of real and personal property; demolition of
7 existing structures and clearance of real property;
8 construction, reconstruction, alteration, or repairing of
9 approaches, streets, sidewalks, utilities, and services, or
10 other site improvements; construction, reconstruction, repair,
11 remodeling, extension, equipment, or furnishing of buildings or
12 other structures; or any combination of the foregoing, of any
13 housing project. It also includes any and all undertakings
14 necessary therefor, and the acquisition of any housing, in whole
15 or in part.

16 "Eligible bidder" means a person, partnership, firm, or
17 corporate entity determined by the corporation:

- 18 (1) To be qualified by experience and financial
19 responsibility to construct housing of the type
20 proposed to be contracted; and
21 (2) To have submitted the lowest acceptable bid.



1 "Eligible developer" means any person, partnership,
2 cooperative including limited-equity housing cooperatives as
3 defined in chapter 421H, firm, nonprofit or for-profit entity,
4 or public agency determined by the corporation:

5 (1) To be qualified by experience, financial
6 responsibility, and support to construct housing of
7 the type described and of the magnitude encompassed by
8 the given project;

9 (2) To have submitted plans for a housing project
10 adequately meeting the objectives of this chapter, the
11 maintenance of aesthetic values in the locale of the
12 project, and the requirements of all applicable
13 environmental statutes and rules; and

14 (3) To meet all other requirements the corporation deems
15 to be just and reasonable, and all requirements
16 stipulated in this chapter.

17 "Purchaser's equity" means the difference between the
18 original cost of the dwelling unit to the purchaser, and the
19 principal amount of any mortgages, liens, or notes outstanding.

20 "Qualified resident" means a person who:

21 (1) Is a citizen of the United States or a resident alien;

22 (2) Is at least eighteen years of age;



- 1 (3) Is domiciled in the state and physically resides in
- 2 the dwelling unit purchased or rented under this
- 3 chapter;
- 4 (4) In the case of the purchase of real property in fee
- 5 simple or leasehold, has a gross income sufficient to
- 6 qualify for the loan to finance the purchase; or in
- 7 the case of a rental, demonstrates an ability to pay
- 8 rent as determined by the corporation and meets any
- 9 additional criteria established by the corporation for
- 10 the respective rental housing development for which
- 11 the applicant is applying; and
- 12 (5) Meets the following qualifications:
- 13 (A) Is a person who either by the person's self, or
- 14 together with spouse or household member, does
- 15 not own a majority interest in fee simple or
- 16 leasehold lands suitable for dwelling purposes or
- 17 a majority interest in lands under any trust
- 18 agreement or other fiduciary arrangement in which
- 19 another person holds the legal title to the land;
- 20 and
- 21 (B) Is a person whose spouse or household member does
- 22 not own a majority interest in fee simple or



1 leasehold lands suitable for dwelling purposes or
2 more than a majority interest in lands under any
3 trust agreement or other fiduciary arrangement in
4 which another person holds the legal title to the
5 land, except when husband and wife are living
6 apart under a decree of separation from bed and
7 board issued by the family court pursuant to
8 section 580-71;

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

16 "Short term project notes" means evidences of indebtedness
17 issued by the State for specified housing projects and secured
18 by the projects, the terms of which call for complete repayment
19 by the State of the face amount in not less than two nor more
20 than ten years.

21 **§201H-C Powers and duties, generally.** (a) The
22 corporation may develop fee simple or leasehold property,



1 construct dwelling units thereon, including condominiums,
2 planned units, and cluster developments, and sell, lease, or
3 rent or cause to be leased or rented, at the lowest possible
4 price to qualified residents, nonprofit organizations, or
5 government agencies, with an eligible developer or in its own
6 behalf:

7 (1) Fully completed dwelling units with the appropriate
8 interest in the land on which the dwelling unit is
9 located;

10 (2) Dwelling units that are substantially complete and
11 habitable with the appropriate interest in the land on
12 which the dwelling unit is located; or

13 (3) The land with site improvements (other than the
14 dwelling unit) either partially or fully developed.

15 (b) The corporation shall require all applicants for the
16 purchase of dwelling units to make application therefor under
17 oath, and may require additional testimony or evidence under
18 oath in connection with any application. The determination of
19 any applicant's eligibility under this chapter by the
20 corporation shall be conclusive as to all persons thereafter
21 dealing with the property; provided that the making of any false
22 statement knowingly by the applicant or other person to the



1 corporation in connection with any application shall constitute
2 perjury and be punishable as such. The corporation shall
3 establish a system to determine preferences by lot in the event
4 that it receives more qualified applications than it has
5 dwelling units available.

6 (c) The corporation shall adopt, pursuant to chapter 91,
7 rules on health, safety, building, planning, zoning, and land
8 use that relate to the development, subdivision, and
9 construction of dwelling units in housing projects in which the
10 State, through the corporation, shall participate. The rules
11 shall not contravene any safety standards or tariffs approved by
12 the public utilities commission, and shall follow existing law
13 as closely as is consistent with the production of lower cost
14 housing with standards that meet minimum requirements of good
15 design, pleasant amenities, health, safety, and coordinated
16 development.

17 When adopted, the rules shall have the force and effect of
18 law and shall supersede, for all housing projects in which the
19 State, through the corporation, shall participate, all other
20 inconsistent laws, ordinances, and rules relating to the use,
21 zoning, planning, and development of land, and the construction
22 of dwelling units thereon. The rules, before becoming



1 effective, shall be presented to the legislative body of each
2 county in which they will be effective and the legislative body
3 of any county may within forty-five days approve or disapprove,
4 for that county, any or all of the rules by a majority vote of
5 its members. On the forty-sixth day after submission, any rules
6 not disapproved shall be deemed to have been approved by the
7 county.

8 (d) The corporation may acquire, by eminent domain,
9 exchange, or negotiation, land or property required within the
10 foreseeable future for the purposes of this chapter. Whenever
11 land with a completed or substantially complete and habitable
12 dwelling or dwellings thereon is acquired by exchange or
13 negotiation, the exchange value or purchase price for each
14 dwelling, including land, shall not exceed its appraised value.
15 Land or property acquired in anticipation of future use may be
16 leased for the interim period by the corporation for such term
17 and rent as it deems appropriate.

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

21 (1) Land acquisition;

22 (2) The development and improvement of land;



- 1 (3) The construction of dwelling units;
- 2 (4) The purchase, lease, or rental of land and dwelling
3 units by qualified residents, nonprofit organizations,
4 or government agencies under this chapter;
- 5 (5) Payment for any services contracted for under this
6 chapter, including profit or recompense paid to
7 partners, and including community information and
8 advocacy services deemed necessary by the corporation
9 to provide for citizen participation in the
10 development of housing projects, the implementation of
11 this chapter, and the staffing of any citizen advisory
12 committee the corporation may establish;
- 13 (6) The cost of the repurchase of units under section
14 201H-Q;
- 15 (7) Loans for the rehabilitation and renovation of
16 existing housing; and
- 17 (8) Any other moneys required to accomplish the purposes
18 of this chapter.

19 (f) The corporation shall do all other things necessary
20 and convenient to carry out the purposes of this chapter.

21 **§201H-D Additional powers; development.** Notwithstanding
22 section 103-7, but with the approval of the governor, the



1 corporation may enter into and carry out agreements and
2 undertake projects or participate in projects authorized by this
3 chapter.

4 **§201H-E Bond financing.** The director of finance may issue
5 general obligation bonds and short term project notes of the
6 State in an aggregate amount not to exceed \$105,000,000 for the
7 dwelling unit revolving fund created by section 201H-EEEE.
8 Pending the receipt of funds from the issuance and sale of the
9 bonds and notes, the amount required for the purposes of this
10 chapter shall be advanced from the general fund of the State.
11 Upon the receipt of the bond or note funds, the general fund
12 shall be reimbursed. The director of finance may sequester and
13 separate the proceeds from the sale of the bonds and notes into
14 separate funds and the amounts in either fund may be used for
15 any of the purposes set forth in this chapter.

16 **§201H-F Exemption from general excise taxes.** (a) In
17 accordance with section 237-29, the corporation may approve and
18 certify for exemption from general excise taxes any qualified
19 person or firm involved with a newly constructed, or moderately
20 or substantially rehabilitated project:

21 (1) Developed under this part;



- 1 (2) Developed under a government assistance program
2 approved by the corporation, including but not limited
3 to the United States Department of Agriculture 502
4 program and Federal Housing Administration 235
5 program;
- 6 (3) Developed under the sponsorship of a private nonprofit
7 organization providing home rehabilitation or new
8 homes for qualified families in need of decent, low-
9 cost housing; or
- 10 (4) Developed by a qualified person or firm to provide
11 affordable rental housing where at least fifty per
12 cent of the available units are for households with
13 incomes at or below eighty per cent of the area median
14 family income as determined by the United States
15 Department of Housing and Urban Development, of which
16 at least twenty per cent of the available units are
17 for households with incomes at or below sixty per cent
18 of the area median family income as determined by the
19 United States Department of Housing and Urban
20 Development.
- 21 (b) All claims for exemption under this section shall be
22 filed with and certified by the corporation and forwarded to the



1 department of taxation. Any claim for exemption that is filed
2 and approved, shall not be considered a subsidy for the purpose
3 of this part.

4 (c) For the purposes of this section:

5 "Moderate rehabilitation" means rehabilitation to upgrade a
6 dwelling unit to a decent, safe, and sanitary condition, or to
7 repair or replace major building systems or components in danger
8 of failure.

9 "Substantial rehabilitation":

10 (1) Means the improvement of a property to a decent, safe,
11 and sanitary condition that requires more than routine
12 or minor repairs or improvements. It may include but
13 is not limited to the gutting and extensive
14 reconstruction of a dwelling unit, or cosmetic
15 improvements coupled with the curing of a substantial
16 accumulation of deferred maintenance; and

17 (2) Includes renovation, alteration, or remodeling to
18 convert or adapt structurally sound property to the
19 design and condition required for a specific use, such
20 as conversion of a hotel to housing for elders.

21 (d) The corporation may establish, revise, charge, and
22 collect a reasonable service fee, as necessary, in connection



1 with its approvals and certifications under this section. The
2 fees shall be deposited into the dwelling unit revolving fund.

3 **§201H-G Exemption from tax on income and obligations.**

4 Income earned and obligations issued by a nonprofit entity
5 determined to constitute a "public housing agency" pursuant to
6 Section 3(6) of the United States Housing Act of 1937, as
7 amended, and which income and obligations are declared by the
8 United States Department of Housing and Urban Development to be
9 exempt from all taxation imposed by the United States pursuant
10 to Section 11(b) of the Act, shall be exempt from all taxation
11 now or hereafter imposed by the State.

12 **§201H-H Housing development; exemption from statutes,**
13 **ordinances, charter provisions, and rules.** (a) The corporation
14 may develop on behalf of the State or with an eligible
15 developer, or may assist under a government assistance program
16 in the development of, housing projects that shall be exempt
17 from all statutes, ordinances, charter provisions, and rules of
18 any government agency relating to planning, zoning, construction
19 standards for subdivisions, development and improvement of land,
20 and the construction of dwelling units thereon; provided that:

21 (1) The corporation finds the housing project is
22 consistent with the purpose and intent of this



1 chapter, and meets minimum requirements of health and
2 safety;

3 (2) The development of the proposed housing project does
4 not contravene any safety standards, tariffs, or rates
5 and fees approved by the public utilities commission
6 for public utilities or of the various boards of water
7 supply authorized under chapter 54;

8 (3) The legislative body of the county in which the
9 housing project is to be situated shall have approved
10 the project:

11 (A) The legislative body shall approve or disapprove
12 the project by resolution within forty-five days
13 after the corporation has submitted the
14 preliminary plans and specifications for the
15 project to the legislative body. If on the
16 forty-sixth day a project is not disapproved, it
17 shall be deemed approved by the legislative body;

18 (B) No action shall be prosecuted or maintained
19 against any county, its officials, or employees
20 on account of actions taken by them in reviewing,
21 approving, or disapproving the plans and
22 specifications; and



1 (C) The final plans and specifications for the
2 project shall be deemed approved by the
3 legislative body if the final plans and
4 specifications do not substantially deviate from
5 the preliminary plans and specifications. The
6 final plans and specifications for the project
7 shall constitute the zoning, building,
8 construction, and subdivision standards for that
9 project. For purposes of sections 501-85 and
10 502-17, the executive director of the corporation
11 or the responsible county official may certify
12 maps and plans of lands connected with the
13 project as having complied with applicable laws
14 and ordinances relating to consolidation and
15 subdivision of lands, and the maps and plans
16 shall be accepted for registration or recordation
17 by the land court and registrar;

18 and

19 (4) The land use commission shall approve or disapprove a
20 boundary change within forty-five days after the
21 corporation has submitted a petition to the commission
22 as provided in section 205-4. If on the forty-sixth



1 day the petition is not disapproved, it shall be
2 deemed approved by the commission.

3 (b) For the purposes of this section, "government
4 assistance program" means a housing program qualified by the
5 corporation and administered or operated by the corporation or
6 the United States or any of their political subdivisions,
7 agencies, or instrumentalities, corporate or otherwise.

8 **§201H-I Starter homes; design standards; applicant**
9 **eligibility; authority to incorporate starter homes into housing**
10 **projects of the corporation.** (a) The corporation shall adopt
11 rules in accordance with chapter 91 to establish design and
12 construction standards for starter homes configured to expand
13 incrementally over time. For the purposes of this section,
14 "starter home" means a dwelling unit that is designed to meet
15 the basic living capacity requirements of homebuyers with
16 families of limited size by eliminating unnecessary design and
17 space amenities, but which nonetheless enables future expansion,
18 modification, and improvement by the owner to accommodate
19 increased occupancy over time as may be necessary. The rules
20 shall include building, setback, minimum lot size,
21 infrastructure, and architectural standards for the construction
22 and development of starter homes.



1 (b) In addition to the requirements of subsection (a), the
2 corporation shall adopt rules in accordance with chapter 91 to
3 establish the basic requirements for families eligible to
4 purchase starter homes under this section. The rules shall
5 include guidelines and restrictions on occupancy standards
6 initially permitted in a starter home, as well as the income
7 ranges of families eligible to qualify for purchases under this
8 section.

9 (c) The corporation may incorporate starter homes into any
10 affordable housing project developed by the corporation under
11 this chapter. The corporation shall determine on a project-by-
12 project basis the number of starter home units to be included in
13 each particular project.

14 (d) The corporation shall include in its annual report to
15 the legislature a report on the number of starter homes
16 constructed and developed by the corporation in accordance with
17 the authorization provided in this section.

18 **§201H-J Housing projects; construction and sponsorship.**

19 (a) The corporation, on behalf of the State or with eligible
20 developers and contractors, shall develop real property and
21 construct dwelling units thereon; provided that not less than
22 ten per cent of the total number of units in single-family



1 projects consisting of fifty units or more sponsored by the
2 corporation shall be first offered to owner-builders or to
3 nonprofit organizations assisting owner-builders in the
4 construction of units thereon. Qualifications for developers
5 and contractors shall be provided by rules adopted by the
6 corporation in accordance with chapter 91. Any person, if
7 qualified, may act as both the developer and the contractor.

8 (b) In selecting the eligible developers or in contracting
9 any services or materials for the purposes of this chapter, the
10 corporation shall not be subject to the competitive bidding
11 laws.

12 (c) If working in partnership with an eligible developer,
13 the corporation shall have sole control of the partnership,
14 shall keep all books of the partnership, and shall ascertain all
15 costs of the partnership, including the cost of services
16 performed by any other partners, and the corporation shall audit
17 the same. The other partners shall perform services for the
18 partnership under the direction of the corporation and shall be
19 reimbursed for all costs relating to the project as certified by
20 the corporation, including administrative and overhead costs.
21 Additionally, the other partners, upon transfer of title by the
22 corporation to the purchaser, shall be entitled to a guaranteed



1 gross share if the actual cost of the project does not exceed
2 the original project cost. The gross share shall not exceed
3 fifteen per cent of the original project cost prorated to the
4 dwelling units, less any amount subsidized by the State.

5 Subsidies shall include unrecovered development and land costs
6 and any other subsidized items as defined in rules adopted by
7 the corporation pursuant to chapter 91. The percentage of the
8 share shall be determined by the corporation by contract with
9 the partners based upon the nature of the services rendered by
10 them. For purposes of this subsection, "original project cost"
11 means the original budget of a project as approved by the
12 corporation without modification at a later date.

13 (d) The corporation may require that performance bonds be
14 posted to the benefit of the State with surety satisfactory to
15 the corporation guaranteeing performance by the other partners,
16 or the State may act as a self-insurer requiring security, if
17 any, from the other partners, as the corporation shall deem
18 necessary.

19 **§201H-K Independent development of projects.** (a) In any
20 county, the corporation may develop or may enter into agreements
21 to develop housing projects with an eligible developer if in the
22 corporation's reasonable judgment a project is primarily



1 designed for lower income housing. The agreement may provide
2 for the housing to be placed under the control of the
3 corporation, or to be sold by the corporation, or to be sold to
4 the corporation as soon as the units are completed and shall
5 contain terms, conditions, and covenants as the corporation, by
6 rules, deems appropriate. Every agreement shall provide for the
7 developer to furnish a performance bond in favor of the
8 corporation, assuring the timely and complete performance of the
9 housing project. Sureties on the bond shall be satisfactory to
10 the corporation.

11 (b) The plans and specifications for the housing project
12 shall:

- 13 (1) Provide for economically integrated housing by
14 stipulation and design;
- 15 (2) Provide for the sale of all dwelling units in fee
16 simple or in leasehold either to the corporation or to
17 the purchaser and in all cases subject to all of the
18 provisions of sections 201H-Q, 201H-S, and 201H-T
19 excepting units sold at market price; and
- 20 (3) Encompass the use of lands adequately suited to the
21 size, design, and types of occupancies designated in
22 subsection (a), properly located for occupancy by the



1 group for which the project was primarily designed,
2 properly districted for the use intended prior to the
3 agreement, and appropriately zoned within an urban
4 land use district or appropriate in its situation and
5 surroundings for more intensive or denser zoning.

6 (c) The corporation may accept and approve housing
7 projects independently initiated by private developers that
8 fully comply with subsections (a) and (b). The corporation may
9 review the plans, specifications, districting, and zoning of the
10 project for the purpose of exempting the project from all
11 statutes, ordinances, charter provisions, and rules of any
12 government agency relating to zoning and construction standards
13 for subdivisions, development, and improvement of land and the
14 construction, improvement, and sale of dwelling units thereon;
15 provided that the procedures in section 201H-H(a)(1), (2), and
16 (3) have been satisfied.

17 **§201H-L Private development of projects.** (a) The
18 corporation may enter into contracts with any eligible bidder to
19 provide for the construction of a housing project or projects.
20 Each contract shall provide that the housing project or projects
21 shall be placed under the control of the corporation as soon as
22 the unit is available for occupancy. Each contract also shall



1 provide that the capital stock of the mortgagor (where the
2 mortgagor is a corporate entity) be transferred to the
3 corporation when the housing project or projects have been
4 completed. Each contract shall contain terms and conditions
5 that the corporation may determine to be necessary to protect
6 the interests of the State. Each contract shall provide for the
7 furnishing by the contractor of a performance bond and a payment
8 bond with sureties satisfactory to the corporation, and the
9 furnishings of the bonds shall be deemed a sufficient compliance
10 with the provisions of law and no additional bonds shall be
11 required. Before the corporation shall enter into any contract
12 as authorized by this section for the construction of a housing
13 project or projects, it shall invite the submission of
14 competitive bids after giving public notice in the manner
15 prescribed by law.

16 (b) Notwithstanding any other law to the contrary, the
17 corporation may:

18 (1) Acquire the capital stock of mortgagors holding
19 property covered by a mortgage guarantee under this
20 chapter and established by this section; to exercise
21 the rights as holder of the capital stock during the



1 life of the mortgage and, upon the termination of the
2 mortgage, to dissolve the mortgagor;

3 (2) Guarantee the payment of notes or other legal
4 instruments of the mortgagors; and

5 (3) Make payments thereon.

6 All housing projects placed under the control of the corporation
7 pursuant to this section shall be deemed to be housing projects
8 under the jurisdiction of the State.

9 (c) On request by the corporation, the attorney general
10 shall furnish to the corporation an opinion as to the
11 sufficiency of title to any property on which a housing project
12 is proposed for construction, or on which housing projects have
13 been constructed, under this section. If the opinion of the
14 attorney general is that the title to the property is good and
15 sufficient, the corporation is authorized to guarantee, or enter
16 into a commitment to guarantee, the mortgagee against any losses
17 that may thereafter arise from adverse claims to the title.

18 None of the proceeds of any mortgage loan hereafter insured
19 shall be used for title search and title insurance costs;
20 provided that, if the corporation determines in the case of any
21 housing project that the financing of the construction of the
22 project is impossible unless title insurance is provided, the



1 corporation may provide for the payment of the reasonable costs
2 necessary for obtaining title search and title insurance. Any
3 determination by the corporation under this subsection shall be
4 set forth in writing, together with the reasons therefor.

5 (d) The State shall be authorized to guarantee the
6 repayment of one hundred per cent of the principal and interest
7 of loans from commercial lenders for the purposes of this
8 section pursuant to rules adopted by the corporation which shall
9 conform as closely as is possible to the practices of the
10 Federal Housing Administration in insuring loans under Sections
11 203 and 207 of the United States Housing Act of 1937, as
12 amended; provided that at no time shall the State's liability,
13 contingent or otherwise, on the guarantees exceed \$10,000,000.

14 **§201H-M Interim financing of projects.** (a) The
15 corporation may provide interim construction loans to eligible
16 developers. In addition to the rate of interest charged on
17 interim loans, the corporation may charge loan commitment fees
18 to be determined by rules adopted by the corporation.

19 (b) The interim loans shall be secured by a duly recorded
20 primary or secondary mortgage upon the fee simple or leasehold
21 interest in the land upon which the dwelling units are
22 constructed, or the corporation may require other security



1 interests and instruments as it deems necessary to secure the
2 indebtedness and such other conditions consistent with the
3 production and marketing of dwelling units at the lowest
4 possible prices. The corporation may also set the conditions of
5 a loan in a building and loan agreement between the eligible
6 developer and the corporation to secure the loan and the
7 performance of the developer to complete the project.

8 **§201H-N Commercial, industrial, and other uses.** (a) In
9 connection with the development of any dwelling units under this
10 chapter, the corporation may also develop commercial,
11 industrial, and other properties if it determines that the uses
12 can be an integral part of the development and can help to
13 preserve the lifestyles of the purchasers of dwelling units in
14 the development. The corporation may designate any portions of
15 the development for commercial, industrial, or other use and
16 shall have all the powers granted under this chapter with
17 respect thereto, including the power to bypass statutes,
18 ordinances, charter provisions, and rules of any government
19 agency pursuant to section 201H-H. For this purpose, the
20 corporation may use any of the funds authorized under this
21 chapter.



1 (b) The corporation shall adopt rules that shall provide
2 the manner in which the uses of properties shall be designated,
3 and shall provide that any commercial, industrial, or other
4 properties so developed shall be sold or leased at cost or at
5 economic rents or sales prices. Sale or lease shall be made at
6 cost to owners of commercial, industrial, or other facilities
7 displaced by the corporation. All other leases or sales shall
8 be at economic rents or sales prices determined by the
9 corporation, after appraisal, to be consistent with rents or
10 sales prices in similar locations or with similar terms. The
11 net proceeds of all such sales or leases, less costs to the
12 corporation, shall be deposited in the dwelling unit revolving
13 fund.

14 The rules may also provide that during the first twenty
15 years after its purchase, any commercial, industrial, or other
16 property so developed and sold may be resold or assigned only to
17 the corporation at the original purchase price plus the cost of
18 any improvements made by the purchaser together with simple
19 interest on all of the purchaser's equity in the property at the
20 rate of seven per cent a year. Rules may also provide that
21 ownership of the commercial, industrial, or other property



1 cannot be separated from ownership of the residential property
2 in connection with which it was sold or leased.

3 **§201H-O Sale; mortgage, agreement of sale, and other**
4 **instruments.** (a) The corporation shall sell completed dwelling
5 units or dwelling units that are substantially completed and
6 habitable, developed and constructed hereunder, to qualified
7 residents in fee simple, or shall cause them to be leased or
8 rented to qualified residents at a price or rental based on
9 costs as determined by the corporation. The gross share to the
10 other partners or contract payments and any amounts subsidized
11 by the State, including but not limited to the land, need not be
12 counted as cost so as to increase the price. These costs may be
13 borne by the State, pursuant to rules adopted by the corporation
14 subject to reimbursement upon sale as provided in section 201H-
15 Q.

16 (b) If a qualified purchaser is unable to obtain
17 sufficient funds at reasonable rates from private lenders, the
18 corporation, by way of mortgage, agreement of sale, or other
19 instrument to secure the indebtedness, may loan to the purchaser
20 up to one hundred per cent of the purchase price. The purchaser
21 in that event shall execute with the corporation an agreement of
22 sale, mortgage, or other instrument under the terms of which the



1 unpaid principal and the interest thereon shall be paid in
2 monthly installments over a period of not more than forty years.

3 (c) Every mortgage, agreement of sale, other instrument to
4 secure the indebtedness, or instrument of indebtedness executed
5 by the corporation may contain other provisions as are usually
6 found in such instruments and shall provide that the purchaser
7 may repay the whole or any part of the unpaid balance of the
8 purchase price plus accrued interest at any time without
9 prepayment penalty.

10 (d) If the purchaser defaults on the payment of any loan,
11 the corporation shall take all necessary action to collect the
12 delinquent principal and interest on the loan and may take all
13 actions allowed to holders of obligations, including the power
14 to repossess, lease, rent, repair, renovate, modernize, and sell
15 the property foreclosed, subject to the restrictions described
16 in this section.

17 (e) The mortgages, agreements of sale, and other
18 instruments of indebtedness, at the direction of the
19 corporation, may be assigned to and serviced by commercial banks
20 and other lending institutions doing business in the state at a
21 fee of not more than one-half of one per cent of the amount
22 loaned to the purchaser.



1 (f) Subsections (a) to (e) need not apply to market-priced
2 dwelling units in an economically integrated housing project,
3 except as otherwise determined by the developer of the units;
4 provided that preference shall be given to qualified residents
5 in the initial sale of market-priced units.

6 **§201H-P Co-mortgagor.** For purposes of qualifying for a
7 mortgage loan to finance the purchase of a dwelling unit under
8 this part, a "qualified resident" as defined in section 201H-B
9 may be assisted by a co-mortgagor who is a family member as
10 defined by the corporation, who may own other lands in fee
11 simple or leasehold suitable for dwelling purposes, whose
12 interest in the dwelling unit to be purchased is limited to no
13 more than one per cent, and who certifies that the co-mortgagor
14 does not intend to reside in the dwelling unit. The income and
15 assets of the co-mortgagor shall not be counted in determining
16 the eligibility of the "qualified resident" under this chapter.

17 **§201H-Q Real property; restrictions on transfer; waiver of**
18 **restrictions.** (a) The following restrictions shall apply to
19 the transfer of real property developed and sold under this
20 chapter, whether in fee simple or leasehold:

21 (1) For a period of ten years after the purchase, whether
22 by lease, assignment of lease, deed, or agreement of



1 sale, if the purchaser wishes to transfer title to the
2 real property, the corporation shall have the first
3 option to purchase the real property at a price that
4 shall not exceed the sum of:

5 (A) The original cost to the purchaser, as defined in
6 rules adopted by the corporation;

7 (B) The cost of any improvements added by the
8 purchaser, as defined in rules adopted by the
9 corporation; and

10 (C) Simple interest on the original cost and capital
11 improvements to the purchaser at the rate of one
12 per cent a year;

13 (2) The corporation may purchase the real property either:

14 (A) By conveyance free and clear of all mortgages and
15 liens; or

16 (B) By conveyance subject to existing mortgages and
17 liens.

18 If the real property is conveyed in the manner
19 provided in subparagraph (A), it shall be conveyed to
20 the corporation only after all mortgages and liens are
21 released. If the real property is conveyed in the
22 manner provided in subparagraph (B), the corporation



1 shall acquire the property subject to any first
2 mortgage created for the purpose of securing the
3 payment of a loan of funds expended solely for the
4 purchase of the real property by the seller; and any
5 mortgage or lien created for any other purpose
6 provided that the corporation has previously consented
7 to it in writing.

8 The corporation's interest created by this
9 paragraph shall constitute a statutory lien on the
10 real property and shall be superior to any other
11 mortgage or lien except for:

12 (i) Any first mortgage created for the purpose
13 of securing the payment of a loan of funds
14 expended solely for the purchase of the real
15 property by the seller;

16 (ii) Any mortgage insured or held by a federal
17 housing agency; and

18 (iii) Any mortgage or lien created for any other
19 purpose; provided that the corporation has
20 previously consented to it in writing.

21 The amount paid by the corporation to the seller shall
22 be the difference, if any, between the purchase price



1 determined by paragraph (1)(A) to (C), and the total
2 of the outstanding principal balances of the mortgages
3 and liens assumed by the corporation;

4 (3) A purchaser may refinance real property developed and
5 sold under this chapter provided that the purchaser
6 shall not refinance the real property within ten years
7 from the date of purchase for an amount in excess of
8 the purchase price as determined by paragraph (1)(A)
9 to (C);

10 (4) After the end of the tenth year from the date of
11 purchase or execution of an agreement of sale, the
12 purchaser may sell the real property and sell or
13 assign the property free from any price restrictions;
14 provided that the purchaser shall be required to pay
15 to the corporation the sum of:

16 (A) The balance of any mortgage note, agreement of
17 sale, or other amount owing to the corporation;

18 (B) Any subsidy or deferred sales price made by the
19 corporation in the acquisition, development,
20 construction, and sale of the real property, and
21 any other amount expended by the corporation not
22 counted as costs under section 201H-0 but charged



1 to the real property by good accounting practice
2 as determined by the corporation whose books
3 shall be prima facie evidence of the correctness
4 of the costs;

5 (C) Interest on the subsidy or deferred sales price,
6 if applicable, and any other amount expended at
7 the rate of seven per cent a year computed as to
8 the subsidy or deferred sales price, if
9 applicable, from the date of purchase or
10 execution of the agreement of sale, and as to any
11 amount expended, from the date of expenditure;
12 provided that the computed interest shall not
13 extend beyond thirty years from the date of
14 purchase or execution of the agreement of sale of
15 the real property. If any proposed sale or
16 transfer will not generate an amount sufficient
17 to pay the corporation the sum as computed under
18 this paragraph, the corporation shall have the
19 first option to purchase the real property at a
20 price that shall not exceed the sum as computed
21 under paragraphs (1) and (2); and



1 (D) The corporation's share of appreciation in the
2 real property as determined under rules adopted
3 pursuant to chapter 91, when applicable;

4 and

5 (5) Notwithstanding any provision above to the contrary,
6 pursuant to rules adopted by the corporation, the
7 subsidy or deferred sales price described in paragraph
8 (4)(B) and any interest accrued pursuant to paragraph
9 (4)(C) may be paid, in part or in full, at any time.

10 (b) For a period of ten years after the purchase, whether
11 by lease, assignment of lease, deed, or agreement of sale, if
12 the purchaser wishes to transfer title to the real property, and
13 if the corporation does not exercise the option to purchase the
14 real property as provided in subsection (a), then the
15 corporation shall require the purchaser to sell the real
16 property to a "qualified resident" as defined in section 201H-B,
17 and upon the terms that preserve the intent of this section and
18 sections 201H-S and 201H-T, and in accordance with rules adopted
19 by the corporation.

20 (c) The corporation may waive the restrictions prescribed
21 in subsection (a) or (b) if:



1 (1) The purchaser wishes to transfer title to the real
2 property by devise or through the laws of descent to a
3 family member who would otherwise qualify under rules
4 established by the corporation; or

5 (2) The sale or transfer of the real property would be at
6 a price and upon terms that preserve the intent of
7 this section without the necessity of the State
8 repurchasing the real property; provided that, in this
9 case, the purchaser shall sell the unit or lot and
10 sell or assign the property to a person who is a
11 "qualified resident" as defined in section 201H-B; and
12 provided further that the purchaser shall pay to the
13 corporation its share of appreciation in the unit as
14 determined in rules adopted pursuant to chapter 91,
15 when applicable.

16 (d) The corporation may release the restrictions
17 prescribed in subsection (a) or (b) if the real property is
18 financed under a federally subsidized mortgage program and the
19 restrictions would jeopardize the federal government's ability
20 to recapture any interest credit subsidies provided to the
21 homeowner.



1 (e) The restrictions prescribed in this section and
2 sections 201H-S to 201H-U shall be automatically extinguished
3 and shall not attach in subsequent transfers of title when a
4 mortgage holder or other party becomes the owner of the real
5 property pursuant to a mortgage foreclosure, foreclosure under
6 power of sale, or a conveyance in lieu of foreclosure after a
7 foreclosure action is commenced; or when a mortgage is assigned
8 to a federal housing agency. Any law to the contrary
9 notwithstanding, a mortgagee under a mortgage covering real
10 property or leasehold interest encumbered by the first option to
11 purchase in favor of the corporation, prior to commencing
12 mortgage foreclosure proceedings, shall notify the corporation
13 in writing of:

14 (1) Any default of the mortgagor under the mortgage within
15 ninety days after the occurrence of the default; and

16 (2) Any intention of the mortgagee to foreclose the
17 mortgage under chapter 667;

18 provided that the mortgagee's failure to provide written notice
19 to the corporation shall not affect the mortgage holder's rights
20 under the mortgage. The corporation shall be a party to any
21 foreclosure action, and shall be entitled to all proceeds
22 remaining in excess of all customary and actual costs and



1 expenses of transfer pursuant to default, including liens and
2 encumbrances of record; provided that the person in default
3 shall be entitled to an amount which shall not exceed the sum of
4 amounts determined pursuant to subsection (a)(1)(B) and (C).

5 (f) The provisions of this section shall be incorporated
6 in any deed, lease, agreement of sale, or any other instrument
7 of conveyance issued by the corporation. In any sale by the
8 corporation of real property for which a subsidy or deferred
9 sales price was made by the corporation, the amount of the
10 subsidy or deferred sales price described in subsection
11 (a)(4)(B), a description of the cost items that constitute the
12 subsidy or deferred sales price, and the conditions of the
13 subsidy or deferred sales price shall be clearly stated at the
14 beginning of the contract document issued by the corporation.

15 (g) This section need not apply to market-priced units in
16 an economically integrated housing project, except as otherwise
17 determined by the developer of the units; provided that
18 preference shall be given to qualified residents in the initial
19 sale of market-priced units.

20 (h) The corporation is authorized to waive any of the
21 restrictions set forth in this section in order to comply with
22 or conform to requirements set forth in federal law or



1 regulations governing mortgage insurance or guarantee programs
2 or requirements set forth by federally chartered secondary
3 mortgage market participants.

4 **§201H-R Exception of current owners in corporation**

5 **projects.** The corporation may allow a person who is a current
6 owner of a dwelling unit in a multifamily housing project
7 sponsored by the corporation to apply for the purchase of a
8 larger dwelling unit in a project sponsored by the corporation
9 if the applicant's current family size exceeds the permissible
10 family size for the applicant's current dwelling unit, as
11 determined by prevailing county building or housing codes. The
12 applicant shall be required to sell the applicant's current
13 dwelling unit back to the corporation. Notwithstanding any law
14 to the contrary, any applicant, as it pertains to for-sale
15 housing, shall be a "qualified resident" who:

- 16 (1) Is a citizen of the United States or a resident alien;
17 (2) Is at least eighteen years of age;
18 (3) Is domiciled in the state and shall physically reside
19 in the dwelling unit purchased under this section;
20 (4) In the case of purchase of real property in fee simple
21 or leasehold, has a gross income sufficient to qualify
22 for the loan to finance the purchase; and



- 1 (5) Except for the applicant's current residence, meets
2 the following qualifications:
- 3 (A) Is a person who either oneself or together with
4 the person's spouse or a household member, does
5 not own a majority interest in fee simple or
6 leasehold lands suitable for dwelling purposes,
7 or a majority interest in lands under any trust
8 agreement or other fiduciary arrangement in which
9 another person holds the legal title to the land;
10 and
- 11 (B) Is a person whose spouse or a household member
12 does not own a majority interest in fee simple or
13 leasehold lands suitable for dwelling purposes,
14 or a majority interest in lands under any trust
15 agreement or other fiduciary arrangement in which
16 another person holds the legal title to the land,
17 except when husband and wife are living apart
18 under a decree of separation from bed and board
19 issued by the family court pursuant to section
20 580-71.

21 **§201H-S Real property; restrictions on use.** (a) Real
22 property purchased under this chapter shall be occupied by the



1 purchaser at all times during the ten-year restriction period
2 set forth in section 201H-Q, except in hardship circumstances
3 where the inability to reside on the property arises out of
4 unforeseeable job or military transfer, a temporary educational
5 sabbatical, serious illness of the person, or in other hardship
6 circumstances as determined by the corporation on a case-by-case
7 basis.

8 The corporation may waive the owner-occupancy requirement
9 for a total of not more than ten years after the purchase of the
10 dwelling, during which time the dwelling unit may be rented or
11 leased. Waivers may be granted only to qualified residents who
12 have paid resident state income taxes during all years in which
13 they occupied the dwelling, who continue to pay resident state
14 income taxes during the waiver period, and whose inability to
15 reside on the property does not stem from a natural disaster.
16 The ten-year owner-occupancy requirement shall be extended by
17 one month for every month or fraction thereof that the
18 owner-occupancy requirement is waived.

19 The corporation shall adopt rules under chapter 91 to
20 implement the letter and spirit of this subsection and to
21 prescribe necessary terms and conditions. The rules shall
22 include:



- 1 (1) Application and approval procedures for the waivers;
2 (2) Exceptions authorized by this subsection;
3 (3) The amounts of rents that may be charged by persons
4 allowed to rent or lease a dwelling unit; and
5 (4) Schedules of fees needed to cover administrative
6 expenses and attorneys' fees.

7 No qualified resident who fails to reoccupy a dwelling unit
8 after any waiver period shall receive more than the maximum to
9 which the person would be entitled under section 201H-Q. Any
10 person who disagrees with the corporation's determination under
11 this section shall be entitled to a contested case proceeding
12 under chapter 91.

13 (b) From time to time the corporation may submit a
14 verification of owner-occupancy form to the purchaser. Failure
15 to respond to the verification in a timely manner or violation
16 of subsection (a) shall be sufficient reason for the
17 corporation, at its option, to purchase the unit as provided in
18 section 201H-Q(a)(1), (2), or (4), as applicable.

19 (c) Any deed, lease, agreement of sale, or other
20 instrument of conveyance issued by the corporation shall
21 expressly contain the restrictions on use prescribed in this
22 section.



1 (d) The restrictions prescribed in subsection (a) shall
2 terminate and shall not attach in subsequent transfers of title
3 if the corporation releases the restrictions when the real
4 property is financed under a federally subsidized mortgage
5 program.

6 (e) Subsections (a) to (c) need not apply to market-priced
7 units in an economically integrated housing project, except as
8 otherwise determined by the developer of the units; provided
9 that preference shall be given to qualified residents in the
10 initial sale of market-priced units.

11 (f) The corporation shall be authorized to waive any of
12 the restrictions set forth in this section in order to comply
13 with or conform to requirements set forth in federal law or
14 regulations governing mortgage insurance or guarantee programs
15 or requirements set forth by federally chartered secondary
16 mortgage market participants.

17 **§201H-T Restrictions on use, sale, and transfer of real**
18 **property; effect of amendment or repeal.** (a) Restrictions on
19 the use, sale, and transfer of real property shall be made as
20 uniform as possible in application to purchasers of all real
21 property, and restrictions shall be conformed with agreement of
22 the purchaser to reflect change or repeal made by any subsequent



1 legislative act, ordinance, rule, or regulation. Purchasers
2 shall be permitted at their election to sell or transfer real
3 property subject to restrictions in effect at the time of their
4 sale or transfer.

5 (b) The corporation, any department of the State, or any
6 county housing agency maintaining restrictions, through
7 contract, deed, other instrument, or by rule, shall notify
8 purchasers of any substantial change in restrictions made by
9 law, ordinance, rule, or regulation not more than one hundred
10 eighty days after a change in restrictions. The notice shall
11 clearly state the enacted or proposed new provisions, the date
12 or dates upon which they are to be effective, and offer to each
13 purchaser of real property constructed and sold prior to the
14 effective date an opportunity to modify the existing contract or
15 other instrument to incorporate the most recent provisions.
16 Public notice shall also be given at least three times in the
17 State for state agencies and at least three times in a county
18 for county agencies.

19 (c) For all purchasers of real property prior to June 25,
20 1990, where the restrictions on use and transfer of property
21 apply for a period of time, the period of time shall not be



1 increased beyond the date calculated from the date of original
2 purchase.

3 (d) No purchaser shall be entitled to modify the
4 restrictions on use, transfer, or sale of the real property,
5 without the written permission of the holder of a duly-recorded
6 first mortgage on the dwelling unit and the owner of the fee
7 simple or leasehold interest in the land underlying the unit,
8 unless the holder of the first mortgage or the owner is an
9 agency of the State or its political subdivisions.

10 (e) This section shall apply to all real property
11 developed, constructed, and sold pursuant to this chapter and
12 similar programs in the State or its political subdivisions and
13 which are sold on the condition that the purchaser accepts
14 restrictions on the use, sale, or transfer of interest in the
15 real property purchased.

16 (f) The provisions of this section shall be incorporated
17 in any deed, lease, instrument, rule, or regulation relating to
18 restrictions on use, sale, or transfer of dwelling units,
19 entered into after June 20, 1977.

20 (g) The restrictions of this section shall terminate as to
21 a particular real property and shall not attach in subsequent
22 transfers of title of that real property if the corporation



1 releases the restrictions when the real property is financed
2 under a federally subsidized mortgage program.

3 **§201H-U Corporation's right to repurchase or rent real**
4 **property; authority to seek recovery.** (a) Notwithstanding any
5 provisions to the contrary, during the period in which the
6 restrictions in section 201H-Q are in effect, the following
7 provisions shall apply when dwelling units developed,
8 constructed, financed, purchased, or sold pursuant to Act 105,
9 Session Laws of Hawaii 1970, as amended, are found to have a
10 substantial construction defect, or when vacant lands developed,
11 financed, purchased, or sold pursuant to Act 105, Session Laws
12 of Hawaii 1970, as amended, are found to have a substantial soil
13 defect:

14 (1) The corporation shall have the right, but not the
15 obligation, to repurchase a dwelling unit or land that
16 has a defect, regardless of whether or not the owner
17 wishes to sell; provided that those repurchases shall
18 be in accordance with the following provisions:

19 (A) The corporation may repurchase a dwelling unit or
20 land if:

21 (i) The dwelling unit or land is deemed unsafe
22 by the county building department;



- 1 (ii) The defects are irreparable; or
- 2 (iii) In the opinion of the corporation, the
- 3 defect is of such magnitude that it will
- 4 take longer than one year to repair;
- 5 (B) The corporation's purchase price shall be based
- 6 on the formula set forth in section 201H-Q(a)(1);
- 7 (C) After repairs to the unit or land are completed,
- 8 the former owner shall have the first right of
- 9 refusal to repurchase the real property;
- 10 (D) The corporation shall give preference in all
- 11 other projects of the corporation to all owners
- 12 whose real property is repurchased by the
- 13 corporation under this subsection, and the
- 14 corporation may waive certain eligibility
- 15 requirements for these owners; and
- 16 (E) If the corporation exercises its right to
- 17 repurchase defective real property against an
- 18 owner's wishes pursuant to this paragraph, the
- 19 corporation shall provide relocation assistance
- 20 to that owner as provided in chapter 111;
- 21 (2) If the corporation does not opt to repurchase
- 22 defective real property, the corporation shall also



1 have the right, but not the obligation, to enter into
2 a contract to repair a dwelling unit which has a
3 construction defect or land which has a soil defect.
4 During the period that the real property is being
5 repaired, the corporation shall rent that real
6 property from the owner for an amount not to exceed
7 the owner's present mortgage payments; and

8 (3) If the corporation does not execute either a contract
9 to repurchase the real property or an agreement to
10 repair and rent the real property within ninety days
11 after written notice is given to the corporation of a
12 construction defect, the owner may pursue any other
13 available legal remedies.

14 For the purposes of this section:

15 "Substantial construction defect" includes but is not
16 limited to:

- 17 (1) Structural defects such as shifting foundations and
18 bearing walls;
- 19 (2) Structural deficiencies due to the use of defective or
20 undersized materials; and
- 21 (3) Defects affecting the health and safety of occupants.



1 "Substantial soil defect" means shifting, sliding, or
2 sinking ground of such degree as to affect the dwelling unit on
3 the land or the health and safety of the occupants of the land.

4 (b) If moneys are expended by the corporation pursuant to
5 subsection (a)(1) and (2), the corporation shall have the
6 authority to take necessary legal action against the developer,
7 co-developer, general contractor, and their subcontractors,
8 consultants, and other parties notwithstanding chapter 657.

9 (c) If real property developed, constructed, financed,
10 purchased, or sold pursuant to Act 105, Session Laws of Hawaii
11 1970, as amended, is found to have a substantial construction or
12 soil defect, the corporation shall have the right, but not the
13 obligation, to file or cause to be filed a legal action on
14 behalf of or by the owner or lessee of the real property for the
15 recovery of damages or for injunctive relief against the
16 developer, co-developer, general contractor, and their
17 subcontractors, consultants, and other parties notwithstanding
18 chapter 657. Additionally, notwithstanding any provision of
19 rule 23 of the Hawaii rules of civil procedure, the corporation
20 may file or cause to be filed a legal action brought under this
21 subsection as a class action on behalf of or by at least two



1 owners or lessees of real property that have similar substantial
2 construction or soil defects.

3 (d) Nothing in this chapter shall be construed to diminish
4 the rights or remedies of the corporation otherwise provided
5 under common law, by law, or by contract.

6 (e) The corporation shall adopt rules pursuant to chapter
7 91 necessary for the purposes of this section.

8 (f) This section shall not apply to a particular real
9 property and shall not apply after subsequent transfers of title
10 of that real property if the corporation releases the
11 restrictions when the real property is financed under a
12 federally subsidized mortgage program.

13 (g) If any subsection, sentence, clause, or phrase of this
14 section, or its application to any person or transaction or
15 other circumstances, is for any reason held to be
16 unconstitutional or invalid, the remaining subsections,
17 sentences, clauses, and phrases of this section, or the
18 application of this section to other persons or transactions or
19 circumstances, shall not be affected. The legislature hereby
20 declares that it would have passed this section and each
21 subsection, clause, or phrase thereof, irrespective of the fact
22 that any one or more subsections, sentences, clauses, or phrases



1 of this section, or its application to any person or transaction
2 or other circumstance, may be declared unconstitutional or
3 invalid.

4 **§201H-V Nonprofit organizations and government agencies.**

5 (a) The corporation may retain dwelling units in a project to
6 the extent it determines necessary and appropriate, for sale,
7 lease, or rental to nonprofit organizations and government
8 agencies. The dwelling units shall be used by the nonprofit
9 organizations and government agencies to provide housing
10 opportunities and related support services to special needs
11 individuals or families. These purposes include but are not
12 limited to the use of dwelling units for group homes and
13 congregate living facilities and for government employees in
14 special situations. The corporation, in consultation with other
15 appropriate government agencies, shall adopt rules pursuant to
16 chapter 91 necessary to implement this subsection, including but
17 not limited to rules relating to the eligibility and
18 qualifications of nonprofit organizations and government
19 agencies; the eligibility and qualifications of clients of
20 nonprofit organizations and government agencies to whom housing
21 opportunities may be made available; and restrictions on the
22 use, sale, or transfer of, and authorizing repurchase of,



1 dwelling units sold, leased, or rented pursuant to this
2 subsection.

3 The corporation, to the extent appropriate, shall have the
4 same powers with respect to nonprofit organizations and
5 government agencies purchasing, leasing, or renting dwelling
6 units as the corporation has with respect to qualified residents
7 purchasing, leasing, or renting dwelling units.

8 (b) In connection with the development of any residential
9 units under this chapter, the corporation may provide for the
10 development of appropriate community facilities. The corporation
11 may:

12 (1) Sell, lease, or rent vacant land or land with site
13 improvements to nonprofit organizations or government
14 agencies to develop community facilities; or

15 (2) Develop, on behalf of the State or with an eligible
16 developer, the community facilities and then sell,
17 lease, rent, or otherwise transfer or make available
18 these facilities to nonprofit organizations or
19 government agencies.

20 The corporation shall adopt rules pursuant to chapter 91
21 necessary to implement this subsection.



1 (including refunding bonds to pay, retire, or provide for the
2 retirement of bonds previously issued by the corporation) in
3 amounts not exceeding the total amount of bonds authorized to be
4 issued by the legislature for any of its corporate purposes.
5 Bonds may also be issued in connection with any program whose
6 primary purpose is to provide housing for active or retired
7 United States military personnel, their families, and other
8 persons authorized by any branch of the United States military
9 to reside in the housing; provided that the aggregate principal
10 amount of all outstanding bonds issued by the corporation for
11 military housing projects shall total no more than
12 \$2,000,000,000.

13 (b) All bonds shall be issued pursuant to part III of
14 chapter 39, except as provided in this part.

15 (c) The bonds shall be issued in the name of the
16 corporation, and not in the name of the State. The final
17 maturity date of the revenue bonds may be any date not exceeding
18 sixty years from the date of issuance.

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



- 1 (1) Income and revenues derived from the housing project
2 or projects financed from the proceeds of bonds;
- 3 (2) Receipts derived from any grant from the federal
4 government made in aid of a housing project or
5 projects financed from the proceeds of bonds;
- 6 (3) Income and revenues derived from a particular
7 designated housing project or projects whether or not
8 financed, in whole or in part, from the proceeds of
9 bonds;
- 10 (4) Receipts derived from any payment for "eligible
11 loans", "eligible improvement loans", or "eligible
12 project loans", as the terms are defined in subpart B,
13 or any other agreement or agreements entered into for
14 a "housing loan program", as the term is defined in
15 subpart B or D, or any other loan program administered
16 by the corporation and financed from the proceeds of
17 bonds;
- 18 (5) Receipts derived from loans to mortgage lenders or
19 from the payment on account of principal of or
20 interest on loans purchased from mortgage lenders, as
21 provided in subpart B which loans to mortgage lenders



1 or loans purchased are financed from the proceeds of
2 bonds;

3 (6) Moneys in any funds or accounts established in
4 connection with the issuance of bonds, and any
5 earnings thereon;

6 (7) Proceeds derived from any insurance;

7 (8) Income and revenues of the corporation generally; or

8 (9) Any combination of paragraphs (1) through (8).

9 The term "income and revenues" includes income and revenues
10 derived from the sale of land or from both land and improvements
11 thereon serviced from infrastructure financed from the proceeds
12 of bonds as permitted by this subpart. The provisions of this
13 subsection are in addition and supplemental to part III of
14 chapter 39.

15 (e) Any of the bonds may be additionally secured by a
16 pledge of any revenues or a mortgage of any housing project,
17 other property of the corporation, the pledge or assignment of
18 any loans or other agreements, or any note or other undertaking,
19 obligation, or property held by or on behalf of the corporation
20 to secure loans made from the proceeds of bonds for any "housing
21 loan program", as the term is defined in subpart B or D, or any



1 other loan program administered by the corporation and financed
2 from the proceeds of bonds.

3 (f) Any pledge made by the corporation shall create a
4 perfected security interest in the revenues, moneys, or property
5 so pledged and thereafter received by the corporation from and
6 after the time that a financing statement with respect to the
7 revenues, moneys, or property so pledged and thereafter received
8 shall be filed with the bureau of conveyances. Upon the filing,
9 the revenues, moneys, or property so pledged and thereafter
10 received by the corporation shall immediately be subject to the
11 lien of the pledge without any physical delivery thereof or
12 further act, and the lien of any such pledge shall be prior to
13 the lien of all parties having claims of any kind in tort,
14 contract, or otherwise against the corporation, irrespective of
15 whether the parties have notice thereof. This section shall
16 apply to any financing statement heretofore or hereafter filed
17 with the bureau of conveyances with respect to any pledge made
18 to secure revenue bonds issued under this part.

19 (g) Any housing project or projects authorized by, and
20 undertaken pursuant to, this chapter shall constitute an
21 "undertaking" within the meaning of that term as defined and
22 used in part III, chapter 39. Any loan program authorized by,



1 and undertaken pursuant to, this chapter, including without
2 limitation "housing loan programs" defined in and authorized by
3 subparts B and D, shall constitute a "loan program" within the
4 meaning of that term as defined and used in part III, chapter
5 39. The corporation shall constitute a "department" and the
6 board shall constitute a "governing body" within the meaning of
7 those terms as defined and used in part III, chapter 39.

8 (h) Neither the members of the board nor any person
9 executing the bonds shall be liable personally on the bonds by
10 reason of the issuance thereof.

11 **§201H-Z Issuance of bonds for the development of**
12 **infrastructure.** Without limiting section 201H-Y, the
13 corporation, pursuant to and in accordance with this subpart, is
14 hereby authorized to issue bonds for the purpose of financing
15 the development of infrastructure on land owned by the
16 corporation.

17 **§201H-AA Issuance of bonds for the preservation of**
18 **low-income housing projects.** The corporation, pursuant to and
19 in accordance with this subpart, may issue bonds to purchase
20 low-income housing projects financed by the United States
21 Department of Housing and Urban Development to preserve these
22 projects. Upon the payment of all interest and principal



1 stemming from the issuance of these bonds, the corporation may
2 transfer title to these projects to qualified nonprofit
3 organizations. Nothing in this section shall be construed to:

4 (1) Prohibit qualified nonprofit or for-profit
5 organizations from operating these projects on behalf
6 of the corporation, or providing for the repair and
7 maintenance of these projects, before the payment of
8 all interest and principal stemming from the issuance
9 of these bonds; or

10 (2) Prohibit the corporation from transferring title to
11 these projects to qualified nonprofit or for-profit
12 organizations if these bonds can be secured to the
13 satisfaction of the bondholders.

14 As used in this section, "qualified nonprofit organization"
15 includes community-based nonprofit organizations and resident
16 councils.

17 **§201H-BB Bonds; interest rate, price, and sale.** (a) The
18 bonds shall bear interest at rates payable at times that the
19 corporation, with the approval of the governor, may determine
20 except for deeply discounted bonds that are subject to
21 redemption or retirement at their accreted value; provided that
22 the discounted value of the bonds shall not exceed ten per cent



1 of any issue; and provided further that no bonds may be issued
2 without the approval of the director of finance and the
3 governor. Notwithstanding any other law to the contrary, the
4 corporation, subject to the approval of the director of finance
5 and the governor, may issue bonds pursuant to section 201H-Z, in
6 which the discounted value of the bonds exceeds ten per cent of
7 the issue.

8 (b) The corporation may include the costs of undertaking
9 and maintaining any housing project or projects or loan program
10 for which the bonds are issued in determining the principal
11 amount of bonds to be issued. In determining the costs of
12 undertaking and maintaining the housing projects, the
13 corporation may include the cost of studies and surveys;
14 insurance premiums; underwriting fees; financial consultant,
15 legal, accounting, and other services incurred; reserve account,
16 trustee, custodian, and rating agency fees; and interest on the
17 bonds for a period determined by the corporation, or the
18 estimated expenditure of borrowed funds for any loan program for
19 which the bonds are issued.

20 **§201H-CC Trustee; designation, duties.** (a) The
21 corporation may designate a trustee for each issue of bonds



1 secured under the same trust indenture; provided that the
2 trustee shall be approved by the director of finance.

3 (b) The trustee shall be authorized by the corporation to
4 receive and receipt for, hold, and administer the proceeds of
5 the bonds, and to apply the proceeds to the purposes for which
6 the bonds are issued.

7 (c) The trustee shall also be authorized by the
8 corporation to hold and administer any housing project bond
9 special funds and housing loan program revenue bond special
10 funds established pursuant to section 201H-HH. The trustee may
11 receive and receipt for, hold, and administer the revenues
12 derived by the corporation from any housing project or projects
13 or loan program for which the bonds are issued or the projects
14 or loan programs pledged to the payment of the bonds. The
15 trustee shall apply the revenues to the payment of the cost of
16 administering, operating, and maintaining the housing project or
17 projects or loan program; to pay the principal of and the
18 interest on the bonds; to the establishment of reserves; and to
19 other purposes as may be authorized in the proceedings providing
20 for the issuance of the bonds.

21 (d) Notwithstanding section 39-68, the director of finance
22 may appoint the trustee to serve as fiscal agent for:



1 (1) The payment of the principal of and interest on the
2 bonds; and

3 (2) The purchase, registration, transfer, exchange, and
4 redemption of the bonds.

5 (e) The trustee shall perform additional functions with
6 respect to the payment, purchase, registration, transfer,
7 exchange, and redemption, as the director of finance may deem
8 necessary, advisable, or expeditious, including the holding of
9 the bonds and coupons, if any, that have been paid and the
10 supervision of their destruction in accordance with law.

11 (f) Nothing in this part shall limit or be construed to
12 limit the powers granted to the director of finance in sections
13 36-3, 39-13, and 39-68(a), to appoint the trustee or others as
14 fiscal agents, paying agents, and registrars for the bonds or to
15 authorize and empower those fiscal agents, paying agents, and
16 registrars to perform the functions referred to in those
17 sections.

18 **§201H-DD Trust indenture.** (a) A trust indenture may
19 contain covenants and provisions authorized by part III of
20 chapter 39, and as deemed necessary or convenient by the
21 corporation for the purposes of this part.



1 (b) A trust indenture may allow the corporation to pledge
2 and assign to the trustee agreements related to the housing
3 project or projects or loan program and the rights of the
4 corporation thereunder, including the right to receive revenues
5 thereunder and to enforce the provision thereof.

6 (c) Where a trust indenture provides that any bond issued
7 under that trust indenture is not valid or obligatory for any
8 purpose unless certified or authenticated by the trustee, all
9 signatures of the officers of the State upon the bonds required
10 by section 39-56 may be facsimiles of their signatures.

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

12 (1) The investment of the proceeds of the bonds, the
13 investment of any reserve for the bonds, the
14 investment of the revenues of the housing project or
15 system of housing projects or the loan program, and
16 the use and application of the earnings from
17 investments; and

18 (2) The terms and conditions upon which the holders of the
19 bonds or any portion of them or any trustee thereof
20 may institute proceedings for the enforcement of any
21 agreement or any note or other undertaking,
22 obligation, or property securing the payment of the



1 bonds and the use and application of the moneys
2 derived therefrom.

3 (e) A trust indenture may also contain provisions deemed
4 necessary or desirable by the corporation to obtain or permit,
5 by grant, interest subsidy, or otherwise, the participation of
6 the federal government in the housing projects or loan programs
7 or in the financing of the costs of administering, operating, or
8 maintaining the housing projects or loan programs.

9 **§201H-EE Investment of reserves, etc.** The corporation may
10 invest any funds held in reserves or sinking funds or any funds
11 not required for immediate disbursement, including the proceeds
12 of bonds, in property or securities in which the director of
13 finance may legally invest, as provided in section 36-21, except
14 that funds held outside the state treasury may be invested for
15 terms not to exceed thirty-five years. No provisions with
16 respect to the acquisition, operation, or disposition of
17 property by other government agencies shall be applicable to the
18 corporation unless the legislature shall specifically so state.

19 **§201H-FF Security for funds deposited by the corporation.**
20 The corporation may by resolution provide that all moneys
21 deposited by it shall be secured by:



1 (1) Any securities by which funds deposited by the
2 director of finance may be legally secured as provided
3 in section 38-3; or

4 (2) An undertaking with sureties as are approved by the
5 corporation faithfully to keep and pay over upon the
6 order of the corporation any deposits and agreed
7 interest thereon, and all banks and trust companies
8 are authorized to give any such security for those
9 deposits.

10 **§201H-GG Arbitrage provisions, interest rate.** (a) Any
11 other provision of law to the contrary notwithstanding, neither
12 the corporation nor the director of finance shall make loans or
13 purchase mortgages with the proceeds of general obligation bonds
14 of the State or from a revolving fund established or maintained
15 from the proceeds of bonds, at a rate of interest or upon terms
16 and conditions that would cause any general obligation bond of
17 the State or any bond to be an "arbitrage bond" within the
18 meaning of that term as defined in the Internal Revenue Code of
19 1986, as amended, and the regulations of the Internal Revenue
20 Service promulgated pursuant thereto.

21 (b) The rate of interest on loans made under this chapter
22 from the proceeds of general obligation bonds of the State shall



1 be established by the corporation, with the approval of the
2 director of finance, after each sale of general obligation bonds
3 of the State, the proceeds of which are to be used for the
4 purposes of making loans or purchasing mortgages under this
5 chapter. If no sale of general obligation bonds of the State
6 intervenes in a twelve-month period after the last rate fixing,
7 the corporation may review the then existing rates on loans or
8 mortgages made under this chapter from the proceeds of general
9 obligation bonds of the State and retain the existing rate or,
10 with the approval of the director of finance, establish
11 different rates.

12 (c) The director of finance shall approve those rates so
13 as to produce up to, but not in excess of, the maximum yield to
14 the State or the corporation permitted under the Internal
15 Revenue Code of 1986, as amended, and the regulations of the
16 Internal Revenue Service promulgated pursuant thereto, on the
17 assumption that the general obligation bonds of the State, the
18 proceeds of which have been or are to be used for the purposes
19 of making loans or purchasing mortgages under this chapter,
20 would otherwise be "arbitrage bonds" under the Internal Revenue
21 Code of 1986, as amended, and the regulations of the Internal
22 Revenue Service promulgated pursuant thereto, were the maximum



1 yield to be exceeded. The establishment of the rates of interest
2 shall be exempt from chapter 91.

3 **§201H-HH Housing finance revolving fund; bond special**

4 **funds.** (a) There is created a housing finance revolving fund
5 to be administered by the corporation. Notwithstanding sections
6 36-21 and 201H-EEEE, the proceeds in the fund shall be used for
7 long-term and other special financings of the corporation and
8 for the necessary expenses in administering this part.

9 (b) All moneys received and collected by the corporation,
10 not otherwise pledged or obligated nor required by law to be
11 placed in any other special fund, shall be deposited in the
12 housing finance revolving fund.

13 (c) A separate special fund shall be established for each
14 housing project or system of housing projects or loan program
15 financed from the proceeds of bonds secured under the same trust
16 indenture. Each fund shall be designated "housing project bond
17 special fund" or "housing loan program revenue bond special
18 fund", as appropriate, and shall bear any additional designation
19 as the corporation deems appropriate to properly identify the
20 fund.

21 (d) Notwithstanding any other law to the contrary, all
22 revenues, income, and receipts derived from a housing project or



1 system of projects or loan program financed from the proceeds of
2 bonds or pledged to the payment of the principal of and interest
3 and premium on bonds, shall be paid into the housing project
4 bond special fund or housing loan program revenue bond special
5 fund established for the housing project or system of projects
6 or loan program and applied as provided in the proceedings
7 authorizing the issuance of the bonds.

8 **§201H-II Kikala-Keokea housing revolving fund;**

9 **established.** (a) There is established in the state treasury
10 the Kikala-Keokea housing revolving fund to provide low interest
11 loans for home construction for Kikala-Keokea leaseholders who
12 have been denied loans from traditional financial institutions.
13 The revolving fund shall be administered by the corporation.

14 (b) The rate of interest on loans executed pursuant to
15 this section shall not exceed three per cent per year and
16 interest earnings on loans made pursuant to this section may be
17 used for administrative and other expenses necessary for
18 administering the loan program. Guidelines shall be established
19 by the corporation with respect to loan terms and loan
20 qualification criteria. Moneys appropriated for the purposes of
21 this section shall be deposited into the Kikala-Keokea housing
22 revolving fund; provided that upon fulfillment of the purposes



1 of this section, all unencumbered moneys shall lapse into the
2 general fund.

3 (c) The corporation shall adopt rules in accordance with
4 chapter 91 to effectuate the purposes of this section.

5 **§201H-JJ Rate of wages for laborers and mechanics.** The
6 corporation shall require an eligible bidder or eligible
7 developer of a housing project developed under this subpart to
8 comply with the requirements of section 104-2 for those laborers
9 and mechanics hired to work on that housing project; provided
10 that this section shall not apply to a housing project developed
11 under this chapter if the entire cost of the project is less
12 than \$500,000 and the eligible bidder or eligible developer is a
13 private nonprofit organization.

14 **§201H-KK Additional powers.** The powers conferred upon the
15 corporation by this subpart shall be in addition and
16 supplemental to the powers conferred by any other law, and
17 nothing in this subpart shall be construed as limiting any
18 powers, rights, privileges, or immunities so conferred.

19 **B. Housing Loan and Mortgage Program**

20 **§201H-LL Definitions.** The following words or terms as
21 used in this subpart shall have the following meanings unless a
22 different meaning clearly appears from the context:



1 "Eligible borrower" means a person or family, without
2 regard to race, creed, national origin, or sex, who:

- 3 (1) Is a citizen of the United States or a resident alien;
- 4 (2) Is a bona fide resident of the state;
- 5 (3) Is at least eighteen years of age;
- 6 (4) Does not personally, or whose spouse does not if the
7 person is married, own any interest in a principal
8 residence within or without the state and who has not
9 owned a principal residence within the three years
10 immediately prior to the application for an eligible
11 loan under this subpart, except this requirement shall
12 not apply to any eligible loan for a targeted area
13 residence as defined in the Mortgage Subsidy Bond Tax
14 Act of 1980, Public Law 96-499, which residence is to
15 replace a housing unit that has been declared
16 structurally unsalvageable by a governmental board or
17 agency having the power to make the declaration; and
18 provided further that this requirement shall not apply
19 to up to ten per cent of eligible loans of a bond
20 issue made to single parent household borrowers. No
21 loans, however, shall be made if they adversely affect
22 the tax-exempt status of the bonds issued. For the



1 purpose of this section, "single parent household"
2 means a household headed by a single person who has
3 legal custody of one or more dependent children;
4 (5) Has never before obtained a loan under this part; and
5 (6) Meets other qualifications as established by rules
6 adopted by the corporation.

7 "Eligible improvement" means alterations, repairs, or
8 improvements to an existing dwelling unit that substantially
9 protect or improve the basic livability of the unit.

10 "Eligible improvement loan" means a loan to finance an
11 eligible improvement to the owner of the dwelling unit, which
12 may be a condominium unit, where the eligible improvement is to
13 be made; provided that the owner meets the requirements of an
14 eligible borrower, except that the requirements of paragraph (4)
15 of the definition of "eligible borrower" shall not apply, the
16 unit to be financed is located in the state, the unit will be
17 occupied as the principal place of residence of the borrower,
18 and meets other requirements as established by rules adopted by
19 the corporation.

20 "Eligible loan" means a loan to an eligible borrower for
21 the permanent financing of a dwelling unit, including a
22 condominium unit; provided that the property financed is located



1 in the state, will be occupied as the principal place of
2 residence by the eligible borrower, and meets other requirements
3 as established by rules adopted by the corporation.

4 "Eligible project loan" means an interim or permanent loan,
5 which may be federally insured or guaranteed, made to a
6 qualified sponsor for the financing of a rental housing project,
7 and which meets other requirements as established by rules
8 adopted by the corporation.

9 "Housing loan programs" includes all or any part of the
10 loans to lenders program, the purchase of existing loans
11 program, the advance commitments program, and the loan funding
12 programs authorized under this subpart.

13 "Qualified sponsor" means any person or entity determined
14 by the corporation:

- 15 (1) To be qualified by experience, financial
16 responsibility, and support to construct a housing
17 project of the type and magnitude described;
- 18 (2) To have submitted plans for a housing project
19 adequately meeting the objectives of this chapter, the
20 maintenance of aesthetic values in the locale of the
21 project, and the requirements of all applicable
22 environmental statutes and rules; and



1 (3) To meet other qualifications as established by rules
2 adopted by the corporation pursuant to chapter 91.

3 **§201H-MM Owner-occupancy requirement.** (a) An eligible
4 borrower shall use the dwelling unit purchased under this
5 subpart as the eligible borrower's permanent and primary
6 residence.

7 (b) From time to time, the corporation may submit a
8 verification of owner-occupancy form to the eligible borrower.
9 Failure to respond to this verification in a timely manner may
10 result in an immediate escalation of the interest rate or
11 acceleration of the eligible loan.

12 (c) For eligible borrowers in the process of selling or
13 transferring title to their property, the corporation may grant
14 a waiver of subsection (a) for a period not to exceed three
15 years and for reasons set forth in section 201H-S on a case-by-
16 case basis.

17 **§201H-NN Eligible borrowers.** (a) The corporation shall
18 establish the qualifications of the eligible borrower, and may
19 consider the following:

- 20 (1) The proportion of income spent for shelter;
21 (2) Size of the family;



1 (3) Cost and condition of housing available to the total
2 housing market; and

3 (4) Ability of the person to compete successfully in the
4 normal housing market and to pay the amounts on which
5 private enterprise is providing loans for safe,
6 decent, and sanitary housing in the state.

7 (b) The family income of an eligible borrower shall not
8 exceed the income requirements of Section 143(f) of the Internal
9 Revenue Code of 1986, as amended.

10 (c) For the purpose of determining the qualification of an
11 eligible borrower for an eligible improvement loan:

12 (1) The dwelling unit for which the eligible improvement
13 loan is to be made and the property on which the
14 dwelling unit is situated shall not be included in the
15 calculation of the eligible borrower's assets; and

16 (2) The mortgage secured by the dwelling unit and property
17 shall not be included in the calculation of the
18 eligible borrower's liabilities.

19 (d) For the purpose of determining the qualification of an
20 eligible borrower for an eligible loan for a targeted area
21 residence:



1 (1) The dwelling unit being replaced and the property on
2 which the dwelling unit is situated shall not be
3 included in the calculation of the eligible borrower's
4 assets; and

5 (2) The mortgage secured by the dwelling unit and the
6 property shall not be included in the calculation of
7 the eligible borrower's liabilities.

8 **§201H-OO Eligible loans.** (a) The corporation shall
9 establish requirements for property financed by an eligible
10 loan, and may consider the location, age, condition, and other
11 characteristics of the property.

12 (b) The corporation shall establish restrictions on the
13 terms, maturities, interest rates, collateral, and other
14 requirements for eligible loans.

15 (c) All eligible loans made shall comply with applicable
16 state and federal laws.

17 **§201H-PP Eligible project loans.** (a) The corporation
18 shall establish requirements for rental housing projects to be
19 financed by an eligible project loan, and may consider the
20 location, age, condition, and other characteristics of the
21 project.



1 (b) The corporation shall establish restrictions on the
2 terms, maturities, interest rates, and other requirements for
3 eligible project loans.

4 (c) The corporation shall establish restrictions on the
5 prepayment of eligible project loans and on the transfer of
6 ownership of the projects securing eligible project loans.

7 (d) The corporation shall require that any sums deferred
8 on land leased at nominal rates by the corporation to the owner
9 of a rental housing project shall be recovered by the
10 corporation at the time an eligible project loan is prepaid,
11 whether as a result of refinancing of the eligible project loan
12 or otherwise, to the extent that funds are available from the
13 refinancing or other method by which the eligible project loan
14 is paid in full prior to its due date.

15 (e) The corporation shall enter into an agreement with the
16 owner of a rental housing project to be financed with an
17 eligible project loan which shall provide that in the event that
18 the eligible project loan is at any time prepaid for the purpose
19 of converting the rental units of such project to ownership
20 units, all tenants at the time of the proposed conversion shall
21 have the first option to purchase their units.



1 (f) All eligible project loans shall comply with
2 applicable state and federal laws.

3 **§201H-QQ Eligible improvement loans.** (a) The corporation
4 shall establish requirements for property financed by an
5 eligible improvement loan, and may consider the location, age,
6 condition, value, and other characteristics of the property.

7 (b) The corporation shall establish restrictions on the
8 terms, maturities, interest rates, collateral, and other
9 requirements for eligible improvement loans.

10 (c) All eligible improvement loans made shall comply with
11 applicable state and federal laws.

12 **§201H-RR Housing loan programs; procedures and**
13 **requirements.** (a) The corporation shall establish procedures
14 for:

- 15 (1) The submission of requests or the invitation of
16 proposals for loans to mortgage lenders;
- 17 (2) The purchase of existing loans by auction, invitation
18 of tenders, or negotiation;
- 19 (3) The making of advance commitments to purchase and the
20 purchasing of eligible loans, eligible improvement
21 loans, or eligible project loans to be made by



1 mortgage lenders by auction, invitation of tenders, or
2 negotiation; and

3 (4) Loan applications made through mortgage lenders to
4 eligible borrowers or qualified sponsors.

5 (b) The corporation shall establish standards and
6 requirements for:

7 (1) The allocation of loans to mortgage lenders;

8 (2) The allocation of funds to purchase existing loans
9 from mortgage lenders;

10 (3) The making of advance commitments and allocation of
11 funds to purchase eligible loans, eligible improvement
12 loans, or eligible project loans from mortgage
13 lenders; and

14 (4) The participation by mortgage lenders as originators
15 and processors of eligible loans, eligible improvement
16 loans, or eligible project loans on behalf of the
17 corporation.

18 (c) The standards and requirements for the allocation of
19 funds to mortgage lenders shall be adopted by the corporation
20 and shall be designed to include the maximum number of qualified
21 mortgage lenders as participants in the housing loan programs.



1 **§201H-SS Housing loan programs; general powers.** (a) The
2 corporation may make, enter into, and enforce all contracts or
3 agreements that are necessary, convenient, or desirable in the
4 performance of its duties in executing the housing loan
5 programs.

6 (b) The corporation may require representations and
7 warranties as it determines necessary to secure its loans.

8 **§201H-TT Housing loan programs; self-supporting.** The
9 interest rate, fees, charges, premiums, and other terms of the
10 loans made under the housing loan programs shall be at least
11 sufficient to pay the cost of administering and maintaining the
12 portion of the specific housing loan programs for which the
13 bonds have been issued, and to assure payment of the principal
14 of and interest on the bonds as they become due.

15 **§201H-UU Housing loan programs; fees.** The corporation may
16 establish, revise, charge, and collect fees, premiums, and
17 charges as necessary, reasonable, or convenient, for its housing
18 loan programs. The fees, premiums, and charges shall be
19 deposited into the housing loan program revenue bond special
20 fund established for the particular housing loan program or part
21 thereof from which the fees, premiums, and charges are derived
22 as determined by the corporation.



1 **§201H-VV Housing loan programs; evidence of eligible loan,**
2 **eligible improvement loan, or eligible project loan.** (a) Each
3 mortgage lender who participates in any housing loan program
4 shall submit evidence, as deemed satisfactory by the
5 corporation, that eligible loans, eligible improvement loans, or
6 eligible project loans have been made from the proceeds of the
7 bonds.

8 (b) The corporation may inspect the books and records of
9 the mortgage lenders as may be necessary for the purposes of
10 this section.

11 **§201H-WW Loans to lenders program.** (a) The corporation
12 may make loans to mortgage lenders under terms and conditions
13 requiring that the loan proceeds be used within a time period
14 prescribed by the corporation to make eligible loans, eligible
15 improvement loans, and eligible project loans in an aggregate
16 principal amount substantially equal to the amount of the loan.

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

19 (c) The loan as determined by the corporation shall:

20 (1) Bear a date or dates;

21 (2) Mature at a time or times;



1 (3) Be evidenced by a note, bond, or other certificate of
2 indebtedness;

3 (4) Be subject to prepayment; and

4 (5) Contain other provisions consistent with this part.

5 (d) Subject to any agreement with the holders of its
6 bonds, the corporation may consent to any modification to the
7 rate of interest, time and payment of any installment of
8 principal or interest, security, or any other term of any loan
9 to a mortgage lender or any bond, note, contract, or agreement
10 of any kind to which the corporation is a party.

11 **§201H-XX Loans to lenders program; collateral security.**

12 (a) Loans made to mortgage lenders shall be additionally
13 secured by a pledge of a lien upon collateral security in an
14 amount as the corporation deems necessary to assure the payment
15 of the principal of and interest on the loans as they become
16 due.

17 (b) The corporation 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 corporation's interest in the pledged collateral may be filed
22 with the bureau of conveyances. Where a statement has been



1 filed, no possession, further filing, or other action under any
2 state law shall be required to perfect any security interest
3 which may be deemed to have been created in favor of the
4 corporation. The mortgage lender shall be deemed the trustee of
5 an express trust for the benefit of the corporation in all
6 matters relating to the pledged collateral.

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

13 **§201H-YY Purchase of existing loans program.** (a) The
14 corporation may contract with a mortgage lender to purchase, in
15 whole or in part, existing loans, whether or not eligible loans,
16 eligible improvement loans, or eligible project loans. The
17 contract may contain provisions as determined by the corporation
18 to be necessary or appropriate to provide security for its
19 bonds, including but not limited to provisions requiring the:

20 (1) Repurchase of the loans, in whole or in part, by
21 mortgage lenders at the option of the corporation;



1 (2) Payments of premiums, fees, charges, or other amounts
2 by mortgage lenders to provide a reserve or escrow
3 fund for the purposes of protecting against loan
4 defaults; and

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

8 (b) The corporation shall require, as a condition of each
9 purchase of existing loans from a mortgage lender, that the
10 mortgage lender proceed to make and disburse eligible loans,
11 eligible improvement loans, or eligible project loans in an
12 aggregate principal amount substantially equal to the amount of
13 the proceeds from the purchase by the corporation of loans
14 therefrom.

15 **§201H-ZZ Advance commitments program.** (a) The
16 corporation may contract with a mortgage lender for the advance
17 commitment to purchase eligible loans, eligible improvement
18 loans, or eligible project loans.

19 (b) The contract may contain provisions as determined by
20 the corporation to be necessary or appropriate to provide
21 security for its bonds. Notwithstanding any other law to the
22 contrary, project loans may be made available for housing



1 projects on Hawaiian home lands pursuant to the Hawaiian Homes
2 Commission Act, 1920, as amended.

3 **§201H-AAA Loan funding programs.** (a) The corporation may
4 contract with mortgage lenders to fund eligible loans and
5 eligible improvement loans and may directly make or contract
6 with mortgage lenders to fund eligible project loans.

7 (b) Any contract in subsection (a) with a mortgage lender
8 may contain provisions as determined by the corporation to be
9 necessary or appropriate to provide security for its revenue
10 bonds.

11 **§201H-BBB Loans; service and custody.** The corporation may
12 contract for the service and custody of its loans. The contract
13 may provide for the payment of fees or charges for the services
14 rendered; provided that the fees or charges shall not exceed the
15 usual, customary, and reasonable charges for the services
16 rendered.

17 **§201H-CCC Loans; sale, pledge, or assignment.** (a)
18 Subject to any agreements with the holders of its revenue bonds,
19 the corporation may sell its loans at public or private sale at
20 a price and upon terms and conditions as it determines.

21 (b) Subject to any agreements with holders of its revenue
22 bonds, the corporation may pledge or assign its loans, other



1 agreements, notes, or property to secure the loans or
2 agreements.

3 **§201H-DDD Loans; insurance and guarantees.** The
4 corporation may procure insurance or guarantees against any
5 default of its loans, in amounts and from insurers or
6 guarantors, as it deems necessary or desirable.

7 **§201H-EEE Loans; default.** The corporation may
8 renegotiate, refinance, or foreclose any loan in default.

9 The corporation may waive any default or consent to the
10 modification of the terms of any loan or security agreement.

11 The corporation may commence any action to protect or
12 enforce any right conferred upon it by any law, mortgage,
13 insurance policy, contract, or other agreement.

14 The corporation may bid for and purchase the property
15 secured by the loan at any foreclosure or other sale, or acquire
16 or take possession of the property secured by the loan.

17 The corporation may operate, manage, lease, dispose of, or
18 otherwise deal with the property secured by the loan.

19 **§201H-FFF Additional powers.** The powers conferred upon
20 the corporation by this subpart shall be in addition and
21 supplemental to the powers conferred by any other law, and



1 nothing in this subpart shall be construed as limiting any
2 powers, rights, privileges, or immunities so conferred.

3 C. Rental Assistance Program

4 **§201H-GGG Purpose; findings and determinations.** The
5 legislature finds and declares that the health and general
6 welfare of the people of this state require that the people of
7 this state have safe and sanitary rental housing accommodations
8 available at affordable rents; that a grave shortage in the
9 number of such accommodations affordable by families and
10 individuals of low- and moderate-income in the state exists; and
11 that it is essential that owners of rental housing
12 accommodations be provided with appropriate additional means to
13 assist in reducing the cost of rental housing accommodations to
14 the people of this state.

15 The legislature further finds that the high cost of
16 infrastructure development and the obtaining of interim
17 construction financing are two of the greatest impediments to
18 the production of affordable rental housing in this state. It
19 is especially difficult for private nonprofit and for-profit
20 entities to participate in the development of affordable housing
21 due to the difficulty in amassing the capital necessary to plan
22 and carry out a project to completion.



1 It is the purpose of this subpart to:

2 (1) Assist owners in maintaining rentals at levels
3 affordable to low- and moderate-income families and
4 individuals by providing owners with rental assistance
5 payments which, together with rental payments received
6 from low- and moderate-income tenants, will provide
7 owners with limited but acceptable rates of return on
8 their investments in rental housing accommodations.

9 Assisting owners by entering into contracts with them
10 to provide for rental assistance payments is a valid
11 public purpose and in the public interest; and

12 (2) Provide a funding source for interim construction
13 financing for the development of affordable rental
14 housing by private nonprofit and for-profit entities,
15 as well as the corporation; provided that in allotting
16 this financing, the corporation shall give preference
17 to qualified sponsors who are private nonprofit and
18 for-profit entities.

19 **§201H-HHH Definitions.** The following terms as used in
20 this subpart shall have the following meanings unless a
21 different meaning clearly appears from the context:

22 "Eligible project" means a rental housing project that:



- 1 (1) Is financed by the corporation pursuant to subpart B
2 or D, or that the corporation determines will require
3 rental assistance to make it financially feasible;
- 4 (2) Is subject to a regulatory agreement with the
5 corporation;
- 6 (3) Maintains at least twenty per cent of its units for
7 eligible tenants; and
- 8 (4) Meets other qualifications as established by rules
9 adopted by the corporation.

10 Notwithstanding any provision to the contrary, "eligible
11 project" may also include a rental housing project that is
12 financed by the corporation pursuant to subpart A.

13 "Eligible tenant" means a family or an individual whose
14 income does not exceed eighty per cent of the area median income
15 as determined by the United States Department of Housing and
16 Urban Development.

17 "Owner" means the owner of an eligible project.

18 "Regulatory agreement" means an agreement between the
19 corporation and the owner relating to an eligible project that
20 includes provisions relating to rents, charges, profits, return
21 on owner's equity, development costs, and methods of operation.



1 "Rental assistance contract" means an agreement between an
2 owner and the corporation providing for periodic rental
3 assistance payment for units in an eligible project.

4 **§201H-III Rental assistance revolving fund.** (a) There is
5 created a rental assistance revolving fund to be administered by
6 the corporation.

7 (b) The rental assistance revolving fund may include sums
8 made available from any government program or grant, from
9 private grants or contributions, from the proceeds of any bond
10 issue, or from appropriations to the fund. The aggregate
11 principal in the fund shall be invested by the corporation in a
12 manner that will maximize the rate of return on investment of
13 the fund; provided that any investment made shall be consistent
14 with section 201H-EE but need not comply with section 36-21.

15 (c) The corporation may use, as needed, the aggregate
16 principal sum and the accumulated earnings in the rental
17 assistance revolving fund to make payments under rental
18 assistance contracts or to subsidize tenants' rents in eligible
19 projects developed under this part; provided that the
20 corporation shall use up to \$25,000,000 plus any bond proceeds
21 to provide interim construction financing to:



1 (1) Qualified sponsors who are private nonprofit or for-
2 profit entities; or

3 (2) The corporation, for the development of affordable
4 rental housing;

5 provided further that the corporation, in allotting interim
6 construction financing moneys pursuant to this subpart, shall
7 give preference to rental housing projects developed by
8 qualified sponsors who are private nonprofit or for-profit
9 entities.

10 **§201H-JJJ Rental assistance contracts.** (a) The
11 corporation may enter into a rental assistance contract and a
12 regulatory agreement with the owner of an eligible project, when
13 the owner of an eligible project is other than the corporation.

14 (b) Prior to the execution of a rental assistance
15 contract, the corporation may execute an agreement to enter into
16 a rental assistance contract with an owner. The agreement shall
17 provide for the execution of a rental assistance contract upon
18 satisfaction of the terms set forth in the agreement and
19 otherwise established by the corporation. Each rental
20 assistance contract heretofore entered into by the corporation
21 that provided that rental assistance payments shall be made
22 solely from the earnings on the investment of the rental



1 assistance revolving fund shall hereafter, without modification
2 of the contracts, be payable from the aggregate principal sum
3 and the accumulated earnings in the rental assistance revolving
4 fund.

5 (c) A rental assistance contract and any subsidy of
6 tenants' rents in projects developed under this subpart shall be
7 for a term not in excess of thirty-five years and shall be
8 approved by the board of directors of the corporation. Upon
9 that approval by the corporation, the director of finance shall
10 be authorized to guarantee the obligation of the corporation for
11 the term of the rental assistance contract or the subsidy of
12 tenants' rents in an amount equal to the aggregate obligation of
13 the corporation to make assistance payments; provided that the
14 aggregate of all of the outstanding guarantees shall not exceed
15 \$100,000,000. Pursuant to that guarantee, the corporation shall
16 make annual rental payments to the owner in accordance with the
17 approved rental assistance contract or to the tenants in
18 accordance with the approved subsidy.

19 (d) Each rental assistance contract shall set forth a
20 maximum annual rental assistance payment amount. The
21 corporation shall establish procedures for determining the



1 maximum annual rental assistance payment amount and may consider
2 the following:

- 3 (1) The cost of constructing the eligible project;
- 4 (2) The estimated annual operating cost of the eligible
5 project;
- 6 (3) The estimated maximum rentals that may be charged for
7 dwelling units in the eligible project;
- 8 (4) The amount of funds available for the funding of
9 rental assistance contracts;
- 10 (5) The number of eligible projects requiring assistance
11 under this subpart; and
- 12 (6) A restricted rate of return on equity to the owner,
13 which rate shall be established by the corporation by
14 rule.

15 **§201H-KKK Rental assistance program.** (a) Prior to the
16 execution of a rental assistance contract and annually
17 thereafter, the owner shall submit a proposed rental schedule to
18 the corporation for approval. The schedule shall list every
19 rental unit in the project and shall designate which units are
20 to be maintained for eligible tenants.



1 (b) The corporation shall establish procedures for
2 evaluating the rental schedules submitted pursuant to this
3 section, and may consider the following:

- 4 (1) The size of and number of bedrooms in the units
5 comprising the eligible project;
- 6 (2) The location of the project and its type (whether
7 high-rise, mid-rise, or low-rise);
- 8 (3) The percentage of units being maintained for eligible
9 tenants; and
- 10 (4) The rentals prevalent in the open market for
11 comparable units.

12 (c) Annually, following the approval of the rental
13 schedule submitted pursuant to subsection (a), the corporation
14 shall determine the amount of rental assistance payments payable
15 to the owner for the forthcoming year; provided that the amount
16 shall not exceed the maximum annual rental assistance payment
17 amount determined in accordance with section 201H-JJJ. The
18 amount determined pursuant to this subsection shall take into
19 account the estimated amount to be derived by the owner from
20 rentals to be charged for the forthcoming year and the limited
21 rate of return on equity permitted in accordance with section
22 201H-JJJ(d)(6).



- 1 (d) The corporation shall establish standards and
2 requirements for:
- 3 (1) The awarding of rental assistance contracts and the
4 allocation of annual rental assistance payments;
- 5 (2) The form of lease to be utilized by the owner in
6 renting units in an eligible project;
- 7 (3) The marketing and tenant selection and admission
8 processes to be employed by the owner with respect to
9 an eligible project; and
- 10 (4) The maintenance and operation of eligible projects.
- 11 (e) The corporation shall establish procedures for:
- 12 (1) The annual review of rental schedules for eligible
13 projects;
- 14 (2) The periodic review of the income of tenants renting
15 units in eligible projects; and
- 16 (3) The periodic inspection of eligible projects to
17 monitor the owners' compliance with the terms and
18 conditions of their rental assistance contracts.
- 19 (f) When an eligible project is not owned by the
20 corporation, the corporation shall be entitled to share in the
21 appreciation in value of units maintained for eligible tenants
22 within an eligible project realized at the time of refinancing



1 or prepayment of the eligible project loan. The corporation's
2 share shall be calculated by multiplying the appreciation in
3 value of units maintained for eligible tenants realized upon
4 refinancing or prepayment by the ratio of the owner's equity to
5 the discounted value of the aggregate rental assistance
6 payments. The discount rate shall be established by rules
7 adopted by the corporation.

8 The corporation shall exempt projects owned by a county
9 from the shared appreciation requirement set forth in this
10 subsection if all of the following requirements are met:

11 (1) The funds derived by the county as a result of
12 appreciation in value of the units are used for
13 housing projects wherein:

14 (A) At least sixty per cent of the project is
15 affordable to families earning one hundred per
16 cent or below of the applicable area median
17 income; and

18 (B) At least half of the foregoing sixty per cent is
19 affordable to families earning eighty per cent or
20 below of the applicable area median income;

21 and



1 (2) The project from which the appreciation in value is
2 derived remains as affordable as it was prior to the
3 refinancing or prepayment of the eligible project
4 loan.

5 **§201H-LLL Benefits of program not exclusive.** Nothing in
6 this subpart shall be construed to prohibit, with respect to an
7 eligible project, the operation of the rental assistance program
8 in conjunction with other state or federal programs including
9 the state rent supplements provided for in part VIII of chapter
10 .

11 **§201H-MMM Additional powers.** The powers conferred upon
12 the corporation by this subpart shall be in addition and
13 supplemental to the powers conferred by any other law, and
14 nothing in this subpart shall be construed as limiting any
15 powers, rights, privileges, or immunities so conferred.

16 D. Taxable Mortgage Securities Programs

17 **§201H-NNN Definitions.** Whenever used in this subpart,
18 unless the context otherwise requires:

19 "Eligible borrower" means:

20 (1) Any person or family, without regard to race, creed,
21 national origin, or sex, who:



- 1 (A) Is a citizen of the United States or a resident
2 alien;
- 3 (B) Is a bona fide resident of the State;
- 4 (C) Is at least eighteen years of age;
- 5 (D) Does not personally, or whose spouse does not if
6 the person is married, own a majority interest in
7 any residential property in the state; and
- 8 (E) Meets other qualifications as established by
9 rules adopted by the corporation;

10 or

- 11 (2) A qualified sponsor of an affordable housing project
12 who meets the qualification requirements as
13 established by rules adopted by the corporation.

14 "Eligible loan" or "loan" means:

- 15 (1) A loan to an eligible borrower for the purchase of a
16 dwelling unit, including a condominium unit; provided
17 that the property financed is located in the state,
18 will be occupied as the principal place of residence
19 by the eligible borrower, and meets other requirements
20 as established by rules adopted by the corporation; or
- 21 (2) An interim or permanent loan, which may be federally
22 insured or guaranteed, made to a qualified sponsor for



1 the financing of an affordable housing project, and
2 which meets other requirements as established by rules
3 adopted by the corporation.

4 "Housing loan programs" include all or any part of the loan
5 programs authorized in section 201H-000.

6 **§201H-000 Housing loan programs; authorization.** (a) The
7 corporation may establish under this subpart one or more
8 eligible loan programs.

9 (b) The corporation may invest in, make, purchase, take
10 assignments of, or otherwise acquire or make commitments to
11 invest in, make, purchase, take assignments of, or otherwise
12 acquire any eligible loans or any partial interest or
13 participation therein held by or on behalf of the corporation.

14 (c) The corporation may sell, assign, or otherwise dispose
15 of or enter into commitments to sell, assign, or otherwise
16 dispose of any eligible loans or any partial interest or
17 participation therein held by or on behalf of the corporation.

18 (d) The corporation may acquire any obligation under
19 conditions which require the seller of the obligation to use the
20 proceeds of the sale for the purpose of financing eligible
21 loans.



1 **§201H-PPP Housing loan programs; procedures and**
2 **requirements.** (a) The corporation may establish procedures and
3 requirements for:

4 (1) The purchase of loans from mortgage lenders by
5 auction, invitation of tender, advance commitment, or
6 other negotiation;

7 (2) The making of loans through mortgage lenders to
8 eligible borrowers or qualified sponsors;

9 (3) The allocation to mortgage lenders of money made
10 available under this subpart; and

11 (4) The participation by mortgage lenders as originators
12 and processors of loans on behalf of the corporation
13 under this subpart.

14 (b) The corporation may adopt rules under chapter 91
15 necessary or convenient for the operation of the housing loan
16 programs established under this subpart.

17 **§201H-QQQ Housing loan programs; general powers.** (a) The
18 corporation may make, enter into, and enforce all contracts or
19 agreements which are necessary, convenient, or desirable for the
20 purpose of the performance of its powers under this subpart.

21 (b) The corporation may establish, revise, charge, and
22 collect fees, premiums, and charges as necessary, reasonable, or



1 convenient in connection with its housing loan programs
2 established under this subpart. The fees, premiums, and charges
3 shall be deposited into funds as determined by the corporation.

4 (c) The corporation may contract for the servicing and
5 custody of any loans or other obligations acquired under this
6 subpart.

7 (d) The corporation may procure insurance against any
8 default of its loans from insurers in amounts deemed necessary
9 or desirable.

10 (e) Subject to any agreements with the holders of its
11 bonds, the corporation may:

12 (1) Renegotiate, refinance, or foreclose any loan in
13 default;

14 (2) Commence any action to protect or enforce any right
15 conferred upon it by any law, or as provided in any
16 mortgage, insurance policy, contract, or other
17 agreement; and

18 (3) Bid for and purchase the property secured by the loan
19 at any foreclosure or other sale; or acquire, or take
20 possession of the property secured by the loan and may
21 operate, manage, lease, dispose of, or otherwise deal
22 with the property securing the loan.



1 **§201H-RRR Additional powers.** The powers conferred upon
2 the corporation by this subpart shall be in addition and
3 supplemental to the powers conferred by any other law, and
4 nothing in this subpart shall be construed as limiting any
5 powers, rights, privileges, or immunities so conferred.

6 E. State Mortgage Guarantee Program

7 **§201H-SSS State mortgage guarantee.** (a) The corporation
8 may guarantee:

- 9 (1) Up to the top twenty-five per cent of the principal
10 balance of real property mortgage loans for the
11 purchase of qualified single-family or multifamily
12 dwelling units;
- 13 (2) Up to one hundred per cent of the principal balance of
14 real property mortgage loans of qualified single-
15 family housing under section 213 of the Hawaiian Homes
16 Commission Act, 1920, as amended; or
- 17 (3) Up to one hundred per cent of the principal balance of
18 real property mortgage loans of single-family or
19 multifamily housing developed under self-help or shell
20 housing programs;
- 21 plus the interest due thereon, made to qualified borrowers by
22 qualified private lenders; provided that at no time shall the



1 corporation's liability, contingent or otherwise, on these
2 guarantees exceed \$10,000,000.

3 For purposes of this section:

4 "Self-help housing program" means development or
5 preservation of housing in which prospective homeowners have
6 contributed labor, materials, or real property; provided that at
7 least two-thirds of the participating homeowners are qualified
8 by income for assistance under this subpart and that the program
9 is carried out under the sponsorship of a nonprofit community
10 development organization.

11 "Shell housing program" means development of housing which
12 is habitable but unfinished and can be completed or expanded;
13 provided that one hundred per cent of the participating
14 homeowners are qualified by income for assistance under this
15 subpart and that the program is carried out under the
16 sponsorship of a public, nonprofit, or private organization.

17 (b) The loans shall be secured by a duly recorded first
18 mortgage upon the fee simple or leasehold interest of the
19 borrower in the single-family or multifamily dwelling owned and
20 occupied by the borrower and the borrower's permitted assigns.
21 Private lenders shall include all banks, savings and loan
22 associations, mortgage companies, and other qualified companies



1 and trust funds whose business includes the making of loans in
2 the state.

3 (c) Loans guaranteed under this section shall be in
4 accordance with rules adopted by the corporation.

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

7 (1) A citizen of the United States or a resident alien;

8 (2) Qualified under the rules adopted by the corporation;
9 and

10 (3) Willing to comply with the rules as may be adopted by
11 the corporation.

12 The corporation may secure the services of a private lender to
13 process all applications and determine the qualification of
14 borrowers under this subpart.

15 (e) When the application for an insured loan has been
16 approved by the corporation, the corporation shall issue to the
17 lender a guarantee for that percentage of the loan on which it
18 guarantees payment of principal and interest. The private
19 lender shall collect all payments from the borrower and
20 otherwise service the loan.

21 (f) In return for the corporation's guarantee, the private
22 lender shall remit out of monthly payments collected an



1 insurance fee as established by the corporation. The funds
2 remitted shall be deposited to the credit of the state general
3 fund.

4 (g) When any installment of principal and interest has
5 been due for sixty days and has not been paid by the borrower,
6 the private lender may file a claim for the guaranteed portion
7 of the overdue payments with the corporation which may then
8 authorize vouchers for these payments, thereby acquiring a
9 division of interest in the collateral pledged by the borrower
10 in proportion to the amount of the payment. The corporation
11 shall be reimbursed for any amounts so paid plus the applicable
12 interest rate when payment is collected from the borrower.

13 (h) If there is any default in any payment to be made by
14 the borrower, the lender shall notify the corporation within
15 fifteen days. Should the lender deem that foreclosure
16 proceedings are necessary to collect moneys due from the
17 borrower, it shall notify the corporation. Within thirty days
18 of either notification, the corporation may elect to request an
19 assignment of the loan on payment in full to the lender of the
20 principal balance and interest due. Foreclosure proceedings
21 shall be held in abeyance in the interim.



1 (i) Every qualified borrower who is granted a loan under
2 this section shall comply with the following conditions:

3 (1) Expend no portion of the qualified borrower's loan for
4 purposes other than those sanctioned by the
5 corporation;

6 (2) Not sell or otherwise dispose of the mortgaged
7 property except upon the prior written consent of the
8 corporation and except upon any conditions that may be
9 prescribed in writing by the private lender;

10 (3) Undertake to pay when due all taxes, liens, judgments,
11 or assessments that may be lawfully assessed against
12 the property mortgaged, together with the costs and
13 expenses of any foreclosure of the mortgage;

14 (4) Keep insured to the satisfaction of the private lender
15 all improvements and other insurable property covered
16 by the mortgage. Insurance shall be made payable to
17 the mortgagee as its interest may appear at the time
18 of the loss. At the option of the private lender,
19 subject to the rules and standards of the corporation,
20 sums so received may be used to pay for reconstruction
21 of the improvements destroyed, or for decreasing the
22 amount of the indebtedness;



- 1 (5) Keep the improvements in good repair; and
- 2 (6) The private lender may impose any other conditions in
- 3 its mortgage; provided the form of the mortgage has
- 4 received the prior approval of the corporation.

5 All of the conditions in paragraphs (1) through (6) shall be

6 held and construed to be provisions of any mortgage executed by

7 virtue of this section regardless of whether or not the

8 conditions are expressly incorporated in the mortgage document.

9 (j) Loans guaranteed and made under this subpart shall be

10 repaid in accordance with a payment schedule specified by the

11 private lender with payments applied first to interest and then

12 to principal. Additional payments in any sums and the payment

13 of the entire principal may be made at any time within the

14 period of the loan. The private lender for satisfactory cause

15 and at its discretion, may extend the time within which the

16 installments of principal may be made for a period not to exceed

17 two years.

18 (k) All interest and fees collected under this subpart by

19 the corporation shall be deposited into the general fund. All

20 moneys necessary to guarantee payment of loans made under this

21 subpart and to carry on the operations of the corporation in

22 administering and granting loans under this subpart shall be



1 appropriated by the legislature out of the proceeds of the
2 general fund. The corporation shall include in its legislative
3 budgetary request for the upcoming fiscal period, the amounts
4 necessary to effectuate the purposes of this section.

5 **§201H-TTT Mortgage guarantee agreements.** (a) To induce
6 appropriate officials of any agency or instrumentality of the
7 United States to commit to insure and to insure mortgages under
8 the provisions of the United States Housing Act of 1937, as
9 amended, the corporation may enter into guarantee agreements
10 with those officials whenever:

- 11 (1) The purchaser-mortgagor in question is ineligible for
12 mortgage insurance purposes under the United States
13 Housing Act of 1937, as amended, because of credit
14 standing, debt obligation, or income characteristics;
- 15 (2) The purchaser-mortgagor in question is a "displaced
16 person" as defined in chapter 111 and the guarantee
17 agreement will enable the purchaser-mortgagor to
18 obtain suitable replacement housing in accordance with
19 chapter 111; or
- 20 (3) The corporation finds that the purchaser-mortgagor
21 would be a satisfactory credit risk with ability to
22 repay the mortgage loan if the purchaser-mortgagor



1 were to receive budget, debt management, and related
2 counseling.

3 (b) Guarantee agreements under subsection (a) may obligate
4 the corporation to:

5 (1) Provide or cause to be provided counseling under
6 subsection (a)(3); and

7 (2) Indemnify an agency or instrumentality of the United
8 States for a period not to exceed five years for any
9 loss sustained by the agency or instrumentality by
10 reason of insurance of a mortgage.

11 (c) The total of guarantees made pursuant to this section
12 and guarantees made pursuant to section 201H-SSS shall not
13 exceed \$10,000,000.

14 **§201H-UUU Additional powers.** The powers conferred upon
15 the corporation by this subpart shall be in addition and
16 supplemental to the powers conferred by any other law, and
17 nothing in this subpart shall be construed as limiting any
18 powers, rights, privileges, or immunities so conferred.



1 F. Downpayment Loan Program

2 **§201H-VVV Downpayment loans.** (a) The corporation may
3 make direct downpayment loans to eligible borrowers who qualify
4 for loans under section 201H-WWW. The downpayment loan to any
5 one borrower shall not exceed thirty per cent of the purchase
6 price of the residential property or \$15,000, whichever is less.
7 The interest rate on the loans may range from zero per cent to
8 eight per cent, depending on the buyer's income.

9 (b) The repayment of every downpayment loan shall be
10 secured by a duly recorded second mortgage executed by the
11 borrower to the State on the residential property purchased with
12 the downpayment loan.

13 (c) The principal of the downpayment loan, together with
14 accrued interest, shall be due and payable upon the sale,
15 transfer, or refinancing of the property, or shall be repaid by
16 the borrower in installments as determined by the corporation;
17 provided that the corporation may provide a period in which
18 payments may be waived. The period over which the principal and
19 interest shall be paid need not coincide with the period over
20 which the loan from the mortgage lender for the balance of the
21 purchase price must be repaid. The borrower may repay the whole



1 or any part of the unpaid balance of the downpayment loan, plus
2 accrued interest, at any time without penalty.

3 (d) The corporation may secure the services of the
4 mortgage lender who loans to the borrower the balance of the
5 purchase price of the residential property or the services of
6 any other mortgage lender doing business in the state to
7 collect, on behalf of the State, the principal and interest of
8 the downpayment loan and otherwise to service the downpayment
9 loan, for a servicing fee not in excess of the prevailing loan
10 servicing fees.

11 (e) The corporation shall adopt rules pursuant to chapter
12 91 to carry out the purposes of this subpart.

13 **§201H-WWW Qualifications for downpayment loans.** (a) No
14 person shall be qualified for a downpayment loan unless the
15 person:

- 16 (1) Is a citizen of the United States or a resident alien;
17 (2) Is at least eighteen years of age;
18 (3) Is a bona fide resident of the state;
19 (4) Will physically reside in the residential property to
20 be purchased for the term of the loan;
21 (5) Is accepted by a mortgage lender as a person to whom
22 it is willing to lend money for the purchase of the



1 residential property provided the required downpayment
2 is made; and

3 (6) Provides a portion of the downpayment which shall be
4 equal to at least three per cent of the sales price.

5 (b) No person who owns in fee simple or in leasehold any
6 other residential property within the state shall be eligible to
7 become a borrower under this section. A person shall be deemed
8 to own a residential property if the person, the person's
9 spouse, or both (unless separated and living apart under a
10 decree of a court of competent jurisdiction) own a majority
11 interest in a residential property.

12 **§201H-XXX Restrictions on borrower.** Every loan made under
13 this subpart shall be subject to the following conditions:

14 (1) The borrower shall expend no portion of the borrower's
15 downpayment loan for purposes other than to make a
16 downpayment for the purchase of a residential
17 property;

18 (2) The residential property purchased with the
19 downpayment loan and mortgaged to the State to secure
20 the repayment of the loan shall not be sold or
21 assigned without the prior approval in writing of the
22 corporation and the first mortgage lender;



- 1 (3) The borrower shall pay when due all taxes, liens,
2 judgments, or assessments that may be lawfully levied
3 against the residential property and all costs and
4 expenses of any foreclosure of the mortgage made to
5 the State;
- 6 (4) The borrower shall maintain fire and casualty
7 insurance in amounts equal to the replacement value of
8 all improvements and insurable portions of the
9 residential property with an insurance company
10 authorized to do business in the state. All proceeds
11 of that insurance shall be made payable to the first
12 mortgage lender and the corporation as their
13 respective interests may appear at the time of any
14 loss or damage. Subject to the rules of the
15 corporation, in the event of any loss or damage to the
16 improvements or property covered by the insurance, the
17 proceeds receivable by the State shall be applied
18 toward the reconstruction of the improvements or
19 property destroyed or damaged, unless otherwise
20 determined by the corporation on behalf of the State;
21 and



1 (5) The borrower shall maintain the improvements in good
2 repair.

3 All of the conditions in paragraphs (1) through (5) shall
4 be a part of any downpayment mortgage executed under this
5 subpart, regardless of whether or not they are expressly
6 incorporated in the mortgage document.

7 **§201H-YYY Default.** If the borrower defaults in the
8 payment of any installment of principal or interest of the
9 downpayment loan, the corporation or mortgage lender shall take
10 all necessary action to collect the delinquent amounts and may
11 take all actions generally allowed holders of mortgages,
12 including the power to foreclose. Upon any foreclosure of the
13 second mortgage, the corporation or mortgage lender on behalf of
14 the corporation, may purchase the interest of the borrower in
15 and to the residential property, take possession thereof and
16 assume all of the obligations of the borrower under the first
17 mortgage held by the private lender and any other liens having
18 priority over the second mortgage that may then exist. On the
19 acquisition of the borrower's interest, the corporation, at its
20 option, may pay in full the unpaid balance of the borrower's
21 obligation secured by the first mortgage and other prior liens;
22 repair, renovate, modernize, or improve the residential



1 property; and, with or without clearing the property of all
2 prior mortgages and liens, sell, lease, or rent the property or
3 use or dispose of the same in any manner authorized by law.

4 **§201H-ZZZ Additional powers.** The powers conferred upon
5 the corporation by this subpart shall be in addition and
6 supplemental to the powers conferred by any other law, and
7 nothing in this subpart shall be construed as limiting any
8 powers, rights, privileges, or immunities so conferred.

9 G. Homebuyers' Club Program

10 **§201H-AAAA Homebuyers' club program.** (a) The corporation
11 may establish a homebuyers' club program for participants who
12 are desirous of purchasing a home and who have adequate incomes
13 but who lack sufficient funds for the downpayment and closing
14 costs. The primary focus of this program is to facilitate the
15 purchase of homes by providing participants with strategies to
16 save money, to resolve credit problems, and to educate
17 participants on how to shop for and purchase a home.

18 (b) In establishing such a program, the corporation shall
19 adopt rules pursuant to chapter 91 relating to establishing a
20 savings program for participants based upon individual analyses
21 of income and family expenses. The rules may also provide for
22 integration of the homebuyers' club program with other



1 governmental programs including but not limited to individual
2 housing accounts under section 235-5.5, the state mortgage
3 guarantee program under subpart E, the downpayment loan program
4 established under subpart F, and the rent-to-own program
5 established under subpart H.

6 (c) The corporation may secure the services of another
7 public or private entity to carry out the purposes of this
8 section.

9 **§201H-BBBB Additional powers.** The powers conferred upon
10 the corporation by this subpart shall be in addition and
11 supplemental to the powers conferred by any other law, and
12 nothing in this subpart shall be construed as limiting any
13 powers, rights, privileges, or immunities so conferred.

14 H. Rent-to-Own Program

15 **§201H-CCCC Rent-to-own program.** (a) The corporation may
16 establish a rent-to-own program under which dwelling units that
17 are for sale may be rented to program participants. Under this
18 program, the corporation shall credit a portion of the rent
19 received toward the purchase of the unit.

20 (b) The sales price shall be established at the beginning
21 of the rental term and shall remain fixed for the first five
22 years after the rental agreement is executed. During this



1 period, the participant shall have the option of purchasing the
2 unit at the designated sales price. If the participant does not
3 elect to purchase the unit within the five-year period, the
4 renter shall forfeit the right to continue living in the unit
5 and the unit shall be made available to another purchaser or
6 renter.

7 (c) The corporation shall have the right to reestablish
8 the sales price upon expiration of the option period or upon
9 resale of the unit.

10 **§201H-DDDD Additional powers.** The powers conferred upon
11 the corporation by this subpart shall be in addition and
12 supplemental to the powers conferred by any other law, and
13 nothing in this subpart shall be construed as limiting any
14 powers, rights, privileges, or immunities so conferred.

15 I. Dwelling Unit Revolving Fund

16 **§201H-EEEE Dwelling unit revolving fund.** There is created
17 a dwelling unit revolving fund. The funds appropriated for the
18 purpose of the dwelling unit revolving fund and all moneys
19 received or collected by the corporation for the purpose of the
20 revolving fund shall be deposited in the revolving fund. The
21 proceeds in the revolving fund shall be used to reimburse the
22 general fund to pay the interest on general obligation bonds



1 issued for the purposes of the revolving fund, for the necessary
2 expenses in administering housing development programs, and for
3 carrying out the purposes of housing development programs,
4 including but not limited to the expansion of community
5 facilities constructed in conjunction with housing projects,
6 permanent primary or secondary financing, and supplementing
7 building costs, federal guarantees required for operational
8 losses, and all things required by any federal agency in the
9 construction and receipt of federal funds or low-income housing
10 tax credits for housing projects.

11 **§201H-FFFF Additional powers.** The powers conferred upon
12 the corporation by this subpart shall be in addition and
13 supplemental to the powers conferred by any other law, and
14 nothing in this subpart shall be construed as limiting any
15 powers, rights, privileges, or immunities so conferred.

16 J. Rental Housing Trust Fund

17 **§201H-GGGG Definitions.** As used in this subpart, unless
18 a different meaning is clearly required by the context:

19 "Develop" or "development" means the planning, financing,
20 or acquisition of real and personal property; demolition of
21 existing structures; clearance of real property; construction,
22 reconstruction, alteration, or repairing of approaches, streets,



1 sidewalks, utilities, and services, or other site improvements;
2 construction, reconstruction, repair, remodeling, extension,
3 equipment, or furnishing of buildings or other structures; or
4 any combination of the foregoing, of any housing project. It
5 also includes any undertakings necessary therefor, and the
6 acquisition of any housing, in whole or in part.

7 "Fund" means the rental housing trust fund established in
8 this subpart.

9 **§201H-HHHH Rental housing trust fund.** (a) There is established
10 the rental housing trust fund to be administered by the
11 corporation.

12 (b) An amount from the fund, to be set by the corporation
13 and authorized by the legislature, may be used for
14 administrative expenses incurred by the corporation in
15 administering the fund; provided that fund moneys may not be
16 used to finance day-to-day administrative expenses of projects
17 allotted fund moneys.

18 (c) The following may be deposited into the fund:
19 appropriations made by the legislature, private contributions,
20 repayment of loans, interest, other returns, and moneys from
21 other sources.



1 (d) The fund shall be used to provide loans or grants for
2 the development, pre-development, construction, acquisition,
3 preservation, and substantial rehabilitation of rental housing
4 units. Permitted uses of the fund may include but are not
5 limited to planning, design, land acquisition, costs of options,
6 agreements of sale, downpayments, equity financing, capacity
7 building of nonprofit housing developers, or other housing
8 development services or activities as provided in rules adopted
9 by the corporation pursuant to chapter 91. The rules may
10 provide for a means of recapturing loans or grants made from the
11 fund if a rental housing project financed under the fund is
12 refinanced or sold at a later date. The rules may also provide
13 that moneys from the fund shall be leveraged with other
14 financial resources to the extent possible.

15 (e) Moneys available in the fund shall be used for the
16 purpose of providing, in whole or in part, loans or grants for
17 rental housing projects in the following order of priority:

18 (1) Projects or units in projects that are allocated
19 low-income housing credits pursuant to the state
20 housing credit ceiling under Section 42(h) of the
21 Internal Revenue Code of 1986, as amended, or projects
22 or units in projects that are funded by programs of



1 the United States Department of Housing and Urban
2 Development and United States Department of
3 Agriculture Rural Development wherein:

4 (A) At least fifty per cent of the available units
5 are for persons and families with incomes at or
6 below eighty per cent of the median family income
7 of which at least five per cent of the available
8 units are for persons and families with incomes
9 at or below thirty per cent of the median family
10 income; and

11 (B) The remaining units are for persons and families
12 with incomes at or below one hundred per cent of
13 the median family income;

14 provided that the corporation may establish rules to
15 ensure full occupancy of fund projects;

16 and

17 (2) Mixed-income rental projects or units in a
18 mixed-income rental project wherein all of the
19 available units are for persons and families with
20 incomes at or below one hundred forty per cent of the
21 median family income.



1 (f) The corporation shall submit an annual report to the
2 legislature no later than twenty days prior to the convening of
3 each regular session describing the projects funded and, with
4 respect to rental housing projects targeted for persons and
5 families with incomes at or below thirty per cent of the median
6 family income, its efforts to develop those rental housing
7 projects, a description of proposals submitted for this target
8 group and action taken on the proposals, and any barriers to
9 developing housing units for this target group.

10 (g) For the purposes of this subpart, the applicable
11 median family income shall be the median family income for the
12 county or standard metropolitan statistical area in which the
13 project is located as determined by the United States Department
14 of Housing and Urban Development, as adjusted from time to time.

15 (h) The corporation may provide loans and grants under
16 this section; provided that the corporation shall establish
17 loan-to-value ratios to protect the fund from inordinate risk
18 and that under no circumstances shall the rules permit the
19 loan-to-value ratio to exceed one hundred per cent; and provided
20 further that the underwriting guidelines include a debt-coverage
21 ratio of not less than 1.0 to 1.



1 (i) For the period commencing July 1, 2005, through
2 June 30, 2007, the fund may be used to provide grants for rental
3 units set aside for persons and families with incomes at or
4 below thirty per cent of the median family income in any project
5 financed in whole or in part by the fund in proportion of those
6 units to the total number of units in the project. At the
7 conclusion of the period described in this subsection, the
8 corporation shall report to the legislature on the number and
9 use of grants provided and whether the grants were an effective
10 use of the funds for purposes of developing rental housing for
11 families at or below thirty per cent of the median family
12 income.

13 **§201H-IIII Eligible applicants for funds.** Eligible
14 applicants for funds shall include nonprofit and for-profit
15 organizations, limited liability companies, partnerships, and
16 government agencies, who are qualified in accordance with rules
17 adopted by the corporation pursuant to chapter 91.

18 **§201H-JJJJ Eligible projects.** (a) Activities eligible
19 for assistance from the fund shall include but not be limited
20 to:



- 1 (1) New construction, rehabilitation, or preservation of
2 low-income rental housing units that meet the criteria
3 for eligibility described in subsection (c);
- 4 (2) The leveraging of moneys with the use of fund assets;
- 5 (3) Pre-development activity grants or loans to nonprofit
6 organizations; and
- 7 (4) Acquisition of housing units for the purpose of
8 preservation as low-income or very low-income housing.
- 9 (b) Preference shall be given to projects producing units
10 in at least one of the following categories:
- 11 (1) Multifamily units;
- 12 (2) Attached single-family units;
- 13 (3) Apartments;
- 14 (4) Townhouses;
- 15 (5) Housing units above commercial or industrial space;
- 16 (6) Single room occupancy units;
- 17 (7) Accessory apartment units;
- 18 (8) Employee housing;
- 19 (9) United States Department of Housing and Urban
20 Development mixed finance development of public
21 housing units; and



1 (10) Other types of units meeting the criteria for
2 eligibility set forth in subsection (c).

3 (c) The corporation shall establish an application process
4 for fund allocation that gives preference to projects meeting
5 the following criteria that are listed in descending order of
6 priority:

7 (1) Serve the original target group;

8 (2) Provide at least five per cent of the total number of
9 units for persons and families with incomes at or
10 below thirty per cent of the median family income;

11 (3) Provide the maximum number of units for persons or
12 families with incomes at or below eighty per cent of
13 the median family income;

14 (4) Are committed to serving the target group over a
15 longer period of time;

16 (5) Increase the integration of income levels of the
17 immediate community area;

18 (6) Meet the geographic needs of the target group of the
19 proposed rental housing project, such as proximity to
20 employment centers and services; and

21 (7) Have favorable past performance in developing, owning,
22 managing, or maintaining affordable rental housing.



1 financing programs, or sections 201H-HH, 201H-II, 201H-III, or
2 516-44 may be made by the corporation without appropriation or
3 allotment by the legislature; provided that no expenditure shall
4 be made from and no obligation shall be incurred against any
5 revolving fund in excess of the amount standing to the credit of
6 the fund or for any purpose for which the fund may not lawfully
7 be expended. Nothing in sections 37-31 to 37-41 shall require
8 the proceeds of the revolving funds identified in subparts I and
9 J of part III, or sections 201H-HH, 201H-II, 201H-III, or 516-44
10 to be reappropriated annually.

11 **§201H-MMMM Additional powers.** The powers conferred upon
12 the corporation by this subpart shall be in addition and
13 supplemental to the powers conferred by any other law, and
14 nothing in this part shall be construed as limiting any powers,
15 rights, privileges, or immunities so conferred."

16 PART V

17 SECTION 6. Section 201H-1, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "[~~f~~]§201H-1[~~}]~~ **Definitions.** The following terms, wherever
20 used or referred to in this chapter, shall have the following
21 respective meanings, unless a different meaning clearly appears
22 from the context:



1 [~~"Administration" means the Hawaii housing finance and~~
2 ~~development administration.~~]

3 "Board" means the board of directors of the Hawaii housing
4 finance and development [~~administration.~~] corporation.

5 "Bonds" means any bonds, interim certificates, notes,
6 debentures, participation certificates, pass-through
7 certificates, mortgage-backed obligations, or other evidences of
8 indebtedness of the [~~administration~~] corporation issued pursuant
9 to this chapter.

10 "Community facilities" [~~includes:~~] include real and
11 personal property; buildings, equipment, lands, and grounds for
12 recreational or social assemblies, or educational, health, or
13 welfare purposes; and necessary or convenient utilities, when
14 designed primarily for the benefit and use of the
15 [~~administration~~] corporation or the occupants of the dwelling.

16 "Contract" means any agreement of the [~~administration~~]
17 corporation with an obligee or a trustee for the obligee,
18 whether contained in a resolution, trust indenture, mortgage,
19 lease, bond, or other instrument.

20 "Corporation" means the Hawaii housing finance and
21 development corporation.



1 "Dwelling", "dwelling unit", or "unit" means any structure
2 or room[~~7~~] for sale, lease, or rent, that provides shelter.

3 [~~"Elder" or "elderly" means a person who is a resident of~~
4 ~~the State and has attained the age of sixty-two years.~~

5 ~~"Elder or elderly households" means households in which at~~
6 ~~least one member is at least sixty-two years of age, the spouse~~
7 ~~or partner of that member has attained the age of majority, and~~
8 ~~the remaining members have attained the age of fifty-five years~~
9 ~~at the time of application to a public housing project. A live-~~
10 ~~in aide shall cease to be a resident therein upon the recovery~~
11 ~~of, or removal from the project of, the elder.~~

12 ~~"Elder or elderly housing" means:~~

13 ~~(1) A housing project intended for and occupied by elder~~
14 ~~or elderly households; or~~

15 ~~(2) Housing provided under any state or federal program~~
16 ~~that the Secretary of the United States Department of~~
17 ~~Housing and Urban Development determines is~~
18 ~~specifically designed and operated to assist elders or~~
19 ~~elderly persons, which, upon a determination by the~~
20 ~~Secretary, may also be occupied by persons with~~
21 ~~disabilities who have reached the age of majority.]~~



1 "Executive director" means the executive director of the
2 Hawaii housing finance and development [~~administration.~~]
3 corporation.

4 "Federal government" includes the United States and any
5 agency or instrumentality, corporate or otherwise, of the United
6 States.

7 "Government" or "government agency" includes the State and
8 the United States and any political subdivision, agency, or
9 instrumentality, corporate or otherwise, of either of them.

10 "Household member" means a person who:

- 11 (1) Is a co-applicant; or
12 (2) Will reside in the dwelling unit purchased or leased
13 from the corporation.

14 "Housing project" or "project" [~~includes~~]:

- 15 (1) Includes all real and personal property, buildings and
16 improvements, commercial spaces, lands for farming and
17 gardening, and community facilities acquired or
18 constructed or to be acquired or constructed, and all
19 tangible or intangible assets held or used in
20 connection with the housing project~~[-]~~; and
21 (2) May [~~The term "housing project" or "project" may~~] also
22 be applied to the planning of the buildings and



1 improvements, the acquisition of property by purchase,
2 lease, or otherwise, the demolition of existing
3 structures, the construction, reconstruction,
4 alteration, and repair of the improvements, and all
5 other work in connection therewith.

6 "Land" or "property" includes vacant land or land with site
7 improvements, whether partially or entirely finished in
8 accordance with governmental subdivision standards, or with
9 complete dwellings.

10 [~~"Live-in aide" means a person who:~~
11 ~~(1) Is eighteen years of age or older;~~
12 ~~(2) Is living in the unit solely to assist the elder or~~
13 ~~elderly person in daily living activities, including~~
14 ~~bathing, meal preparation and delivery, medicinal~~
15 ~~care, transportation, and physical activities;~~
16 ~~(3) Is not legally obligated to support the elder or~~
17 ~~elderly person; and~~
18 ~~(4) Is verified by the administration as meeting these~~
19 ~~requirements.]~~

20 "Mortgage holder" includes the United States Department of
21 Housing and Urban Development, Federal Housing Administration,
22 the United States Department of Agriculture, or other federal or



1 state agency engaged in housing activity, [~~Administrator~~] United
2 States Department of Veterans Affairs, Federal National Mortgage
3 Association, Government National Mortgage Association, Federal
4 Home Loan Mortgage Corporation, private mortgage lender, private
5 mortgage insurer, and their successors, grantees, and assigns.

6 "Mortgage lender" means any bank, trust company, savings
7 bank, national banking association, savings and loan
8 association, building and loan association, mortgage banker,
9 credit union, insurance company, or any other financial
10 institution, or a holding company for any of the foregoing,
11 that:

- 12 (1) Is authorized to do business in the [~~State~~] state;
- 13 (2) Customarily provides service or otherwise aids in the
14 financing of mortgages on single-family or multifamily
15 residential property; and
- 16 (3) Is a financial institution whose accounts are
17 federally insured or is an institution that is an
18 approved mortgagee for the Federal Housing
19 Administration, an approved lender for the United
20 States Department of Veterans Affairs or the United
21 States Department of Agriculture, or an approved
22 mortgage loan servicer for the Federal National



1 Mortgage Association or the Federal Home Loan Mortgage
2 Corporation.

3 "Nonprofit organization" means a [~~corporation,~~] corporate
4 entity, association, or other duly chartered entity that is
5 registered with the State and has received a written
6 determination from the Internal Revenue Service that it is
7 exempt under either section 501(c)(3), section 501(c)(4), or so
8 much of section 501(c)(2) as applied to title holding
9 [~~corporations~~] entities that turn over their income to
10 organizations that are exempt under either section 501(c)(3) or
11 501(c)(4), of the Internal Revenue Code of 1986, as amended.

12 "Obligee of the [~~administration~~] corporation" or "obligee"
13 includes any bondholder, trustee or trustees for any
14 bondholders, any lessor demising property to the
15 [~~administration~~] corporation used in connection with a housing
16 project, or any assignee or assignees of the lessor's interest
17 or any part thereof, and the United States, when it is a party
18 to any contract with the [~~administration.~~] corporation.

19 "Real property" includes lands, land under water,
20 structures, and any and all easements, franchises, and
21 incorporeal hereditaments and every estate and right therein,



1 legal and equitable, including terms for years and liens by way
2 of judgment, mortgage, or otherwise.

3 "Trustee" means a national or state bank or trust company
4 located within or outside the State that enters into a trust
5 indenture.

6 "Trust indenture" means an agreement by and between the
7 [~~administration~~] corporation and the trustee, which sets forth
8 the duties of the trustee with respect to the bonds, the
9 security therefor, and other provisions as deemed necessary or
10 convenient by the corporation to secure the bonds."

11 SECTION 7. Section 201H-2, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "[~~§~~201H-2[~~]~~] **Hawaii housing finance and development**
14 [~~administration,~~] corporation; establishment, staff. (a) There
15 is established the Hawaii housing finance and development
16 [~~administration~~] corporation to be placed within the department
17 of business, economic development, and tourism for
18 administrative purposes only. The [~~administration~~] corporation
19 shall be a public body and a body corporate and politic.

20 (b) The [~~administration~~] corporation shall employ, exempt
21 from chapter 76 and section 26-35(a)(4), an executive director
22 and an executive assistant. The executive director shall be



1 paid a salary not to exceed eighty-five per cent of the salary
2 of the director of human resources development. The executive
3 assistant shall be paid a salary not to exceed ninety per cent
4 of the executive director's salary. The [~~administration~~]
5 corporation may employ, subject to chapter 76, technical experts
6 and officers, agents, and employees, permanent and temporary, as
7 required. The [~~administration~~] corporation may also employ
8 officers, agents, and employees, prescribe their duties and
9 qualifications, and fix their salaries, not subject to
10 chapter 76, when in the determination of the [~~administration,~~]
11 corporation, the services to be performed are unique and
12 essential to the execution of the functions of the
13 [~~administration.~~] corporation. The [~~administration~~] corporation
14 may call upon the attorney general for legal services as it may
15 require. The [~~administration~~] corporation may delegate to one
16 or more of its agents or employees its powers and duties as it
17 deems proper."

18 SECTION 8. Section 201H-3, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "[~~+~~]**§201H-3**[~~+~~] **Board; establishment, functions, duties.**

21 (a) There is created a board of directors of the Hawaii housing
22 finance and development [~~administration~~] corporation consisting



1 of nine members, of whom six shall be public members appointed
2 by the governor as provided in section 26-34. At least four of
3 the public members shall have knowledge and expertise in public
4 or private [~~finance~~] financing and development of affordable
5 housing. Public members shall be appointed from each of the
6 counties of Honolulu, Hawaii, Maui, and Kauai. At least one
7 public member shall represent community advocates for low-income
8 housing, affiliated with private nonprofit organizations that
9 serve the residents of low-income housing. The public members
10 of the board shall serve four-year staggered terms; provided
11 that the initial appointments shall be as follows:

- 12 (1) Two members to be appointed for four years;
- 13 (2) Two members to be appointed for three years; and
- 14 (3) Two members to be appointed for two years.

15 The director of business, economic development, and tourism and
16 the director of finance, or their designated representatives, and
17 a representative of the governor's office, shall be [~~an~~] ex
18 officio voting [~~member.~~] members. The [~~administration~~]
19 corporation shall be headed by the board.

20 (b) The board of directors shall select a chairperson and
21 vice chairperson from among its members; provided that the
22 chairperson shall be a public member. The director of business,



1 economic development, and tourism, director of finance, and the
2 governor's representative shall be ineligible to serve as
3 chairperson of the board.

4 (c) Five members shall constitute a quorum, whose
5 affirmative vote shall be necessary for all actions by the
6 ~~[administration]~~ corporation. The members shall receive no
7 compensation for services, but shall be entitled to necessary
8 expenses, including travel expenses, incurred in the performance
9 of their duties."

10 SECTION 9. Section 201H-7, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "[~~§~~201H-7~~]~~ **Housing research.** (a) The
13 ~~[administration]~~ corporation may study the plans of any
14 government ~~[in relation to the problem of]~~ regarding the
15 clearing, replanning, or ~~[reconstructing]~~ reconstruction of an
16 area ~~[in which]~~ where unsafe or unsanitary ~~[public]~~ dwelling or
17 ~~[public]~~ housing conditions exist.

18 (b) The ~~[administration]~~ corporation may purchase
19 materials for the development of land and the construction of
20 dwelling units in the manner it concludes to be most conducive
21 to lower costs, including purchase from other states or from
22 foreign countries for drop shipment in the State or on cost-plus



1 contracts for materials with persons or firms doing business in
2 the State, or otherwise.

3 (c) The [~~administration~~] corporation may conduct, or cause
4 to be conducted, research on housing needs, materials, design,
5 or technology, and apply the findings of the investigation to
6 housing projects, including the following:

- 7 (1) Sociocultural investigation of housing and community
8 utilization, preferences, or needs of residents within
9 the housing need classification of the housing
10 functional plan;
- 11 (2) Development of technology for the application of
12 innovative building systems or materials, to provide
13 energy or resource conservation or cost savings in the
14 construction or operation of a housing project;
- 15 (3) Investigation of the applicability of locally-produced
16 building materials and systems to dwelling unit
17 construction;
- 18 (4) Investigation of new forms of project construction,
19 maintenance, operation, financing, or ownership,
20 involving tenants, homeowners, financing agencies, and
21 others; or



1 (5) Other necessary or appropriate research that may lower
2 the long-term costs of housing, conserve resources, or
3 create communities best suited to the needs of
4 residents.

5 (d) In the development and construction of a housing
6 project, the [~~administration~~] corporation may provide for an
7 on-the-job training program or other projects as it may deem
8 justifiable, including innovative projects to develop a larger
9 qualified work force in the [~~State.~~] state."

10 SECTION 10. Section 201H-12, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "[~~§~~201H-12[~~]~~] **Development of property.** (a) The
13 [~~administration,~~] corporation, in its own behalf or on behalf of
14 any federal, state, or county agency, may:

- 15 (1) Clear, improve, and rehabilitate property;
- 16 (2) Plan, develop, construct, and finance housing
17 projects; and
- 18 (3) In cooperation with the department of education and
19 department of accounting and general services, plan
20 educational facilities and related infrastructure as a
21 necessary and integral part of its [~~public~~] housing
22 projects, using all its innovative powers toward



1 achieving that end expeditiously and economically;
2 provided that the educational facilities comply with
3 the department of education's educational
4 specifications, timelines, and siting requirements.

5 (b) The [~~administration~~] corporation may develop public
6 land in an agricultural district subject to the prior approval
7 of the land use commission, when developing lands greater than
8 fifteen acres in size, and public land in a conservation
9 district subject to the prior approval of the board of land and
10 natural resources. The [~~administration~~] corporation shall not
11 develop state monuments [~~or~~], historical sites, or parks. When
12 the [~~administration~~] corporation proposes to develop public
13 land, it shall file with the department of land and natural
14 resources a petition setting forth [~~such~~] the purpose[-] for the
15 development. The petition shall be conclusive proof that the
16 intended use is a public use superior to that which the land has
17 been appropriated.

18 (c) The [~~administration~~] corporation may develop or assist
19 in the development of federal lands with the approval of
20 appropriate federal authorities.

21 (d) The [~~administration~~] corporation shall not develop any
22 public land where the development may endanger the receipt of



1 any federal grant, impair the eligibility of any [~~public body~~]
2 government agency for a federal grant, prevent the participation
3 of the federal government in any government program, or impair
4 any covenant between the government and the holder of any bond
5 issued by the government.

6 (e) The [~~administration~~] corporation may contract or
7 sponsor with any county, housing authority, or person, subject
8 to the availability of funds, an experimental or demonstration
9 housing project designed to meet the needs[+] of elders; the
10 disabled; displaced or homeless persons; low- and moderate-
11 income persons; teachers or other government employees; or
12 university and college students and faculty."

13 SECTION 11. Section 201H-14, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "[~~f~~]§201H-14[~~+~~] **Contracts with the federal government.**

16 (a) The [~~administration~~] corporation may:

- 17 (1) Borrow money or accept grants from the federal
18 government for or in aid of any housing project that
19 the [~~administration~~] corporation is authorized to
20 undertake;
- 21 (2) Take over any land acquired by the federal government
22 for the construction or operation of a housing project



1 with the approval of the federal government or at the
2 request of the federal government;

3 (3) Procure insurance or guarantees from the federal
4 government ~~[of]~~ for the payment of any debts or parts
5 thereof secured by mortgages made or held by the
6 ~~[administration]~~ corporation on any property included
7 in any housing project; ~~[and]~~

8 (4) Comply with any conditions required by the federal
9 government in any contract for financial
10 assistance~~[-]~~; and

11 (5) Execute contracts with the federal government.

12 (b) It is the purpose and intent of this ~~[chapter]~~ part
13 to authorize the ~~[administration]~~ corporation to do any and all
14 things necessary to secure the financial aid and the cooperation
15 of the federal government in the undertaking, construction,
16 maintenance, and operation of any housing project that the
17 ~~[administration]~~ corporation is empowered to undertake."

18 PART VI

19 SECTION 12. The purpose of this part is to:

20 (1) Make technical and conforming amendments to ensure
21 that references to chapter throughout the Hawaii



- 1 Revised Statutes are amended to reflect the "Hawaii
2 public housing authority";
- 3 (2) Make technical and conforming amendments to ensure
4 that references to chapter 201H throughout the Hawaii
5 Revised Statutes are amended to reflect the "Hawaii
6 housing finance and development corporation";
- 7 (3) Transfer appropriate housing functions to the Hawaii
8 public housing authority; and
- 9 (4) Amend Act 196, Session Laws of Hawaii 2005, to
10 transfer appropriate housing functions to the Hawaii
11 housing finance and development corporation.

12 SECTION 13. Section 53-1, Hawaii Revised Statutes, is
13 amended by amending the definition of "housing and community
14 development corporation of Hawaii", "corporation", "government",
15 "federal government", and "real property" to read as follows:

16 "~~["Housing and community development corporation of~~
17 ~~Hawaii",]~~ "Hawaii housing finance and development corporation",
18 "corporation", "government", "federal government", and "real
19 property" have the respective meanings set forth for these terms
20 in chapter [~~201G.~~] 201H."

21 SECTION 14. The legislative reference bureau shall prepare
22 proposed legislation that substitutes references made to



1 "chapter 201G" or any specific section or part of chapter 201G,
2 as the case may be, in sections 10-13.6, 26-14.6, 29-15.5, 46-
3 1.5, 46-4, 46-15.1, 46-15.2, 53-1, 53-17, 104-2, 171-18.5, 171-
4 19.5, 201H-10, 205-4, 206-1, 237-23, 237-29, 247-7, 321-15.6,
5 346-152, 467-2, 480-11, 514A-14.5, 514A-108, 514B-99.5, 516-1,
6 516-31, 516-104, and 521-7, Hawaii Revised Statutes, with the
7 corresponding chapter, part, or section number of the new law
8 created and codified under this Act, as appropriate.

9 The legislative reference bureau shall submit the proposed
10 legislation to the legislature not later than twenty days prior
11 to the convening of the 2007 regular session.

12 SECTION 15. Act 196, Session Laws of Hawaii 2005, is
13 amended by amending sections 20, 21, 22, 23, 24, and 25 by
14 substituting the words "Hawaii housing finance and development
15 corporation", or like term, wherever the words "Hawaii housing
16 finance and development administration", or like term, appears,
17 as the context requires.

18 SECTION 16. Act 196, Session Laws of Hawaii 2005, is
19 amended by amending section 26 to read as follows:

20 "SECTION 26. (a) All references to the "housing and
21 community development corporation of Hawaii", or "corporation"
22 or similar terms as the case may be in [~~chapter 201G, and~~]



1 sections 27-11, 53-6, 76-16, 209-16(b), 290-1(b), 290-8, and
2 521-7, Hawaii Revised Statutes, shall be amended to "Hawaii
3 public housing [~~administration~~], authority",
4 [~~"administration"~~], authority, or similar terms, as the case
5 may be, as the context requires.

6 (b) All references to the "housing and community
7 development corporation of Hawaii", or "corporation", or similar
8 terms as the case may be in chapter 516, and sections [~~10-2,~~
9 10-13.6, 36-24, 46-15.1, 53-17, 53-22(e), 111-8, 111-9, 171-2,
10 171-18.5, 171-50.2, 206E-15, 209-16(a), 209-17, 237-29, 247-3,
11 [~~290-1(e)~~], 519-2(b), and 519-3(b), Hawaii Revised Statutes,
12 shall be amended to [~~"Hawaii housing finance and development~~
13 ~~administration"~~, ~~"administration"~~], "Hawaii housing finance and
14 development corporation", "corporation", or similar terms, as
15 the case may be, as the context requires."

16 SECTION 17. Act 196, Session Laws of Hawaii 2005, is
17 amended by amending section 41 to read as follows:

18 "SECTION 41. This Act shall take effect on July 1, 2005;
19 provided that:

20 (1) Sections 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, and
21 30 shall take effect on July 1, 2006;



1 (2) Section 37 shall take effect upon the date specified
2 by the governor pursuant to the notice provided under
3 section 36 of this Act if, prior to July 1, 2007, the
4 United States Department of Housing and Urban
5 Development declares the housing and community
6 development corporation of Hawaii to be in substantial
7 default of the Memorandum of [~~Understanding~~] Agreement
8 dated September 30, 2004; and

9 (3) Sections 36 and 37 shall be repealed on [~~July 1, 2007;~~
10 ~~and~~] July 1, 2007.

11 [~~(4) Section 5 shall be repealed on June 30, 2010, and~~
12 ~~section 201C-432, Hawaii Revised Statutes, shall be~~
13 ~~re-enacted in the form in which it read on the day~~
14 ~~prior to the effective date of this Act.]"~~

15 SECTION 18. Act 204, Session Laws of Hawaii 2005, is
16 amended by amending section 2 to read as follows:

17 "SECTION 2. The department of education shall meet with
18 the [~~housing and community development corporation of Hawaii]~~
19 Hawaii public housing authority to discuss the transfer of
20 management of the teacher housing program to the department of
21 education. The department of education shall prepare a report
22 detailing the feasibility of the transfer and the department of



1 education's capacity to assume the [~~corporation's~~] authority's
2 responsibilities.

3 The department of education shall submit its findings to
4 the legislature no later than twenty days prior to the convening
5 of the regular session of 2007."

6 SECTION 19. Act 204, Session Laws of Hawaii 2005, is
7 amended by amending section 4 to read as follows:

8 "SECTION 4. All rights, powers, functions, and duties with
9 respect to the administration of teachers' housing [~~is~~] are
10 transferred from the [~~housing and community development~~
11 ~~corporation of Hawaii~~] Hawaii public housing authority to the
12 department of education.

13 All rules, policies, procedures, guidelines, and other
14 material adopted or developed by the [~~corporation~~] authority
15 with respect to teachers' housing shall remain in full force and
16 effect until amended or repealed by the department of education.
17 In the interim, every reference to the [~~corporation~~] authority
18 or chair of the board of directors of the [~~corporation~~]
19 authority in those rules, policies, procedures, guidelines, and
20 other material is amended to refer to the department of
21 education, or the superintendent, or the chair of the board of
22 education, as the case may be.



1 All deeds, leases, contracts, loans, agreements, permits,
2 or other documents executed or entered into by or on behalf of
3 the [~~corporation~~] authority pursuant to the Hawaii Revised
4 Statutes that are reenacted or made applicable to the department
5 of education by this Act shall remain in full force and effect.
6 Effective July 1, 2008, every reference to the [~~housing and~~
7 ~~community development corporation of Hawaii~~] Hawaii public
8 housing authority or the chair of the board of directors of the
9 [~~corporation,~~] authority, with respect to teachers' housing,
10 shall be construed as a reference to the department of
11 education, or the superintendent, or the chair of the board of
12 education, as the case may be.

13 All appropriations, records, equipment, machines, files,
14 supplies, contracts, books, papers, documents, maps, and other
15 personal property made, used, acquired, or held by the
16 [~~corporation,~~] authority, with respect to teachers' housing that
17 relate to the functions transferred to the department of
18 education, shall be transferred with the functions to which they
19 relate."

20 SECTION 20. All rights, powers, functions, and duties of
21 the housing and community development corporation of Hawaii
22 under part II of chapter 201G, Hawaii Revised Statutes, relating



1 to public housing, except for subpart F, and in subparts D and M
2 of part III of chapter 201G, Hawaii Revised Statutes, relating
3 to housing tenants, and in part IV of chapter 201G, Hawaii
4 Revised Statutes, relating to homeless assistance, are
5 transferred to the Hawaii public housing authority.

6 SECTION 21. All officers and employees whose functions are
7 transferred by this Act shall be transferred with their
8 functions and shall continue to perform their regular duties
9 upon their transfer, subject to the state personnel laws and
10 this Act.

11 No officer or employee of the State having tenure shall
12 suffer any loss of salary, seniority, prior service credit,
13 vacation, sick leave, or other employee benefit or privilege as
14 a consequence of this Act, and such officer or employee may be
15 transferred or appointed to a civil service position without the
16 necessity of examination; provided that the officer or employee
17 possesses the minimum qualifications for the position to which
18 transferred or appointed; and provided that subsequent changes
19 in status may be made pursuant to applicable civil service and
20 compensation laws.

21 An officer or employee of the State who does not have
22 tenure and who may be transferred or appointed to a civil



1 service position as a consequence of this Act shall become a
2 civil service employee without the loss of salary, seniority,
3 prior service credit, vacation, sick leave, or other employee
4 benefits or privileges and without the necessity of examination;
5 provided that such officer or employee possesses the minimum
6 qualifications for the position to which transferred or
7 appointed.

8 If an office or position held by an officer or employee
9 having tenure is abolished, the officer or employee shall not
10 thereby be separated from public employment, but shall remain in
11 the employment of the State with the same pay and classification
12 and shall be transferred to some other office or position for
13 which the officer or employee is eligible under the personnel
14 laws of the State as determined by the head of the department or
15 the governor.

16 SECTION 22. All appropriations, records, equipment,
17 machines, files, supplies, contracts, books, papers, documents,
18 maps, and other personal property heretofore made, used,
19 acquired, or held by the housing and community development
20 corporation of Hawaii relating to the functions transferred to
21 the Hawaii public housing authority shall be transferred with
22 the functions to which they relate.



1 SECTION 23. All rules, policies, procedures, guidelines,
2 and other material adopted or developed by the housing and
3 community development corporation of Hawaii to implement
4 provisions of the Hawaii Revised Statutes that are made
5 applicable to the Hawaii public housing authority by this Act,
6 shall remain in full force and effect until amended or repealed
7 by the Hawaii public housing authority, pursuant to chapter 91,
8 Hawaii Revised Statutes.

9 In the interim, every reference to the housing and
10 community development corporation of Hawaii or the executive
11 director of the housing and community development corporation of
12 Hawaii in those rules, policies, procedures, guidelines, and
13 other material is amended to refer to the Hawaii public housing
14 authority or the executive director of the Hawaii public housing
15 authority, as appropriate.

16 SECTION 24. All rental agreements made by the housing and
17 community development corporation of Hawaii prior to July 1,
18 2006 that are made applicable to the Hawaii public housing
19 authority by this Act shall remain in full force and effect
20 until the completion of their lease terms.



1 PART VII

2 SECTION 25. There is appropriated out of the general
3 revenues of the State of Hawaii the sum of \$708,300 or so much
4 thereof as may be necessary for fiscal year 2006-2007 to be
5 expended to purchase a computer network, printers, and faxes for
6 the Hawaii housing finance and development corporation.

7 The sum appropriated shall be expended by the Hawaii
8 housing finance and development corporation for the purposes of
9 this Act.

10 SECTION 26. There is appropriated out of the special funds
11 the sum of \$366,303 or so much thereof as may be necessary for
12 fiscal year 2006-2007 as follows:

- 13 (1) One full-time equivalent (1.00 FTE) executive director
14 position;
- 15 (2) One full-time equivalent (1.00 FTE) executive
16 assistant position;
- 17 (3) One full-time equivalent (1.00 FTE) secretary II
18 position;
- 19 (4) One full-time equivalent (1.00 FTE) clerk III
20 position;
- 21 (5) One full-time equivalent (1.00 FTE) account clerk V
22 position; and



1 (6) One full-time equivalent (1.00 FTE) secretary III
2 position.

3 The sum appropriated shall be expended by the Hawaii
4 housing finance and development corporation for the purposes of
5 this Act.

6 PART VIII

7 SECTION 27. There is appropriated out of federal revenues
8 of the State of Hawaii the sum of \$99,427 or so much thereof as
9 may be necessary for fiscal year 2006-2007 as follows:

10 (1) One full-time equivalent (1.00 FTE) clerk typist II
11 position;

12 (2) One full-time equivalent (1.00 FTE) account clerk III
13 position; and

14 (3) One full-time equivalent (1.00 FTE) clerk typist III
15 position.

16 The sum appropriated shall be expended by the Hawaii public
17 housing authority for the purposes of this Act.

18 SECTION 28. There is appropriated out of the general
19 revenues of the State of Hawaii the sum of \$1,791,700 or so much
20 thereof as may be necessary for fiscal year 2006-2007 for the
21 purpose of renovations to the Hawaii public housing authority's
22 School street office.



1 invalid provision or application, and to this end the provisions
2 of this Act are severable.

3 SECTION 33. In codifying the new sections added by
4 sections 3 through 5 of this Act, the revisor of statutes shall
5 substitute appropriate section numbers for the letters used in
6 designating the new sections in this Act.

7 SECTION 34. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9 SECTION 35. This Act shall take effect on July 1, 2006;
10 provided that subpart B of part IV relating to housing for
11 teachers in section 2 of this Act shall be repealed on July 1,
12 2008.



Report Title:

Housing Agencies

Description:

Further implements division of Housing and Community Development Corporation of Hawaii into two separate agencies, the Hawaii Housing Finance and Development Corporation and the Hawaii Public Housing Authority. (HB2966 CD1)

