

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 HD1)



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, section
2 38, directed the housing and community development corporation
3 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 make
14 necessary technical and conforming amendments to relevant
15 statutory provisions.

16 PART I

17 SECTION 2. Act 196, Session Laws of Hawaii 2005, is
18 amended by amending section 20 to read as follows:



1 "SECTION 20. The Hawaii Revised Statutes is amended by
2 adding a new chapter to be appropriately designated and to read
3 as follows:

4 "CHAPTER

5 HAWAII HOUSING FINANCE AND DEVELOPMENT [~~ADMINISTRATION~~]

6 CORPORATION

7 PART I. GENERAL PROVISIONS

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

12 "~~Administration~~" means the Hawaii housing finance and
13 ~~development administration.~~ As used in this chapter, unless the
14 context otherwise requires:

15 "Board" means the board of directors of the Hawaii housing
16 finance and development [~~administration.~~] corporation.

17 "Bonds" means any bonds, interim certificates, notes,
18 debentures, participation certificates, pass-through
19 certificates, mortgage-backed obligations, or other evidences of
20 indebtedness of the [~~administration~~] corporation issued pursuant
21 to this chapter.



1 "Community facilities" includes: real and personal
2 property; buildings, equipment, lands, and grounds for
3 recreational or social assemblies, or educational, health, or
4 welfare purposes; and necessary or convenient utilities, when
5 designed primarily for the benefit and use of the
6 ~~[administration]~~ corporation or the occupants of the dwelling.

7 "Contract" means any agreement of the ~~[administration]~~
8 corporation with an obligee or a trustee for the obligee,
9 whether contained in a resolution, trust indenture, mortgage,
10 lease, bond, or other instrument.

11 "Corporation" means the Hawaii housing finance and
12 development corporation.

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

15 ~~["Elder" or "elderly" means a person who is a resident of~~
16 ~~the state and has attained the age of sixty two years.~~

17 ~~"Elder or elderly households" means households in which at~~
18 ~~least one member is at least sixty two years of age, the spouse~~
19 ~~or partner of that member has attained the age of majority, and~~
20 ~~the remaining members have attained the age of fifty five years~~
21 ~~at the time of application to a public housing project. A live-~~



1 ~~in aide shall cease to be a resident therein upon the recovery~~
2 ~~of, or removal from the project of, the elder.~~

3 ~~"Elder or elderly housing" means:~~

4 ~~(1) A housing project intended for and occupied by elder~~
5 ~~or elderly households; or~~

6 ~~(2) Housing provided under any state or federal program~~
7 ~~that the Secretary of the United States Department of~~
8 ~~Housing and Urban Development determines is~~
9 ~~specifically designed and operated to assist elders or~~
10 ~~elderly persons, which, upon a determination by the~~
11 ~~Secretary, may also be occupied by persons with~~
12 ~~disabilities who have reached the age of majority.]~~

13 ~~"Executive director" means the executive director of the~~
14 ~~Hawaii housing finance and development [administration.]~~
15 ~~corporation.~~

16 ~~"Federal government" includes the United States and any~~
17 ~~agency or instrumentality, corporate or otherwise, of the United~~
18 ~~States.~~

19 ~~"Government" includes the State and the United States and~~
20 ~~any political subdivision, agency, or instrumentality, corporate~~
21 ~~or otherwise, of either of them.~~

22 ~~"Household member" means a person who:~~



1 (1) Is a co-applicant; or

2 (2) Will reside in the dwelling unit purchased or leased
3 from the corporation.

4 "Housing project" or "project" includes all real and
5 personal property, buildings and improvements, commercial
6 spaces, lands for farming and gardening, and community
7 facilities acquired or constructed or to be acquired or
8 constructed, and all tangible or intangible assets held or used
9 in connection with the housing project.

10 The term "housing project" or "project" may also be applied
11 to the planning of the buildings and improvements, the
12 acquisition of property by purchase, lease, or otherwise, the
13 demolition of existing structures, the construction,
14 reconstruction, alteration, and repair of the improvements, and
15 all other work in connection therewith.

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

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

21 (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 [~~administration~~] corporation as
8 meeting these 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, [~~Administrator of~~]
13 United States Department of Veterans Affairs, Federal National
14 Mortgage Association, Government National Mortgage Association,
15 Federal Home Loan Mortgage Corporation, private mortgage lender,
16 private mortgage insurer, and their successors, grantees, and
17 assigns.

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



1 institution, or a holding company for any of the foregoing,
2 that:

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

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



1 501(c)(3) or 501(c)(4), of the Internal Revenue Code of 1986, as
2 amended.

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

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

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

18 "Trust indenture" means an agreement by and between the
19 [~~administration~~] corporation and the trustee, which sets forth
20 the duties of the trustee with respect to the bonds, the
21 security therefor, and other provisions as deemed necessary or
22 convenient by the corporation to secure the bonds.



1 § -2 Hawaii housing finance and development

2 [~~administration;~~ corporation; establishment, staff. (a) There
3 is established the Hawaii housing finance and development
4 [~~administration~~] corporation to be placed within the department
5 of business, economic development, and tourism for
6 administrative purposes only. The [~~administration~~] corporation
7 shall be a public body and a body corporate and politic.

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



1 ~~[administration.]~~ corporation. The ~~[administration]~~ corporation
2 may call upon the attorney general or retain counsel for legal
3 services as it may require. The ~~[administration]~~ corporation
4 may delegate to one or more of its agents or employees its
5 powers and duties as it deems proper.

6 **§ -3 Board; establishment, functions, duties.** (a)

7 There is created a board of directors of the Hawaii housing
8 finance and development ~~[administration]~~ corporation consisting
9 of ~~[nine]~~ seven members, of whom six shall be public members
10 appointed by the governor as provided in section 26-34. At
11 least four of the public members shall have knowledge and
12 expertise in public or private finance and development of
13 affordable housing. Public members shall be appointed from each
14 of the counties of Honolulu, Hawaii, Maui, and Kauai. At least
15 ~~[one]~~ two public ~~[member]~~ members shall represent community
16 advocates for low-income housing, affiliated with private
17 nonprofit organizations that serve the residents of low-income
18 housing. The public members of the board shall serve four-year
19 staggered terms; provided that the initial appointments shall be
20 as follows:

21 (1) Two members to be appointed for four years;

22 (2) Two members to be appointed for three years; and



1 (3) Two members to be appointed for two years.
2 The director of business, economic development, and tourism [~~and~~
3 ~~the director of finance, or their designated representatives, and~~
4 ~~a representative of the governor's office,], or a designated
5 representative, shall be an ex officio voting member. The
6 [~~administration~~] corporation shall be headed by the board.~~

7 (b) The board of directors shall select a chairperson and
8 vice chairperson from among its members; provided that the
9 chairperson shall be a public member. The director of business,
10 economic development, and tourism [~~, director of finance, and the~~
11 ~~governor's representative~~] shall be ineligible to serve as
12 chairperson of the board.

13 (c) Five members shall constitute a quorum, whose
14 affirmative vote shall be necessary for all actions by the
15 [~~administration.~~] corporation. The members shall receive no
16 compensation for services, but shall be entitled to necessary
17 expenses, including travel expenses, incurred in the performance
18 of their duties.

19 **§ -4 General powers.** (a) The [~~administration~~]
20 corporation may:

21 (1) Sue and be sued;

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



1 (3) Make and execute contracts and other instruments
2 necessary or convenient to the exercise of its powers;
3 and

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

7 (b) In addition to other powers conferred upon it, the
8 [~~administration~~] corporation may do all things necessary and
9 convenient to carry out the powers expressly provided in this
10 chapter.

11 § -5 **Fair housing law to apply.** Notwithstanding any law
12 to the contrary, the provisions of chapter 515 shall apply in
13 administering this chapter.

14 § -6 **Housing advocacy and information system.** (a) The
15 [~~administration,~~] corporation, with the assistance of other
16 agencies of the State and counties with related
17 responsibilities, shall develop and maintain a housing advocacy
18 and information system to aid the [~~administration~~] corporation
19 in meeting the needs and demands of housing consumers.

20 (b) In establishing and maintaining the housing advocacy
21 and information system, the [~~administration~~] corporation shall
22 conduct market studies, engage in community outreach, and



1 solicit recommendations from and statistics and research
2 developed by agencies of the United States, the State, the
3 counties, private research organizations, nonprofit community
4 groups, trade associations, including those of the construction
5 and real estate industries, departments, individuals at the
6 University of Hawaii, and housing consumers.

7 (c) The [~~administration~~] corporation shall analyze the
8 information received and make recommendations to the appropriate
9 agencies and developers.

10 (d) The [~~administration,~~] corporation, through the housing
11 advocacy and information system, shall act as a clearinghouse
12 for information relating to housing conditions, needs, supply,
13 demand, characteristics, developments, trends in federal housing
14 programs, and housing laws, ordinances, rules, and regulations.

15 (e) The housing advocacy and information system may be
16 used by housing researchers, planners, administrators, and
17 developers and shall be coordinated with other housing research
18 efforts. The [~~administration~~] corporation shall maintain a
19 current supply of information, including means to gather new
20 information through surveys, contracted research, and
21 investigations.



1 **§ -7 Housing research.** (a) The [~~administration~~]
2 corporation may study the plans of any government in relation to
3 the problem of clearing, replanning, or reconstructing an area
4 in which unsafe or unsanitary public dwelling or public housing
5 conditions exist.

6 (b) The [~~administration~~] corporation may purchase
7 materials for the development of land and the construction of
8 dwelling units in the manner it concludes to be most conducive
9 to lower costs, including purchase from other states or from
10 foreign countries for drop shipment in the State or on cost-plus
11 contracts for materials with persons or firms doing business in
12 the State, or otherwise.

13 (c) The [~~administration~~] corporation may conduct, or cause
14 to be conducted, research on housing needs, materials, design,
15 or technology, and apply the findings of the investigation to
16 housing projects, including the following:

- 17 (1) Sociocultural investigation of housing and community
18 utilization, preferences, or needs of residents within
19 the housing need classification of the housing
20 functional plan;
- 21 (2) Development of technology for the application of
22 innovative building systems or materials, to provide



1 energy or resource conservation or cost savings in the
2 construction or operation of a housing project;

3 (3) Investigation of the applicability of locally-produced
4 building materials and systems to dwelling unit
5 construction;

6 (4) Investigation of new forms of project construction,
7 maintenance, operation, financing, or ownership,
8 involving tenants, homeowners, financing agencies, and
9 others; or

10 (5) Other necessary or appropriate research that may lower
11 the long-term costs of housing, conserve resources, or
12 create communities best suited to the needs of
13 residents.

14 (d) In the development and construction of a housing
15 project, the [~~administration~~] corporation may provide for an on-
16 the-job training program or other projects as it may deem
17 justifiable, including innovative projects to develop a larger
18 qualified work force in the State.

19 **§ -8 Housing counseling.** The [~~administration~~]
20 corporation may provide the following services for the programs
21 it administers:



- 1 (1) Listing and referral services to tenants seeking to
2 rent homes;
- 3 (2) Counseling to tenants on matters such as financial
4 management and budgeting, basic housekeeping,
5 communicating effectively and getting along with
6 others, and other matters as may be desirable or
7 necessary;
- 8 (3) Counseling to prospective homeowners on the rudiments
9 of owning a home;
- 10 (4) Assistance to any person or government agency
11 regarding the nature and availability of federal
12 assistance for housing development and community
13 development or redevelopment;
- 14 (5) Counseling and guidance services to aid: any person
15 or government agency in securing the financial aid or
16 cooperation of the federal government in undertaking,
17 constructing, maintaining, operating, or financing any
18 housing designated for elders; persons displaced by
19 governmental action; university and college students
20 and faculty; and any other persons; and
- 21 (6) Assistance to a county agency upon request from the
22 agency in the development of programs to correct or



1 eliminate blight and deterioration and to effect
2 community development.

3 **§ -9 Acquisition, use, and disposition of property.** (a)

4 The [~~administration~~] corporation may acquire any real or
5 personal property or interest therein by purchase, exchange,
6 gift, grant, lease, or other means from any person or government
7 to provide housing. Exchange of real property shall be in
8 accordance with section 171-50.

9 (b) The [~~administration~~] corporation may own or hold real
10 property. All real property owned or held by the
11 [~~administration~~] corporation shall be exempt from mechanic's or
12 materialman's liens and also from levy and sale by virtue of an
13 execution, and no execution or other judicial process shall
14 issue against the same nor shall any judgment against the
15 [~~administration~~] corporation be a charge or lien upon its real
16 property; provided that this subsection shall not apply to or
17 limit the right of obligees to foreclose or otherwise enforce
18 any mortgage of the [~~administration~~] corporation or the right of
19 obligees to pursue any remedies for the enforcement of any
20 pledge or lien given by the [~~administration~~] corporation on its
21 rents, fees, or revenues. The [~~administration~~] corporation and
22 its property shall be exempt from all taxes and assessments.



1 (c) The [~~administration~~] corporation may lease or rent all
2 or a portion of any housing project and establish and revise the
3 rents or charges therefor. The [~~administration~~] corporation may
4 sell, exchange, transfer, assign, or pledge any property, real
5 or personal, or any interest therein to any person or
6 government.

7 (d) The [~~administration~~] corporation may insure or provide
8 for the insurance of its property or operations against risks as
9 it deems advisable.

10 **§ -10 Cooperative agreements with other governmental**

11 **agencies.** (a) The [~~administration~~] corporation may:

12 (1) Obtain the aid and cooperation of governmental
13 agencies in the planning, construction, and operation
14 of [~~public~~] housing projects and enter into agreements
15 and arrangements as it deems advisable to obtain aid
16 and cooperation;

17 (2) Arrange or enter into agreements with any governmental
18 agency for the acquisition of property, options, or
19 property rights or for the furnishing, installing,
20 opening, or closing of streets, roads, alleys,
21 sidewalks, or other places, or for the furnishing of
22 property, services, parks, sewage, water, and other



1 facilities in connection with housing projects, or for
2 the changing of the map of a political subdivision or
3 the planning, replanning, zoning, or rezoning of any
4 part of a political subdivision;

5 (3) Procure insurance or guarantees from any governmental
6 agency for the payment of any debts or parts thereof
7 incurred by the [~~administration,~~] corporation,
8 including the power to pay premiums on any such
9 insurance; and

10 (4) Agree to make payments to any state or county agency,
11 if the agency is authorized to accept payments, as the
12 [~~administration~~] corporation deems consistent with the
13 maintenance of the character of housing projects or
14 the purposes of this chapter.

15 (b) For the purpose of aiding and cooperating in the
16 planning, construction, and operation of housing projects
17 located within their respective territorial boundaries, any
18 state or county agency, upon those terms, with or without
19 consideration, as it determines, may:

20 (1) Dedicate, grant, sell, convey, or lease any of its
21 property or grant easements, licenses, or any other



- 1 rights or privileges therein to the [~~administration~~]
2 corporation or to the federal government;
- 3 (2) To the extent that it is within the scope of the
4 agency:
- 5 (A) Cause the services customarily provided by the
6 agency to be rendered for the benefit of housing
7 projects and the occupants thereof;
- 8 (B) Provide and maintain parks and sewage, water,
9 lights, and other facilities adjacent to or in
10 connection with housing projects;
- 11 (C) Open, close, pave, install, or change the grade
12 of streets, roads, roadways, alleys, sidewalks,
13 or other related facilities; and
- 14 (D) Change the map of a political subdivision or
15 plan, replan, zone, or rezone any part of a
16 political subdivision;
- 17 (3) Enter into agreements with the [~~administration~~]
18 corporation with respect to the exercise of their
19 powers relating to the repair, closing, or demolition
20 of unsafe, unsanitary, or unfit dwellings;
- 21 (4) Employ, notwithstanding any other law as to what
22 constitutes legal investments, any available funds



1 belonging to them or within their control, including
2 funds derived from the sale or furnishing of property
3 or facilities to the [~~administration,~~] corporation, in
4 the purchase of bonds or other obligations of the
5 [~~administration~~] corporation to the extent provided
6 under section [~~201G-1617~~] _____61; and exercise all the
7 rights of any holder of the bonds or other
8 obligations;

9 (5) Do any and all things necessary or convenient to aid
10 and cooperate in the planning, undertaking, and
11 construction of such housing projects; and

12 (6) Enter into contracts with the [~~administration~~]
13 corporation or the federal government for any period
14 agreeing to exercise any of the powers conferred
15 hereby or to take any other action in aid of such
16 housing projects.

17 In connection with the exercise of this power, any
18 political subdivision may incur the entire expense of any such
19 public improvements located within its territorial boundaries
20 without assessment against abutting property owners.

21 For the purpose of aiding and cooperating in the planning,
22 construction, and operation of housing projects, the department



1 of land and natural resources, the Hawaiian homes commission,
2 and any other agency of the State having power to manage or
3 dispose of its public lands, with the approval of the governor
4 and with or without consideration, may grant, sell, convey, or
5 lease, for any period, any parts of such public lands, without
6 limit as to area, to the [~~administration~~] corporation or to the
7 federal government.

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

12 If at any time title to, or possession of, any housing
13 project is held by any governmental agency authorized by law to
14 engage in the development or administration of low-rent housing
15 or slum clearance projects, any agreement made under this
16 chapter relating to the project shall inure to the benefit of
17 and may be enforced by that governmental agency.

18 Insofar as this subsection is inconsistent with the
19 provisions of any other law, this subsection shall be
20 controlling.

21 (c) Any county in which a public housing project is
22 located or is about to be located may make donations or advances



1 to the [~~administration~~] corporation in sums as the county in its
2 discretion may determine. The advances or donations shall be
3 made for the purpose of aiding or cooperating in the
4 construction and operation of the housing project. The
5 [~~administration,~~] corporation, when it has money available
6 therefor, shall reimburse the county for all advances made by
7 way of a loan to it.

8 **§ -11 Agents, including corporations.** The
9 [~~administration~~] corporation may exercise any or all of the
10 powers conferred upon it, either generally or with respect to
11 any specific housing project through an agent that it may
12 designate, including any corporation that is formed under the
13 laws of this State, and for such purposes the [~~administration~~]
14 corporation may cause one or more corporations to be formed
15 under the laws of this State or may acquire the capital stock of
16 any corporation. Any corporate agent, all of the stock of which
17 shall be owned by the [~~administration~~] corporation or its
18 nominee, to the extent permitted by law, may exercise any of the
19 powers conferred upon the [~~administration~~] corporation in this
20 chapter.



1 **§ -12 Development of property.** (a) The
2 [~~administration,~~] corporation, in its own behalf or on behalf of
3 any federal, state, or county agency, may:

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

5 (2) Plan, develop, construct, and finance housing
6 projects; and

7 (3) In cooperation with the department of education and
8 department of accounting and general services, plan
9 educational facilities and related infrastructure as a
10 necessary and integral part of its public housing
11 projects, using all its innovative powers toward
12 achieving that end expeditiously and economically;
13 provided that the educational facilities comply with
14 the department of education's educational
15 specifications, timelines, and siting requirements.

16 (b) The [~~administration~~] corporation may develop public
17 land in an agricultural district subject to the prior approval
18 of the land use commission, when developing lands greater than
19 fifteen acres in size, and public land in a conservation
20 district subject to the prior approval of the board of land and
21 natural resources. The [~~administration~~] corporation shall not
22 develop state monuments or historical sites or parks. When the



1 [administration] corporation proposes to develop public land, it
2 shall file with the department of land and natural resources a
3 petition setting forth such purpose. The petition shall be
4 conclusive proof that the intended use is a public use superior
5 to that which the land has been appropriated.

6 (c) The [administration] corporation may develop or assist
7 in the development of federal lands with the approval of
8 appropriate federal authorities.

9 (d) The [administration] corporation shall not develop any
10 public land where the development may endanger the receipt of
11 any federal grant, impair the eligibility of any public body for
12 a federal grant, prevent the participation of the federal
13 government in any government program, or impair any covenant
14 between the government and the holder of any bond issued by the
15 government.

16 (e) The [administration] corporation may contract or
17 sponsor with any county, housing authority, or person, subject
18 to the availability of funds, an experimental or demonstration
19 housing project designed to meet the needs: of elders; the
20 disabled; displaced or homeless persons; low- and moderate-
21 income persons; teachers or other government employees; or
22 university and college students and faculty.



1 § -13 **Eminent domain, exchange or use of public**
2 **property.** The [~~administration~~] corporation may acquire any real
3 property, including fixtures and improvements, or interest
4 therein: through voluntary negotiation; through exchange of
5 land in accordance with section 171-50[~~7~~]; provided that the
6 public land to be exchanged need not be of like use to that of
7 the private land; or by the exercise of the power of eminent
8 domain which it deems necessary by the adoption of a resolution
9 declaring that the acquisition of the property described therein
10 is in the public interest and required for public use. The
11 [~~administration~~] corporation shall exercise the power of eminent
12 domain granted by this section in the same manner and procedure
13 as is provided by chapter 101 and otherwise in accordance with
14 all applicable provisions of the general laws of the State;
15 provided that condemnation of parcels greater than fifteen acres
16 shall be subject to legislative disapproval expressed in a
17 concurrent resolution adopted by majority vote of the senate and
18 the house of representatives in the first regular or special
19 session following the date of condemnation.

20 The [~~administration~~] corporation may acquire by the
21 exercise of the power of eminent domain property already devoted
22 to a public use; provided that no property belonging to any



1 government may be acquired without its consent, and that no
2 property belonging to a public utility corporation may be
3 acquired without the approval of the public utilities
4 commission, and subject to legislative disapproval expressed in
5 a concurrent resolution adopted by majority vote of the senate
6 and the house of representatives in the first regular or special
7 session following the date of condemnation.

8 **§ -14 Contracts with federal government.** (a) The
9 [~~administration~~] corporation may:

- 10 (1) Borrow money or accept grants from the federal
11 government for or in aid of any housing project that
12 the [~~administration~~] corporation is authorized to
13 undertake;
- 14 (2) Take over any land acquired by the federal government
15 for the construction or operation of a housing project
16 with the approval of the federal government or at the
17 request of the federal government;
- 18 (3) Procure insurance or guarantees from the federal
19 government of the payment of any debts or parts
20 thereof secured by mortgages made or held by the
21 [~~administration~~] corporation on any property included
22 in any housing project; and



1 (4) Comply with any conditions required by the federal
2 government in any contract for financial assistance.

3 (b) It is the purpose and intent of this part to authorize
4 the [~~administration~~] corporation to do any and all things
5 necessary to secure the financial aid and the cooperation of the
6 federal government in the undertaking, construction,
7 maintenance, and operation of any housing project that the
8 [~~administration~~] corporation is empowered to undertake.

9 **§ -15 Administration of low-income housing credit**
10 **allowed under section 235-110.8.** (a) The [~~administration~~]
11 corporation is designated as a state housing credit agency to
12 carry out [~~section~~] Section 42(h) (with respect to limitation on
13 aggregate credit allowable with respect to a project located in
14 a state) of the Internal Revenue Code of 1986, as amended. As a
15 state housing credit agency, the [~~administration~~] corporation
16 shall determine the eligibility basis for a qualified low-income
17 building, make the allocation of housing credit dollar amounts
18 within the State, and determine the portion of the State's
19 housing credit ceiling set aside for projects involving
20 qualified nonprofit organizations. The [~~administration~~]
21 corporation shall file any certifications and annual reports
22 required by [~~section~~] Section 42 (with respect to low-income



1 housing credit) of the Internal Revenue Code of 1986, as
2 amended.

3 (b) The state aggregate housing credit dollar amount shall
4 be allocated annually as required by [~~section~~] Section of the
5 Internal Revenue Code of 1986, as amended, by the
6 [~~administration~~] corporation in an amount equal to \$1.25
7 multiplied by the state population in the calendar year or such
8 greater or lesser amount as provided by [~~section~~] Section 42(h)
9 of the Internal Revenue Code of 1986, as amended.

10 (c) The [~~administration~~] corporation shall adopt rules
11 under chapter 91 necessary to comply with federal and state
12 requirements for determining the amount of the tax credit
13 allowed under [~~section~~] Section 42 of the Internal Revenue Code
14 of 1986, as amended, and section 235-110.8. The
15 [~~administration~~] corporation may establish and collect
16 reasonable fees for administrative expenses incurred in
17 providing the services required by this section, including fees
18 for processing developer applications for the credit. All fees
19 collected for administering these provisions, including
20 developer application fees, shall be used to cover the
21 administrative expenses of the [~~administration.~~] corporation.



1 (d) All claims for allocation of the low-income housing
2 credit under section 235-110.8 shall be filed with the
3 [~~administration.~~] corporation. The [~~administration~~] corporation
4 shall determine the amount of the credit allocation, if
5 necessary, and return the claim to the taxpayer. The taxpayer
6 shall file the credit allocation with the taxpayer's tax return
7 with the department of taxation.

8 § -16 Administration of federal programs. (a) The
9 [~~administration~~] corporation may carry out federal programs
10 designated to be carried out by a housing finance or housing
11 development entity.

12 (b) The [~~administration~~] corporation shall adopt necessary
13 rules in accordance with chapter 91, including the establishment
14 and collection of reasonable fees for administering the program,
15 to carry out any federal program in subsection (a).

16 (c) All fees collected for administering the program may
17 be deposited into an appropriate special fund of the
18 [~~administration~~] corporation and may be used to cover the
19 administrative expenses of the [~~administration.~~] corporation.

20 § -17 Federal funds outside of state treasury.

21 Notwithstanding chapter 38, the [~~administration~~] corporation may
22 establish and manage federal funds outside of the state treasury



1 to be used for federal housing programs. The [~~administration~~]
2 corporation shall invest those funds in permitted investments in
3 accordance with chapter 36.

4 **§ -18 Public works contracts.** The [~~administration~~]
5 corporation may make, execute, and carry out contracts for, or
6 in connection with, any housing project in the manner provided
7 under chapter 103D and section 103-53; provided that with regard
8 to the contracts, the term "officers", as used in chapter 103D,
9 shall mean the [~~administration~~] corporation or officer
10 authorized by the [~~administration~~] corporation to act as its
11 contracting officer. Unless made and executed in the name of
12 the State, each contract made and executed as authorized in this
13 section shall state therein that it is so made and executed.

14 **§ -19 Remedies of an obligee: mandamus; injunction;**
15 **possessory action; receiver; accounting; etc.** An obligee of the
16 [~~administration~~] corporation shall have the right, in addition
17 to all other rights that may be conferred on the obligee subject
18 only to any contractual restrictions binding upon the obligee,
19 and subject to the prior and superior rights of others:

20 (1) By mandamus, suit, action, or proceeding in law or
21 equity to compel the [~~administration,~~] corporation,
22 and the members, officers, agents, or employees



1 thereof to perform each and every item, provision, and
2 covenant contained in any contract of the corporation,
3 and to require the carrying out of any or all
4 covenants and agreements of the [~~administration~~]
5 corporation and the fulfillment of all duties imposed
6 upon the [~~administration~~] corporation by this chapter;

7 (2) By suit, action, or proceeding in equity to enjoin any
8 acts or things that may be unlawful, or the violation
9 of any of the rights of the obligee of the
10 [~~administration~~] corporation;

11 (3) By suit, action, or proceeding in any court of
12 competent jurisdiction to cause possession of any
13 housing project or any part thereof to be surrendered
14 to any obligee having the right to possession pursuant
15 to any contract of the [~~administration~~] corporation;

16 (4) By suit, action, or proceeding in any court of
17 competent jurisdiction, upon the happening of an event
18 of default (as defined in a contract of the
19 [~~administration~~],) corporation, to obtain the
20 appointment of a receiver of any housing project of
21 the [~~administration~~] corporation or any part or parts
22 thereof, and if the receiver is appointed, the



1 receiver may enter and take possession of the housing
2 project or any part or parts thereof and operate and
3 maintain same, and collect and receive all fees,
4 rents, revenues, or other charges thereafter arising
5 therefrom in the same manner as the [~~administration~~]
6 corporation itself might do and shall keep the moneys
7 in a separate account or accounts and apply the same
8 in accordance with the obligations of the
9 [~~administration~~] corporation as the court shall
10 direct; and

- 11 (5) By suit, action, or proceeding in any court of
12 competent jurisdiction to require the [~~administration~~]
13 corporation and the members thereof to account as if
14 it and they were the trustees of an express trust.

15 **§ -20 Subordination of mortgage to agreement with**
16 **government.** The [~~administration~~] corporation may agree in any
17 mortgage made by it that the mortgage shall be subordinate to a
18 contract for the supervision by a governmental agency of the
19 operation and maintenance of the mortgaged property and the
20 construction of improvements thereon. In that event, any
21 purchaser or purchasers at a sale of the property of the
22 [~~administration~~] corporation pursuant to a foreclosure of the



1 mortgage or any other remedy in connection therewith shall
2 obtain title subject to the contract.

3 **§ -21 Duty to make reports.** Except as otherwise
4 provided by law, the [~~administration~~] corporation shall:

- 5 (1) File at least once a year with the governor a report
6 of its activities for the preceding fiscal year;
- 7 (2) Report to the state comptroller on moneys deposited in
8 depositories other than the state treasury under
9 section 40-81 and rules adopted thereunder; and
- 10 (3) Submit an annual report to the legislature on all
11 [~~administration~~] corporation program areas and funds
12 organized by program area, and by fund within each
13 program area, no later than twenty days prior to the
14 convening of each regular session, which shall provide
15 the following information on the status of its
16 programs and finances:
- 17 (A) A description of programs being developed in the
18 current fiscal biennium, including a summary
19 listing of the programs, the status of each
20 program, the methods of project financing or
21 loans, and other information deemed significant;



- 1 (B) A description of programs planned for development
2 during the two ensuing fiscal bienniums,
3 including a summary listing of the proposed
4 programs, the methods of project financing or
5 loans, and other information deemed significant;
- 6 (C) A status report of actual expenditures made in
7 the prior completed fiscal year from each fund
8 established under this chapter, estimated
9 expenditures anticipated for the current fiscal
10 year, and projected expenditures for the ensuing
11 fiscal years to be described in relation to
12 specific projects developed to implement the
13 purposes of any program or fund established under
14 this chapter;
- 15 (D) A financial audit and report conducted on an
16 annual basis by a certified public accounting
17 firm; and
- 18 (E) Recommendations with reference to any additional
19 legislation or other action that may be necessary
20 to carry out the purposes of this part.

21 **§ -22 Quitclaim deeds.** Unless otherwise provided by
22 law, the [administration] corporation shall issue quitclaim



1 deeds and leases whenever it conveys, transfers, sells, or
2 assigns any property developed, constructed, or sponsored under
3 this chapter.

4 **PART II. HOUSING DEVELOPMENT PROGRAMS**

5 **§ -31 Definitions.** As used in this part unless the
6 context otherwise requires:

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

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

19 (1) To be qualified by experience and financial
20 responsibility to construct housing of the type
21 proposed to be contracted; and

22 (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 profit corporation,
4 or public agency determined by the corporation:

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

9 (2) To have submitted plans for a project adequately
10 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 requisites the corporation deems to
15 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 shall physically reside
2 in 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 oneself or together with
14 spouse or household member, does not own a
15 majority interest in fee simple or leasehold
16 lands suitable for dwelling purposes or a
17 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 § -32 Criteria. In administering this chapter and other
22 laws of the State applicable to the supplying of housing or the



1 assistance in obtaining housing, the corporation shall give
2 preference to those applicants most in need of assistance in
3 obtaining housing, in light of the amount of moneys available
4 for the various programs. In doing so, the corporation shall
5 take into consideration:

- 6 (1) The applicant's household income and number of
7 dependents;
- 8 (2) The age of the applicant;
- 9 (3) The physical disabilities of the applicant or those
10 living with the applicant;
- 11 (4) Whether or not the present housing of the applicant is
12 below standard;
- 13 (5) Whether or not the applicant's need for housing has
14 arisen by reason of displacement of the applicant by
15 governmental actions; and
- 16 (6) Other factors as it may deem pertinent.

17 § -33 Powers and duties, generally. (a) The
18 corporation may develop fee simple or leasehold property,
19 construct dwelling units thereon, including condominiums,
20 planned units, and cluster developments, and sell, lease, or
21 rent or cause to be leased or rented, at the lowest possible
22 price to qualified residents, nonprofit organizations, or



1 government agencies, with an eligible developer or in its own
2 behalf, either:

3 (1) Fully completed dwelling units with the appropriate
4 interest in the land on which the dwelling unit is
5 located;

6 (2) Units which are substantially complete and habitable
7 with the appropriate interest in the land on which the
8 dwelling unit is located; or

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

11 (b) The corporation shall require all applicants for the
12 purchase of dwelling units to make application therefor under
13 oath, and may require additional testimony or evidence under
14 oath in connection with any application. The determination of
15 any applicant's eligibility under this chapter by the
16 corporation shall be conclusive as to all persons thereafter
17 dealing with the property; but the making of any false statement
18 knowingly by the applicant or other person to the corporation in
19 connection with any application shall constitute perjury and be
20 punishable as such. The corporation shall establish a system to
21 determine preferences by lot in the event that it receives more
22 qualified applications than it has units available.



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

12 Upon the adoption of such rules, they shall have the force
13 and effect of law and shall supersede, for all projects in which
14 the State through the corporation shall participate, all other
15 inconsistent laws, ordinances, and rules relating to the use,
16 zoning, planning, and development of land, and the construction
17 of dwelling units thereon; provided that the rules, not more
18 than forty-five days after becoming effective, may be
19 disapproved in whole or in part for purposes of applicability to
20 any county, by an ordinance enacted by that county. On the
21 forty-sixth day after the rules become effective, any rules not
22 disapproved shall be deemed to have been approved by the county.



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

11 (e) Upon authorization by the legislature, the corporation
12 shall cause the State to issue general obligation bonds to
13 finance:

- 14 (1) Land acquisition;
15 (2) The development and improvement of land;
16 (3) The construction of dwelling units;
17 (4) The purchase, lease, or rental of land and dwelling
18 units by qualified residents, nonprofit organizations,
19 or government agencies under this chapter;
20 (5) Payment of any services contracted for under this
21 chapter, including profit or recompense paid to
22 partners, and including community information and



1 advocacy services deemed necessary by the corporation
2 to provide for citizen participation in the
3 development of housing projects, the implementation of
4 this chapter, and the staffing of any citizen advisory
5 committee the corporation may establish;

6 (6) The cost of repurchase of units under section -47;

7 (7) Loans for the rehabilitation and renovation of
8 existing housing; and

9 (8) Any other moneys required to accomplish the purposes
10 of this chapter.

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

13 **§ -34 Additional powers; development.** Notwithstanding
14 section 103-7 but with the approval of the governor, the
15 corporation may enter into and carry out agreements and
16 undertake projects or participate in projects authorized by this
17 chapter. The powers conferred upon the corporation by this
18 subpart shall be in addition and supplemental to the powers
19 conferred upon it by part I and any other law, and nothing
20 herein shall be construed as limiting any powers, rights,
21 privileges, or immunities so conferred upon it.



1 § -35 Bond financing. The director of finance may issue
2 general obligation bonds and short term project notes of the
3 State in the aggregate amount not to exceed \$105,000,000 for the
4 dwelling unit revolving fund created by section -171.
5 Pending the receipt of funds from the issuance and sale of the
6 bonds and notes, the amount required for the purposes of this
7 chapter shall be advanced from the general fund of the State.
8 Upon the receipt of the bond or note funds, the general fund
9 shall be reimbursed. The director of finance may sequester and
10 separate the proceeds from the sale of the bonds and notes into
11 separate funds and the amounts in either fund may be used for
12 any of the purposes set forth in this chapter.

13 § -36 Exemption from general excise taxes. (a) In
14 accordance with section 237-29, the corporation may approve and
15 certify for exemption from general excise taxes any qualified
16 person or firm involved with a newly constructed, or moderately
17 or substantially rehabilitated project:

- 18 (1) Developed under this subpart;
19 (2) Developed under a government assistance program
20 approved by the corporation, including but not limited
21 to, the United States Department of Agriculture 502



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



1 (c) For the purposes of this section:

2 "Moderate rehabilitation" means rehabilitation to upgrade a
3 unit to a decent, safe, and sanitary condition, or to repair or
4 replace major building systems or components in danger of
5 failure.

6 "Substantial rehabilitation" means the improvement of a
7 property to a decent, safe, and sanitary condition that requires
8 more than routine or minor repairs or improvements and may
9 include but is not limited to the gutting and extensive
10 reconstruction of a unit or cosmetic improvements coupled with
11 the curing of a substantial accumulation of deferred
12 maintenance. "Substantial rehabilitation" also includes
13 renovation, alteration, or remodeling to convert or adapt
14 structurally sound property to the design and condition required
15 for a specific use (e.g., conversion of a hotel to housing for
16 elders).

17 (d) The corporation may establish, revise, charge, and
18 collect a reasonable service fee, as necessary, in connection
19 with its approvals and certifications under this section. The
20 fees shall be deposited into the dwelling unit revolving fund.

21 **§ -37 Exemption from tax on income and obligations.**

22 Income earned and obligations issued by a nonprofit entity



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

8 **§ -38 Housing development; exemption from statutes,**
9 **ordinances, charter provisions, rules.** (a) The corporation may
10 develop, on behalf of the State or with an eligible developer,
11 or may assist under a government assistance program in the
12 development of, housing projects which shall be exempt from all
13 statutes, ordinances, charter provisions, and rules of any
14 governmental agency relating to planning, zoning, construction
15 standards for subdivisions, development and improvement of land,
16 and the construction of units thereon; provided that:

17 (1) The corporation finds the project is consistent with
18 the purpose and intent of this chapter, and meets
19 minimum requirements of health and safety;

20 (2) The development of the proposed project does not
21 contravene any safety standards, tariffs, or rates and
22 fees approved by the public utilities commission for



1 public utilities or the various boards of water supply
2 authorized under chapter 54; and

3 (3) The legislative body of the county in which the
4 project is to be situated shall have approved the
5 project; provided that:

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

13 (B) No action shall be prosecuted or maintained
14 against any county, its officials, or employees
15 on account of actions taken by them in reviewing,
16 approving, or disapproving the plans and
17 specifications; and

18 (C) The final plans and specifications for the
19 project shall be deemed approved by the
20 legislative body if the final plans and
21 specifications do not substantially deviate from
22 the preliminary plans and specifications. The



1 final plans and specifications for the project
2 shall constitute the zoning, building,
3 construction, and subdivision standards for that
4 project. For purposes of sections 501-85 and 502-
5 17, the executive director of the corporation, or
6 the responsible county official may certify maps
7 and plans of lands connected with the project as
8 having complied with applicable laws and
9 ordinances relating to consolidation and
10 subdivision of lands, and the maps and plans
11 shall be accepted for registration or recordation
12 by the land court and registrar;

13 and

14 (4) The land use commission shall approve or disapprove a
15 boundary change within forty-five days after the
16 corporation has submitted a petition to the commission
17 as provided in section 205-4. If on the forty-sixth
18 day the petition is not disapproved, it shall be
19 deemed approved by the commission.

20 (b) For the purposes of this section, "government
21 assistance program" means a housing program qualified by the
22 corporation and administered or operated by the corporation or



1 the United States or any of their political subdivisions,
2 agencies, or instrumentalities, corporate or otherwise.

3 § -39 Starter homes; design standards; applicant
4 eligibility; authority to incorporate starter homes into housing
5 projects of the corporation. (a) The corporation shall adopt
6 rules in accordance with chapter 91 to establish design and
7 construction standards for starter homes configured to expand
8 incrementally over time. For the purposes of this section,
9 "starter home" means a dwelling unit that is designed to meet
10 the basic living capacity requirements of homebuyers with
11 families of limited size by eliminating needless design and
12 space amenities, but which nonetheless enables future expansion,
13 modification, and improvement by the owner to accommodate
14 increased occupancy over time as may be necessary. The rules
15 shall include building, setback, minimum lot size,
16 infrastructure, and architectural standards for the construction
17 and development of starter homes.

18 (b) In addition to the requirements of subsection (a), the
19 corporation shall adopt rules in accordance with chapter 91 to
20 establish the basic requirements for families eligible to
21 purchase starter homes under this section. The rules shall
22 include guidelines and restrictions on occupancy standards



1 initially permitted in a starter home, as well as the income
2 ranges of families eligible to qualify for purchases under this
3 section.

4 (c) The corporation may incorporate starter homes into any
5 affordable housing project developed by the corporation under
6 this chapter. The corporation shall determine on a project-by-
7 project basis the number of starter home units to be included in
8 each particular project.

9 (d) The corporation shall include in its annual report to
10 the legislature a report on the number of starter homes
11 constructed and developed by the corporation in accordance with
12 the authorization provided in this section.

13 § -40 Dwelling unit project, construction and
14 sponsorship thereof. (a) The corporation, on behalf of the
15 State or with eligible developers and contractors, shall develop
16 real property and construct dwelling units thereon; provided
17 that, not less than ten per cent of the total number of units in
18 single-family projects consisting of fifty units or more
19 sponsored by the corporation shall be first offered to owner-
20 builders or to nonprofit organizations assisting owner-builders
21 in the construction of units thereon. Qualifications for
22 developers and contractors shall be provided by rules to be



1 adopted by the corporation in accordance with chapter 91. Any
2 person, if qualified, may act as both the developer and the
3 contractor.

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

7 (c) If working in partnership with an eligible developer,
8 the corporation shall have sole control of the partnership,
9 shall keep all books of the partnership, and shall ascertain all
10 costs of the partnership including the cost of services
11 performed by any other partners and it shall audit the same.
12 The other partners shall perform services for the partnership
13 under the direction of the corporation and shall be reimbursed
14 for all costs relating to the project as certified by the
15 corporation, including administrative and overhead costs.
16 Additionally, the other partners, upon transfer of title by the
17 corporation to the purchaser, shall be entitled to a guaranteed
18 gross share if the actual cost of the project does not exceed
19 the original project cost. The gross share shall not exceed
20 fifteen per cent of the original project cost prorated to the
21 dwelling units, less any amount subsidized by the State.
22 Subsidies shall include unrecovered development and land costs



1 and any other subsidized items as defined in rules to be adopted
2 by the corporation pursuant to chapter 91. The percentage of
3 the share shall be determined by the corporation by contract
4 with the partner based upon the nature of the services rendered
5 by them. For the purposes of this subsection, "original project
6 cost" means the original budget of a project as approved by the
7 corporation without modification at a later date.

8 (d) The corporation may require that performance bonds be
9 posted to the benefit of the State with surety satisfactory to
10 it guaranteeing performance by the other partners, or the State
11 may act as a self-insurer requiring security, if any, from the
12 other partners, as the corporation shall deem necessary.

13 § -41 Independent development of projects. (a) In any
14 county, the corporation may develop or may enter into agreements
15 for housing projects with an eligible developer if in the
16 corporation's reasonable judgment a project is primarily
17 designed for lower income housing. The agreement may provide
18 for the housing to be placed under the control of the
19 corporation, or to be sold by the corporation, or to be sold to
20 the corporation as soon as the units are completed and shall
21 contain terms, conditions, and covenants as the corporation, by
22 rules adopted pursuant to chapter 91, deems appropriate. Every



1 agreement shall provide for the developer to furnish a
2 performance bond, in favor of the corporation, assuring the
3 timely and complete performance of the housing project.
4 Sureties on the bond shall be satisfactory to the corporation.

5 (b) The plans and specifications for the project shall:

6 (1) Provide for economically integrated housing by
7 stipulation and design;

8 (2) Provide for the sale of all units in fee simple or in
9 leasehold either to the corporation or to the
10 purchaser and in all cases subject to all of the
11 provisions of sections -47, -49, and -50
12 excepting units sold at market price; and

13 (3) Encompass the use of lands adequately suited to the
14 size, design, and types of occupancies designated in
15 subsection (a), properly located for occupancy by the
16 groups for which the project was primarily designed
17 under this section, properly districted for the use
18 intended prior to this application, and appropriately
19 zoned within an urban land use district, or
20 appropriate in its situation and surroundings for more
21 intensive or denser zoning.



1 (c) The corporation may accept and approve projects
2 independently initiated by private developers which fully comply
3 with subsections (a) and (b). The corporation may review the
4 plans, specifications, districting, and zoning of the project
5 for the purpose of exempting the project from all statutes,
6 ordinances, charter provisions, and rules of any governmental
7 agency relating to zoning and construction standards for
8 subdivisions, development, and improvement of land and the
9 construction, improvement, and sale of homes thereon; provided
10 that the procedures in section -38(a)(1), (2), and (3) have
11 been satisfied.

12 **§ -42 Private development of projects.** (a) The
13 corporation may enter into contracts with any eligible bidder to
14 provide for the construction of a housing project or projects.
15 Each contract shall provide that the housing project or projects
16 shall be placed under the control of the corporation, as soon as
17 the unit is available for occupancy. Each contract also shall
18 provide that the capital stock of the mortgagor (where the
19 mortgagor is a corporation) be transferred to the corporation,
20 when the housing project or projects have been completed. Each
21 contract shall contain terms and conditions that the corporation
22 may determine to be necessary to protect the interests of the



1 State. Each contract shall provide for the furnishing by the
2 contractor of a performance bond and a payment bond with
3 sureties satisfactory to the corporation, and the furnishings of
4 bonds shall be deemed sufficiently compliant with the law and no
5 additional bonds shall be required. Before the corporation
6 shall enter into any contract as authorized by this section for
7 the construction of a housing project or projects, it shall
8 invite the submission of competitive bids after giving public
9 notice in the manner prescribed by law.

10 (b) Notwithstanding any other provision of law to the
11 contrary, the corporation is authorized to acquire the capital
12 stock of mortgagors holding property covered by a mortgage
13 guaranty under this chapter and established by this section, and
14 to exercise the rights as holder of the capital stock during the
15 life of the mortgage and, upon the termination of the mortgage,
16 to dissolve the corporation; to guarantee the payment of notes
17 or other legal instruments of such mortgagors; and to make
18 payments thereon. All housing projects placed under the control
19 of the corporation pursuant to this section shall be deemed to
20 be housing projects under the jurisdiction of the State.

21 (c) On request by the corporation, the attorney general
22 shall furnish to the corporation, an opinion as to the



1 sufficiency of title to any property on which it proposes to
2 construct housing projects, or on which housing projects have
3 been constructed, under this section. If the opinion of the
4 attorney general is that the title to the property is good and
5 sufficient, the corporation is authorized to guarantee, or enter
6 into a commitment to guarantee the mortgagee against any losses
7 that may thereafter arise from the adverse claims to title.
8 None of the proceeds of any mortgage loan hereafter insured
9 shall be used for title search and title insurance costs;
10 provided that if the corporation determines in the case of any
11 housing project, that the financing of the construction of the
12 project is impossible unless title insurance is provided, the
13 corporation may provide for the payment of reasonable costs
14 necessary for obtaining title search and title insurance. Any
15 determination by the corporation under the foregoing proviso
16 shall be set forth in writing, together with the reasons
17 therefor.

18 (d) The State shall be authorized to guarantee the
19 repayment of one hundred per cent of the principal and interest
20 of loans from commercial lenders for the purposes of this
21 section pursuant to rules adopted pursuant to chapter 91, by the
22 corporation which shall conform as closely as is possible to the



1 practices of the Federal Housing Administration in insuring
2 loans under Sections 203 and 207 of the National Housing Act, as
3 amended; provided that at no time shall the State's liability,
4 contingent or otherwise, on the guarantees exceed \$10,000,000.

5 **§ -43 Interim financing of projects.** (a) The
6 corporation may provide interim construction loans to eligible
7 developers. In addition to the rate of interest charged on
8 interim loans, the corporation may charge loan commitment fees,
9 to be determined by rules adopted pursuant to chapter 91.

10 (b) The interim loans shall be secured by a duly recorded
11 primary or secondary mortgage upon the fee simple or leasehold
12 interest in the land upon which the dwelling units are
13 constructed, or the corporation may require other security
14 interests and instruments as it deems necessary to secure the
15 indebtedness and any other conditions consistent with the
16 production and marketing of dwelling units at the lowest
17 possible prices. The corporation may also set the conditions of
18 a loan in a building and loan agreement between the borrower and
19 the corporation to secure the loan and the performance of the
20 borrower to complete the project.

21 **§ -44 Commercial, industrial, and other uses.** (a) In
22 connection with the development of any residential units under



1 this chapter, the corporation may also develop commercial,
2 industrial, and other properties if it determines that the uses
3 can be an integral part of the development and can help to
4 preserve the lifestyles of the purchasers of residences in the
5 development. The corporation may designate any portion of the
6 developments as commercial, industrial, or other use and shall
7 have all the powers granted under this chapter with respect
8 thereto, including the power to bypass statutes, ordinances,
9 charter provisions, and rules of any governmental agency
10 pursuant to section -38. For this purpose, the corporation
11 may use any of the funds authorized under this chapter.

12 (b) The corporation shall adopt rules pursuant to chapter
13 91 that shall provide the manner of designation of the uses and
14 shall provide that any commercial, industrial, or other
15 properties so developed shall be sold or leased at cost or at
16 economic rents or sales prices. Sale or lease shall be made at
17 cost to owners of commercial, industrial, or other facilities
18 displaced by the corporation. All other leases or sales shall
19 be at economic rents or sales prices determined by the
20 corporation, after appraisal, to be consistent with rents or
21 sales prices in similar locations or terms. The net proceeds of
22 all sales or leases, less costs to the corporation, shall be



1 deposited in the dwelling unit revolving fund. The rules may
2 also provide that during the first twenty years after its
3 purchase, any commercial, industrial, or other property so
4 developed and sold or leased may be resold or assigned only to
5 the corporation at the original purchase price plus the cost of
6 any improvements made by the purchaser together with simple
7 interest on all of the purchaser's equity in the property at the
8 rate of seven per cent a year. Rules may also provide that
9 ownership of the commercial, industrial, or other property
10 cannot be separated from ownership of the residential property
11 in connection with which it was sold or leased.

12 **§ -45 Sale, mortgage, agreement of sale, and other**
13 **instruments.** (a) The corporation shall sell completed dwelling
14 units or dwelling units that are substantially completed and
15 habitable, developed and constructed hereunder, to qualified
16 residents in fee simple, or shall cause them to be leased or
17 rented to qualified residents, at a price or rental based on
18 costs as determined by the corporation. The gross share to the
19 other partners or contract payments and any amounts subsidized
20 by the State, including but not limited to the land, need not be
21 counted as cost so as to increase the price. Such may be borne



1 by the State, under rules adopted pursuant to chapter 91 subject
2 to reimbursement upon sale as provided for in section -47.

3 (b) If a qualified purchaser is unable to obtain
4 sufficient funds at reasonable rates from private lenders, the
5 corporation, by way of mortgage, agreement of sale, or other
6 instrument to secure the indebtedness, may loan to the purchaser
7 up to one hundred per cent of the purchase price. The purchaser
8 in that event shall execute with the corporation an agreement of
9 sale or mortgage or other instrument under the terms of which
10 the unpaid principal and the interest thereon shall be paid in
11 monthly installments over a period of not more than forty years.

12 (c) Every mortgage, agreement of sale, other instrument to
13 secure the indebtedness, or instrument of indebtedness executed
14 by the corporation may contain other provisions as are usually
15 found in such instruments and shall provide that the purchaser
16 may repay the whole or any part of the unpaid balance of the
17 purchase price plus accrued interest at any time without
18 prepayment penalty.

19 (d) If the purchaser defaults on the payment of any loan,
20 the corporation shall take all necessary action to collect the
21 delinquent principal and interest on the loan and may take all
22 actions allowed to holders of obligations, including the power



1 to repossess, lease, rent, repair, renovate, modernize, and sell
2 the property foreclosed, subject to the restrictions hereinafter
3 described.

4 (e) The mortgages, agreements of sale, and other
5 instruments of indebtedness, at the direction of the
6 corporation, may be assigned to, and serviced by commercial
7 banks and other lending institutions doing business in the state
8 at a fee of not more than one-half of one per cent of the amount
9 loaned to the purchaser.

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

15 § -46 Co-mortgagor. For purposes of qualifying for a
16 mortgage loan to finance the purchase of a dwelling unit under
17 this subpart, a "qualified resident" as defined in section
18 -32 may be assisted by a co-mortgagor who is a family member
19 as defined by the corporation, who may own other lands in fee
20 simple or leasehold suitable for dwelling purposes, whose
21 interest in the dwelling unit to be purchased is limited to no
22 more than one per cent, and who certifies that the co-mortgagor



1 does not intend to reside in the dwelling unit. The income and
2 assets of the co-mortgagor shall not be counted in determining
3 the eligibility of the "qualified resident" under this chapter.

4 **§ -47 Real property; restrictions on transfer; waiver of**
5 **restrictions.** (a) The following restrictions shall apply to
6 the transfer of real property developed and sold under this
7 chapter, whether in fee simple or leasehold:

8 (1) For a period of ten years after the purchase, whether
9 by lease, assignment of lease, deed, or agreement of
10 sale, if the purchaser wishes to transfer title to the
11 real property, the corporation shall have the first
12 option to purchase the real property at a price that
13 shall not exceed the sum of:

14 (A) The original cost to the purchaser, as defined in
15 rules adopted by the corporation pursuant to
16 chapter 91;

17 (B) The cost of any improvements added by the
18 purchaser, as defined in rules adopted by the
19 corporation pursuant to chapter 91; and

20 (C) Simple interest on the original cost and capital
21 improvements to the purchaser at the rate of one
22 per cent a year;



- 1 (2) The corporation may purchase the real property either:
2 (A) By conveyance free and clear of all mortgages and
3 liens; or
4 (B) By conveyance subject to existing mortgages and
5 liens.

6 If the real property is conveyed in the manner
7 provided in subparagraph (A), it shall be conveyed to
8 the corporation only after all mortgages and liens are
9 released. If the real property is conveyed in the
10 manner provided in subparagraph (B), the corporation
11 shall acquire the property subject to any first
12 mortgage created for the purpose of securing the
13 payment of a loan of funds expended solely for the
14 purchase of the real property by the seller; and any
15 mortgage or lien created for any other purpose
16 provided that the corporation has previously consented
17 to it in writing;

- 18 (3) A purchaser may refinance real property developed and
19 sold under this chapter; provided that the purchaser
20 shall not refinance the real property, within ten
21 years from the date of purchase, for an amount in



- 1 excess of the purchase price as determined by
2 subsection (a)(1)(A) to (C);
- 3 (4) After the end of the tenth year from the date of
4 purchase, or execution of an agreement of sale, the
5 purchaser may sell the real property and sell or
6 assign the property free from any price restrictions;
7 provided that the purchaser shall be required to pay
8 to the corporation the sum of:
- 9 (A) The balance of any mortgage note, agreement of
10 sale, or other amount owing to the corporation;
- 11 (B) Any subsidy or deferred sales price made by the
12 corporation in the acquisition, development,
13 construction, and sale of the real property, and
14 any other amount expended by the corporation not
15 counted as cost under section -45 but charged
16 to the real property by good accounting practice
17 as determined by the corporation whose books
18 shall be prima facie evidence of the correctness
19 of the costs;
- 20 (C) Interest on the subsidy or deferred sales price,
21 if applicable, and any other amount expended at
22 the rate of seven per cent a year computed as to



1 the subsidy or deferred sales price, if
2 applicable, from the date of purchase, or
3 execution of the agreement of sale, and as to any
4 amount expended, from the date of expenditure;
5 provided that the computed interest shall not
6 extend beyond thirty years from the date of
7 purchase, or execution of the agreement of sale,
8 of the real property; and provided further that
9 if any proposed sale or transfer will not
10 generate an amount sufficient to pay the
11 corporation the sum as computed under this
12 paragraph, the corporation shall have the first
13 option to purchase the real property at a price
14 which shall not exceed the sum as computed under
15 subsection (a)(1) and (2); and

16 (D) The corporation's share of appreciation in the
17 real property as determined under rules adopted
18 pursuant to chapter 91 when applicable;

19 and

20 (5) Notwithstanding any provision in this subsection to
21 the contrary, pursuant to rules adopted by the
22 corporation under chapter 91, the subsidy or deferred



1 sales price described in subsection (a)(4)(B) and any
2 interest accrued pursuant to subsection (a)(4)(C) may
3 be paid, in part or in full, at any time.

4 (b) The corporation's interest created by subsection (a)
5 shall constitute a statutory lien on the real property and shall
6 be superior to any other mortgage or lien except for:

7 (1) Any first mortgage created for the purpose of securing
8 the payment of a loan of funds expended solely for the
9 purchase of the real property by the seller;

10 (2) Any mortgage insured or held by a federal housing
11 agency; and

12 (3) Any mortgage or lien created for any other purpose
13 provided that the corporation has previously consented
14 to it in writing.

15 The amount paid by the corporation to the seller shall be
16 the difference, if any, between the purchase price determined by
17 paragraphs (1)(A) to (C) of subsection (a), and the total of the
18 outstanding principal balances of the mortgages and liens
19 assumed by the corporation.

20 (c) For a period of ten years after the purchase, whether
21 by lease, assignment of lease, deed, or agreement of sale, if
22 the purchaser wishes to transfer title to the real property, and



1 if the corporation does not exercise the option to purchase the
2 real property as provided in subsection (a), then the
3 corporation shall require the purchaser to sell the real
4 property to a "qualified resident" as defined in section -32,
5 and upon the terms that preserve the intent of this section and
6 sections -49 and -50, and in accordance with rules adopted
7 by the corporation pursuant to chapter 91.

8 (d) The corporation may waive the restrictions prescribed
9 in subsection (a), (b), or (c) if:

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

14 (2) The sale or transfer of the real property would be at
15 a price and upon terms that preserve the intent of
16 this section without the necessity of the State
17 repurchasing the real property; provided that, in this
18 case, the purchaser shall sell the unit or lot and
19 sell or assign the property to a person who is a
20 "qualified resident" as defined in section -32; and
21 provided further that the purchaser shall pay to the
22 corporation its share of appreciation in the unit as



1 determined in rules adopted pursuant to chapter 91
2 when applicable.

3 (e) The corporation may release the restrictions
4 prescribed in subsection (a), (b), or (c) if the real property
5 is financed under a federally subsidized mortgage program and
6 the restrictions would jeopardize the federal government's
7 ability to recapture any interest credit subsidies provided to
8 the homeowner.

9 (f) The restrictions prescribed in this section and
10 sections -49 to -51 shall be automatically extinguished
11 and shall not attach in subsequent transfers of title when a
12 mortgage holder or other party becomes the owner of the real
13 property pursuant to a mortgage foreclosure, foreclosure under
14 power of sale, or a conveyance in lieu of foreclosure after a
15 foreclosure action is commenced; or when a mortgage is assigned
16 to a federal housing agency. Any law to the contrary
17 notwithstanding, a mortgagee under a mortgage covering real
18 property or leasehold interest encumbered by the first option to
19 purchase in favor of the corporation, prior to commencing
20 mortgage foreclosure proceedings, shall notify the corporation
21 in writing of:



1 (1) Any default of the mortgagor under the mortgage within
2 ninety days after the occurrence of the default; and
3 (2) Any intention of the mortgagee to foreclose the
4 mortgage under chapter 667;
5 provided that the mortgagee's failure to provide written notice
6 to the corporation shall not affect the holder's rights under
7 the mortgage. The corporation shall be a party to any
8 foreclosure action, and shall be entitled to all proceeds
9 remaining in excess of all customary and actual costs and
10 expenses of transfer pursuant to default, including liens and
11 encumbrances of record; provided that the person in default
12 shall be entitled to an amount that shall not exceed the sum of
13 amounts determined pursuant to subsection (a)(1)(B) and (C).
14 (g) The provisions of this section shall be incorporated
15 in any deed, lease, agreement of sale, or any other instrument
16 of conveyance issued by the corporation. In any sale by the
17 corporation of real property for which a subsidy or deferred
18 sales price was made by the corporation, the amount of the
19 subsidy or deferred sales price described in subsection
20 (a)(4)(B), a description of the cost items that constitute the
21 subsidy or deferred sales price, and the conditions of the



1 subsidy or deferred sales price shall be clearly stated at the
2 beginning of the contract document issued by the corporation.

3 (h) This section need not apply to market-priced units in
4 an economically integrated housing project, except as otherwise
5 determined by the developer of the units; provided that
6 preference shall be given to qualified residents in the initial
7 sale of market-priced units.

8 (i) The corporation is authorized to waive any of the
9 restrictions set forth in this section to comply with or conform
10 to requirements set forth in federal laws or regulations
11 governing mortgage insurance or guarantee programs or
12 requirements set forth by federally chartered secondary mortgage
13 market participants.

14 **§ -48 Exception of current owners in corporation**
15 **projects.** The corporation may allow a person who is a current
16 owner of a multifamily dwelling unit in a project sponsored by
17 the corporation to apply for the purchase of a larger dwelling
18 unit in a project sponsored by the corporation if the
19 applicant's current family size exceeds the permissible family
20 size for the applicant's current dwelling unit, as determined by
21 prevailing county building or housing codes. The applicant
22 shall be required to sell the applicant's current dwelling unit



1 back to the corporation. Notwithstanding any law to the
2 contrary, and for the purpose of this section, any applicant, as
3 it pertains to for-sale housing, shall be a "qualified resident"
4 who:

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

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

7 (3) Is domiciled in the state and shall physically reside
8 in the dwelling unit purchased under this chapter;

9 (4) In the case of purchase of real property in fee simple
10 or leasehold, has a gross income sufficient to qualify
11 for the loan to finance the purchase; and

12 (5) Except for the applicant's current residence, meets
13 the following qualifications:

14 (A) Is a person who either oneself or together with
15 the person's spouse or a household member, does
16 not own a majority interest in fee simple or
17 leasehold lands suitable for dwelling purposes,
18 or a majority interest in lands under any trust
19 agreement or other fiduciary arrangement in which
20 another person holds the legal title to the land;
21 and



1 (B) Is a person whose spouse or a household member
2 does not own a majority interest in fee simple or
3 leasehold lands suitable for dwelling purposes,
4 or a majority interest in lands under any trust
5 agreement or other fiduciary arrangement in which
6 another person holds the legal title to the land,
7 except when husband and wife are living apart
8 under a decree of separation from bed and board
9 issued by the family court pursuant to section
10 580-71.

11 § -49 Real property; restrictions on use. (a) Real
12 property purchased under this chapter shall be occupied by the
13 purchaser at all times during the ten-year restriction period
14 set forth in section -47, except in hardship circumstances
15 where the inability to reside on the property arises out of
16 unforeseeable job or military transfer, a temporary educational
17 sabbatical, serious illness of the person, or in other hardship
18 circumstances as determined by the corporation on a case-by-case
19 basis.

20 The corporation may waive the owner-occupancy requirement
21 for a total of not more than ten years after the purchase of the
22 dwelling, during which time the dwelling unit may be rented or



1 leased. Waivers may be granted only to qualified residents who
2 have paid resident state income taxes during all years in which
3 they occupied the dwelling, who continue to pay resident state
4 income taxes during the waiver period, and whose inability to
5 reside on the property does not stem from a natural disaster.
6 The ten-year owner-occupancy requirement shall be extended by
7 one month for every month or fraction thereof that the owner-
8 occupancy requirement is waived.

9 The corporation shall adopt rules under chapter 91 to
10 implement the letter and spirit of this subsection and to
11 prescribe necessary terms and conditions. The rules shall
12 include:

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

19 No qualified resident who fails to reoccupy a dwelling unit
20 after any waiver period shall receive more than the maximum to
21 which the person would be entitled under section -47. Any
22 person who disagrees with the corporation's determination under



1 this section shall be entitled to a contested case proceeding
2 under chapter 91.

3 (b) From time to time the corporation may submit a
4 verification of owner-occupancy form to the purchaser. Failure
5 to respond to the verification in a timely manner or violation
6 of subsection (a) shall be sufficient reason for the
7 corporation, at its option, to purchase the unit as provided in
8 section -47(a)(1), (2), or (4), as applicable.

9 (c) Any deed, lease, agreement of sale, or other
10 instrument of conveyance issued by the corporation shall
11 expressly contain the restrictions on use prescribed in this
12 section.

13 (d) The restrictions prescribed in subsection (a) shall
14 terminate and shall not attach in subsequent transfers of title
15 if the corporation releases the restrictions when the real
16 property is financed under a federally subsidized mortgage
17 program.

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



1 (f) The corporation is authorized to waive any of the
2 restrictions set forth in this section to comply with or conform
3 to requirements set forth in federal laws or regulations
4 governing mortgage insurance or guarantee programs, or
5 requirements set forth by federally chartered secondary mortgage
6 market participants.

7 § -50 Restrictions on use, sale, and transfer of real
8 property; effect of amendment or repeal. (a) Restrictions on
9 the use, sale, and transfer of real property shall be made as
10 uniform as possible in application to purchasers of all real
11 property, and restrictions shall be conformed with agreement of
12 the purchaser to reflect change or repeal made by any subsequent
13 legislative act, ordinance, rule, or regulation. Purchasers
14 shall be permitted at their election to sell or transfer real
15 property subject to restrictions in effect at the time of their
16 sale or transfer.

17 (b) The corporation, any department of the State, or any
18 county housing agency maintaining restrictions, through
19 contract, deed, other instrument, or by rule, shall notify
20 purchasers of any substantial change in restrictions made by
21 law, ordinance, rule, or regulation not more than one hundred
22 eighty days after a change in restrictions, and the notice shall



1 clearly state the enacted or proposed new provisions, the date
2 or dates upon which they are to be effective, and offer to each
3 purchaser of real property constructed and sold prior to the
4 effective date an opportunity to modify the existing contract or
5 other instrument to incorporate the most recent provisions. The
6 public notice shall be given at least three times in the state
7 for state agencies and at least three times in a county for
8 county agencies.

9 (c) For all purchasers of real property prior to June 25,
10 1990, where the restrictions on use and transfer of property
11 apply for a period of time, the period of time shall not be
12 increased beyond the date calculated from the date of original
13 purchase.

14 (d) No purchaser shall be entitled to modify the
15 restrictions on use, transfer, or sale of the real property,
16 without the written permission of the holder of a duly-recorded
17 first mortgage on the dwelling unit and the owner of the fee
18 simple or leasehold interest in the land underlying the unit,
19 unless the holder of the first mortgage or the owner is an
20 agency of the State or its political subdivisions.

21 (e) This section shall apply to all real property
22 developed, constructed, and sold pursuant to this chapter and



1 similar programs of the State or its political subdivisions and
2 which are sold on the condition that the purchaser accepts
3 restrictions on the use, sale, or transfer of interest in the
4 real property purchased.

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

9 (g) The restrictions of this section shall terminate as to
10 a particular real property and shall not attach in subsequent
11 transfers of title of that real property if the corporation
12 releases the restrictions when the real property is financed
13 under a federally subsidized mortgage program.

14 **§ -51 Corporation's right to repurchase or rent real**
15 **property; authority to seek recovery.** (a) Notwithstanding any
16 provision in this chapter to the contrary, during the period in
17 which the restrictions in section -47 are in effect, the
18 following provisions shall apply when dwelling units developed,
19 constructed, financed, purchased, or sold pursuant to Act 105,
20 Session Laws of Hawaii 1970, as amended, are found to have a
21 substantial construction defect, or when vacant lands developed,
22 financed, purchased, or sold pursuant to Act 105, Session Laws



1 of Hawaii 1970, as amended, are found to have a substantial soil
2 defect:

3 (1) The corporation shall have the right, but not the
4 obligation, to repurchase a dwelling unit or land
5 which has a defect, regardless of whether or not the
6 owner wishes to sell; provided that such repurchases
7 shall be in accordance with the following provisions:

8 (A) The corporation may repurchase a dwelling unit or
9 land if:

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

12 (ii) The defects are irreparable; or

13 (iii) In the opinion of the corporation, the
14 defect is of such magnitude that it will
15 take longer than a year to repair;

16 (B) The corporation's purchase price shall be based
17 on the formula set forth in section -47(a)(1);

18 (C) After repairs to the unit or land are completed,
19 the former owner shall have the first right of
20 refusal to repurchase the real property;

21 (D) The corporation shall give preference in all
22 other projects of the corporation to all owners



1 whose real property is repurchased by the
2 corporation under this subsection, and the
3 corporation may waive certain eligibility
4 requirements for these owners; and

5 (E) If the corporation exercises its right to
6 purchase defective real property against an
7 owner's wishes pursuant to this paragraph, the
8 corporation shall provide relocation assistance
9 to that owner as provided in chapter 111;

10 (2) If the corporation does not opt to purchase defective
11 real property, the corporation shall also have the
12 right, but not the obligation, to enter into a
13 contract to repair a dwelling unit which has a
14 construction defect or land which has a soil defect.

15 During the period that the real property is being
16 repaired, the corporation shall rent that real
17 property from the owner for an amount not to exceed
18 the owner's present mortgage payments; and

19 (3) If the corporation does not execute either a contract
20 to repurchase the real property or an agreement to
21 repair and rent the real property within ninety days
22 after written notice is given to the corporation of a



1 construction defect, the owner may pursue any other
2 available legal remedies.

3 For the purposes of this subsection:

4 "Substantial construction defect" includes but is not
5 necessarily limited to:

6 (1) Structural defects such as shifting foundations and
7 bearing walls;

8 (2) Structural deficiencies due to the use of defective or
9 undersized materials; and

10 (3) Defects affecting the health and safety of occupants.

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

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

19 (c) If real property developed, constructed, financed,
20 purchased, or sold pursuant to Act 105, Session Laws of Hawaii
21 1970, as amended, is found to have a substantial construction or
22 soil defect, the corporation shall have the right, but not the



1 obligation, to file or cause to be filed a legal action on
2 behalf of, or by the owner or lessee of the real property for
3 the recovery of damages or for injunctive relief against the
4 developer, co-developer, general contractor, and their
5 subcontractors, consultants, and other parties, notwithstanding
6 chapter 657. Additionally, notwithstanding any provision of
7 rule 23 of the Hawaii rules of civil procedure, the corporation
8 may file or cause to be filed a legal action brought under this
9 subsection as a class action on behalf of, or by at least two
10 owners or lessees of real property that have similar substantial
11 construction or soil defects.

12 (d) Nothing in this chapter shall be construed so as to
13 diminish the rights or remedies of the corporation otherwise
14 provided under common law, by statute or by contract.

15 (e) The corporation shall adopt rules pursuant to chapter
16 91 necessary for the purposes of this section.

17 (f) This section shall not apply to a particular real
18 property and shall not apply after subsequent transfers of title
19 of that real property if the corporation releases the
20 restrictions when the real property is financed under a
21 federally subsidized mortgage program.



1 (g) If any subsection, sentence, clause, or phrase of this
2 section, or its application to any person or transaction or
3 other circumstances, is for any reason held to be
4 unconstitutional or invalid, the remaining subsections,
5 sentences, clauses, and phrases of this section, or the
6 application of this section to other persons or transactions or
7 circumstances, shall not be affected. The legislature hereby
8 declares that it would have passed this section and each
9 subsection, clause, or phrase thereof, irrespective of the fact
10 that any one or more subsections, sentences, clauses, or phrases
11 of this section, or its application to any person or transaction
12 or other circumstance, be declared unconstitutional or invalid.

13 § -52 Nonprofit organizations; government agencies. (a)
14 The corporation may retain dwelling units in a project to the
15 extent it determines necessary and appropriate, for sale, lease,
16 or rental to nonprofit organizations and government agencies.
17 The dwelling units shall be used by the nonprofit organizations
18 and government agencies to provide housing opportunities and
19 related support services to special needs individuals or
20 families. These purposes include but are not limited to the use
21 of dwelling units for group homes and congregate living
22 facilities and for government employees in special situations.



1 The corporation, in consultation with other appropriate
2 government agencies, shall adopt rules pursuant to chapter 91
3 necessary to implement this subsection, including but not
4 limited to rules relating to the eligibility and qualifications
5 of nonprofit organizations and government agencies, rules
6 relating to the eligibility and qualifications of clients of
7 nonprofit organizations and government agencies to whom housing
8 opportunities may be made available, and rules restricting the
9 use, sale, or transfer of, and authorizing repurchase of,
10 dwelling units sold, leased, or rented pursuant to this
11 subsection.

12 The corporation, to the extent appropriate, shall have the
13 same powers with respect to nonprofit organizations and
14 government agencies purchasing, leasing, or renting dwelling
15 units as the corporation has with respect to qualified residents
16 purchasing, leasing, or renting dwelling units.

17 (b) In connection with the development of any residential
18 units under this chapter, the corporation may provide for the
19 development of appropriate community facilities. The
20 corporation may:



- 1 (1) Sell, lease, or rent vacant land or land with site
2 improvements to nonprofit organizations or government
3 agencies to develop community facilities; or
- 4 (2) Develop, on behalf of the State or with an eligible
5 developer, the community facilities and then sell,
6 lease, rent, or otherwise transfer or make available
7 these facilities to nonprofit organizations or
8 government agencies.

9 The corporation shall adopt rules pursuant to chapter 91
10 necessary to implement this subsection.

11 **§ -53 Rate of wages for laborers and mechanics.** The
12 corporation shall require an eligible bidder or eligible
13 developer of a housing project developed under this subpart to
14 comply with the requirements of section 104-2 for those laborers
15 and mechanics hired to work on that housing project; provided
16 that this section shall not apply to a housing project developed
17 under this chapter if the entire cost of the project is less
18 than \$500,000 and the eligible bidder or eligible developer is a
19 private nonprofit corporation.

20 **§ -54 Additional powers.** The powers conferred upon the
21 corporation by this subpart shall be in addition and
22 supplemental to the powers conferred upon it by any other law,



1 and nothing herein shall be construed as limiting any powers,
2 rights, privileges, or immunities so conferred upon it.

3 **PART III. FINANCING PROGRAMS**

4 **A. General Provisions**

5 **§ -61 Bonds; authorization.** (a) The corporation, with
6 the approval of the governor, may issue from time to time bonds
7 (including refunding bonds to pay, retire, or provide for the
8 retirement of bonds previously issued by the corporation) in
9 amounts not exceeding the total amount of bonds authorized to be
10 issued by the legislature for any of its corporate purposes;
11 provided however, that bonds may be issued in connection with
12 any program whose primary purpose is to provide housing for
13 active or retired United States military personnel, their
14 families, and other persons authorized by any branch of the
15 United States military to reside in such housing; provided
16 further that the aggregate principal amount of all outstanding
17 bonds issued by the corporation for such military housing
18 projects shall total no more than \$2,000,000,000.

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

21 (c) The bonds shall be issued in the name of the
22 corporation, and not in the name of the State. The final



1 maturity date of the revenue bonds may be any date not exceeding
2 sixty years from the date of issuance.

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

6 (1) Income and revenues derived from the housing project
7 or projects financed from the proceeds of bonds;

8 (2) Receipts derived from any grant from the federal
9 government made in aid of a housing project or
10 projects financed from the proceeds of bonds;

11 (3) Income and revenues derived from a particular
12 designated housing project or projects whether or not
13 financed, in whole or in part, from the proceeds of
14 bonds;

15 (4) Receipts derived from any payment for "eligible
16 loans", "eligible improvement loans", or "eligible
17 project loans", as such terms are defined in subpart
18 B, or any other agreement or agreements entered into
19 for a "housing loan program", as the term is defined
20 in subpart B or any other loan program administered by
21 the corporation and financed from the proceeds of
22 bonds;



1 (5) Receipts derived from loans to mortgage lenders or
2 from the payment on account of principal of, or
3 interest on loans purchased from mortgage lenders,
4 which loans to mortgage lenders or loans purchased are
5 financed from the proceeds of bonds;

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

9 (7) Proceeds derived from any insurance;

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

11 (9) Any combination of the above.

12 The terms "income and revenues" shall be deemed to include
13 income and revenues derived from the sale of land or from both
14 land and improvements thereon serviced from infrastructure
15 financed from the proceeds of bonds as permitted by this
16 subpart. The provisions of this subsection are in addition and
17 supplemental to part III of chapter 39.

18 (e) Any of the bonds may be additionally secured by a
19 pledge of any revenues or a mortgage of any housing project,
20 other property of the corporation, the pledge or assignment of
21 any loans or other agreements, or any note or other undertaking,
22 obligation, or property held by or on behalf of the corporation



1 to secure loans made from the proceeds of bonds for any "housing
2 loan program", as the term is defined in subpart B or any other
3 loan program administered by the corporation and financed from
4 the proceeds of bonds.

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

21 (g) Any housing project or projects authorized by, and
22 undertaken pursuant to this chapter shall constitute an



1 "undertaking" within the meaning of that term as defined and
2 used in part III, chapter 39; any loan program authorized by,
3 and undertaken pursuant to this chapter, including without
4 limitation, housing loan programs defined in and authorized by
5 subparts B and E of this part, shall constitute a "loan program"
6 within the meaning of that term as defined and used in part III,
7 chapter 39; and the corporation shall constitute a "department"
8 and the board shall constitute a "governing body" within the
9 meaning of those terms as defined and used in part III, chapter
10 39.

11 (h) Neither the members of the corporation nor any person
12 executing the bonds shall be liable personally on the bonds by
13 reason of the issuance thereof.

14 **§ -62 Issuance of bonds for the development of**
15 **infrastructure.** Without limiting section -61, the
16 corporation, pursuant to, and in accordance with this subpart,
17 is hereby authorized to issue bonds for the purpose of financing
18 the development of infrastructure on land owned by the
19 corporation.

20 **§ -63 Issuance of bonds for the preservation of low-**
21 **income housing projects.** The corporation, pursuant to, and in
22 accordance with this subpart, may issue bonds to purchase low-



1 income housing projects financed by the United States Department
2 of Housing and Urban Development to preserve these projects.

3 Upon the payment of all interest and principal stemming from the
4 issuance of these bonds, the corporation may transfer title to
5 these projects to qualified nonprofit organizations. Nothing in
6 this section shall be construed to:

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

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

17 As used in this section, "qualified nonprofit organization"
18 includes community-based nonprofit organizations and resident
19 councils.

20 **§ -64 Bonds; interest rate, price and sale.** (a) The
21 bonds shall bear interest at rates payable at times that the
22 corporation, with the approval of the governor, may determine



1 except for deeply discounted bonds that are subject to
2 redemption or retirement at their accreted value; provided that
3 the discounted value of the bonds shall not exceed ten per cent
4 of any issue; and provided further that no bonds may be issued
5 without the approval of the director of finance and the
6 governor. Notwithstanding any other law to the contrary, the
7 corporation may, subject to the approval of the director of
8 finance and the governor, issue bonds pursuant to section
9 -62, in which the discounted value of the bonds exceeds ten
10 per cent of the issue.

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



1 § -65 Trustee; designation, duties. (a) The
2 corporation may designate a trustee for each issue of bonds
3 secured under the same trust indenture; provided that the
4 trustee shall be approved by the director of finance.

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

9 (c) The trustee shall also be authorized by the
10 corporation to hold and administer any housing project bond
11 special funds established pursuant to section -70, and to
12 receive and receipt for, hold, and administer the revenues
13 derived by the corporation from any housing project or projects
14 or loan program for which the bonds are issued or the projects
15 or loan programs pledged to the payment of the bonds, and to
16 apply the revenues to the payment of the cost of administering,
17 operating, and maintaining the housing project or projects or
18 loan program, to pay the principal of and the interest on the
19 bonds, to the establishment of reserves, and to other purposes
20 as may be authorized in the proceedings providing for the
21 issuance of the bonds.



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

3 (1) The payment of the principal of, and interest on the
4 bonds; and

5 (2) The purchase, registration, transfer, exchange, and
6 redemption of the bonds.

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

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

20 **§ -66 Trust indenture.** (a) A trust indenture may
21 contain covenants and provisions authorized by part III of



1 chapter 39, and as deemed necessary or convenient by the
2 corporation for the purposes of this part.

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

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

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

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

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



1 obligation, or property securing the payment of the
2 bonds and the use and application of the moneys
3 derived therefrom.

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

10 § -67 Investment of reserves, etc. The corporation may
11 invest any funds held in reserves or sinking funds or any funds
12 not required for immediate disbursement, including the proceeds
13 of bonds, in property or securities in which the director of
14 finance may legally invest, as provided in section 36-21, except
15 that funds held outside the state treasury may be invested for
16 terms not to exceed thirty-five years. No provisions with
17 respect to the acquisition, operation, or disposition of
18 property by other public bodies shall be applicable to the
19 corporation unless the legislature shall specifically so state.

20 § -68 Security for funds deposited by the corporation.
21 The corporation may by resolution provide that all moneys
22 deposited by it shall be secured:



1 (1) By 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) By an undertaking with sureties as are approved by the
5 corporation to keep and pay over faithfully 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 such
9 deposits.

10 § -69 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 which 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
2 interest shall be exempt from chapter 91.

3 § -70 Housing finance revolving fund; housing project

4 bond special funds. (a) There is created a housing finance
5 revolving fund to be administered by the corporation.

6 Notwithstanding sections 36-21 and -171, the proceeds in the
7 fund shall be used for long-term and other special financings of
8 the corporation and for the necessary expenses in administering
9 this part.

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

14 (c) A separate special fund shall be established for each
15 housing project or system of housing projects or loan program
16 financed from the proceeds of bonds secured under the same trust
17 indenture. Each fund shall be designated "housing project bond
18 special fund" or "housing loan program revenue bond special
19 fund", as appropriate, and shall bear additional designation as
20 the corporation deems appropriate to properly identify the 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 principal of, and interest
3 and premium on bonds, shall be paid into the housing project
4 bond special fund established for the housing project or system
5 of projects or loan program and applied as provided in the
6 proceedings authorizing the issuance of the bonds.

7 **§ -71 Kikala-Keokea housing revolving fund; established.**

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

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



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

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

5 § -72 **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 corporation.

14 § -73 **Additional powers.** The powers conferred upon the
15 corporation by this subpart shall be in addition and
16 supplemental to the powers conferred upon it by any other law,
17 and nothing herein shall be construed as limiting any powers,
18 rights, privileges, or immunities so conferred upon it.

19 B. Housing Loan and Mortgage Program

20 § -81 **Definitions.** As used in this subpart, unless the
21 context otherwise requires:



1 "Eligible borrower" means a person or family, irrespective
2 of 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 of legal 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 part, 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 which 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 purposes of this paragraph, "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 pursuant to chapter 91.

7 "Eligible improvement" means alterations, repairs, or
8 improvements to an existing housing unit which 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 housing unit, which may
12 be a condominium unit, where the eligible improvement is to be
13 made; provided that the owner meets the requirements of an
14 eligible borrower, except that the requirements of paragraph (4)
15 set forth in the definition of "eligible borrower" need not
16 apply, the unit to be financed is located in the state, the unit
17 will be occupied as the principal place of residence of the
18 borrower, and meets other requirements as established by rules
19 adopted by the corporation pursuant to chapter 91.

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 pursuant to chapter 91.

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

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 project adequately
19 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 § -82 Owner-occupancy requirement. (a) An eligible
4 borrower shall use the dwelling unit purchased under this part
5 as the eligible borrower's permanent and primary residence.

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

11 (c) For eligible borrowers in the process of selling or
12 transferring title to their property, the corporation may grant
13 a waiver of subsection (a) for a period not to exceed three
14 years and for reasons pursuant to section -49 on a case-by-
15 case basis.

16 § -83 Rules; eligible borrower. (a) The corporation
17 shall establish the qualifications of the eligible borrower, and
18 may consider the following:

- 19 (1) The proportion of income spent for shelter;
20 (2) Size of the family;
21 (3) Cost and condition of housing available to the total
22 housing market; and



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

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

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

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

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

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

20 (1) The housing unit being replaced and the property on
21 which the housing unit is situated shall not be



1 included in the calculation of the eligible borrower's
2 assets; and

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

6 **§ -84 Rules; eligible loans.** (a) The corporation shall
7 establish requirements for property financed by an eligible
8 loan, and may consider the location, age, condition, and other
9 characteristics of the property.

10 (b) The corporation shall establish restrictions on the
11 terms, maturities, interest rates, collateral, and other
12 requirements for eligible loans pursuant to rules according to
13 chapter 91.

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

16 **§ -85 Rules; eligible project loans.** (a) The
17 corporation shall establish requirements for projects to be
18 financed by an eligible project loan, and may consider the
19 location, age, condition, and other characteristics of the
20 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 an eligible project shall be recovered by the corporation at
10 the time an eligible project loan is prepaid, whether as a
11 result of refinancing of the eligible project loan or otherwise,
12 to the extent that funds are available from the refinancing or
13 other method by which the eligible project loan is paid in full
14 prior to its due date.

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



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

3 (g) Requirements and restrictions under this section shall
4 be adopted pursuant to rules under chapter 91.

5 **§ -86 Rules; eligible improvement loans.** (a) The
6 corporation shall establish requirements for property financed
7 by an eligible improvement loan, and may consider the location,
8 age, condition, value, and other characteristics of the
9 property.

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

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

15 (d) Requirements and restrictions under this section shall
16 be adopted pursuant to rules under chapter 91.

17 **§ -87 Housing loan programs; procedures and**
18 **requirements.** (a) The corporation shall establish procedures
19 for:

20 (1) The submission of requests or the invitation of
21 proposals for loans to mortgage lenders;



- 1 (2) The purchase of existing loans by auction, invitation
2 of tenders, or negotiation;
- 3 (3) The making of advance commitments to purchase and the
4 purchasing of eligible loans, eligible improvement
5 loans, or eligible project loans to be made by
6 mortgage lenders by auction, invitation of tenders, or
7 negotiation; and
- 8 (4) Loan applications made through mortgage lenders to
9 eligible borrowers or qualified sponsors.
- 10 (b) The corporation shall establish standards and
11 requirements for:
- 12 (1) The allocation of loans to mortgage lenders;
- 13 (2) The allocation of funds to purchase existing loans
14 from mortgage lenders;
- 15 (3) The making of advance commitments and allocation of
16 funds to purchase eligible loans, eligible improvement
17 loans, or eligible project loans from mortgage
18 lenders; and
- 19 (4) The participation by mortgage lenders as originators
20 and processors of eligible loans, eligible improvement
21 loans, or eligible project loans on behalf of the
22 corporation.



1 (c) The standards and requirements for the allocation of
2 funds to mortgage lenders adopted by rule, pursuant to chapter
3 91, by the corporation, shall be designed to include the maximum
4 number of qualified mortgage lenders as participants in the
5 housing loan programs.

6 **§ -88 Housing loan programs; general powers.** (a) The
7 corporation may enter into, and enforce all contracts or
8 agreements which are necessary, convenient, or desirable for the
9 purposes of the performance of its duties in executing the
10 housing loan programs.

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

13 **§ -89 Housing loan programs; self-supporting.** The
14 interest rate, fees, charges, premiums, and other terms of the
15 loans made under the housing loan programs shall be sufficient
16 to pay the cost of administering and maintaining the portion of
17 the specific housing loan programs for which the bonds have been
18 issued, and to assure payment of the principal of, and interest
19 on the bonds as they become due.

20 **§ -90 Housing loan program; fees.** The corporation may
21 establish, revise, charge, and collect fees, premiums, and
22 charges as necessary, reasonable, or convenient, for its housing



1 loan programs. The fees, premiums, and charges shall be
2 deposited into the housing loan program revenue bond special
3 fund established for the particular housing loan program or part
4 thereof from which the fees, premiums, and charges are derived
5 as determined by the corporation.

6 **§ -91 Housing loan programs; evidence of eligible loan,**
7 **eligible improvement loans, or eligible project loan.** (a) Each
8 mortgage lender who participates in any housing loan program
9 shall submit evidence, as deemed satisfactory by the
10 corporation, that eligible loans, eligible improvement loans, or
11 eligible project loans have been made from the proceeds of the
12 bonds.

13 (b) The corporation may inspect the books and records of
14 the mortgage lenders as necessary for the purposes of this
15 section.

16 **§ -92 Loans to lenders program.** (a) The corporation
17 may make loans to mortgage lenders under terms and conditions
18 requiring that the loan proceeds be used within a time period
19 prescribed by the corporation to make eligible loans, eligible
20 improvement loans, and eligible project loans in an aggregate
21 principal amount substantially equal to the amount of the loan.



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

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

4 (1) Bear a date or dates;

5 (2) Mature at a time or times;

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

8 (4) Be subject to prepayment; and

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

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

16 **§ -93 Loan to lenders program; collateral security.** (a)
17 Loans made to mortgage lenders shall be additionally secured by
18 a pledge of a lien upon collateral security in an amount as the
19 corporation deems necessary to assure the payment of principal
20 of, and interest on the loans as they become due.

21 (b) The corporation shall determine the nature and type of
22 collateral security required.



1 (c) A statement designating the collateral security
2 pledged, the mortgage lender pledging the collateral, and the
3 corporation's interest in the pledged collateral may be filed
4 with the bureau of conveyances. Where a statement has been
5 filed, no possession, further filing, or other action under any
6 state law shall be required to perfect any security interest
7 which may be deemed to have been created in favor of the
8 corporation. The mortgage lender shall be deemed the trustee of
9 an express trust for the benefit of the corporation in all
10 matters relating to the pledged collateral.

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

17 § -94 Purchase of existing loans program. (a) The
18 corporation may contract with a mortgage lender to purchase, in
19 whole or in part, existing loans, whether or not eligible loans,
20 eligible improvement loans, or eligible project loans. The
21 contract may contain provisions as determined by the corporation



1 to be necessary or appropriate to provide security for its
2 bonds, including but not limited to provisions requiring the:

- 3 (1) Repurchase of the loans, in whole or in part, by
4 mortgage lenders at the option of the corporation;
5 (2) Payments of premiums, fees, charges, or other amounts
6 by mortgage lenders to provide a reserve or escrow
7 fund for the purposes of protecting against loan
8 defaults; and
9 (3) Guarantee by, or for recourse against, mortgage
10 lenders, with respect to defaults on these loans of
11 the corporation.

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

19 § -95 Advance commitments program. (a) The corporation
20 may contract with a mortgage lender for the advance commitment
21 to purchase eligible loans, eligible improvement loans, or
22 eligible project loans.



1 (b) The contract may contain provisions, as determined by
2 the corporation, to be necessary or appropriate to provide
3 security for its bonds. Notwithstanding any other law to the
4 contrary, project loans may be made available for housing
5 projects on Hawaiian home lands pursuant to the Hawaiian Homes
6 Commission Act, 1920, as amended.

7 **§ -96 Loan funding programs.** (a) The corporation may
8 contract with mortgage lenders to fund eligible loans and
9 eligible improvement loans and may directly make or contract
10 with mortgage lenders to fund eligible project loans.

11 (b) Any such contract with a mortgage lender may contain
12 provisions as determined by the corporation to be necessary or
13 appropriate to provide security for its revenue bonds.

14 **§ -97 Loans; service and custody.** The corporation may
15 contract for the service and custody of its loans. The contract
16 may provide for the payment of fees or charges for the services
17 rendered; provided that the fees or charges shall not exceed the
18 usual, customary, and reasonable charges for the services
19 rendered.

20 **§ -98 Loans; sale, pledge, or assignment.** (a) Subject
21 to any agreements with the holders of its revenue bonds, the



1 corporation may sell its loans at public or private sale at a
2 price and upon terms and conditions as it determines.

3 (b) Subject to any agreements with holders of its revenue
4 bonds, the corporation may pledge or assign its loans, other
5 agreements, notes, or property to secure the loans or
6 agreements.

7 § -99 Loans; insurance and guarantees. The corporation
8 may procure insurance or guarantees against any default of its
9 loans, in amounts and from insurers or guarantors, as it deems
10 necessary or desirable.

11 § -100 Loans; default. The corporation may renegotiate,
12 refinance, or foreclose any loan in default.

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

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

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

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



1 § -101 Additional powers. The powers conferred upon the
2 corporation by this subpart shall be in addition and
3 supplemental to the powers conferred upon it by any other law,
4 and nothing herein shall be construed as limiting any powers,
5 rights, privileges, or immunities so conferred upon it.

6 C. Rental Assistance Program

7 § -111 Purpose; findings and determinations. The
8 legislature finds and declares that the health and general
9 welfare of the people of the state require that the people of
10 this state have safe and sanitary rental housing accommodations
11 available at affordable rents; that a grave shortage in the
12 number of such accommodations affordable by families and
13 individuals of low- and moderate-income in the state exists;
14 that it is essential that owners of rental housing
15 accommodations be provided with appropriate additional means to
16 assist in reducing the cost of rental housing accommodations to
17 the people of the state.

18 The legislature further finds that the high cost of
19 infrastructure development and the obtaining of interim
20 construction financing are two of the greatest impediments to
21 the production of affordable rental housing in this state. It
22 is especially difficult for private nonprofit and profit



1 entities to participate in the development of affordable housing
2 due to the difficulty in amassing the capital necessary to plan
3 and carry a project to completion.

4 The purpose of this subpart is to:

5 (1) Assist owners in maintaining the rentals at levels
6 affordable by families and individuals of low- and
7 moderate-income by providing owners with rental
8 assistance payments which, with rentals received by
9 tenants of low- and moderate-income, will provide
10 owners with limited but acceptable rates of return on
11 their investments in rental housing accommodations;
12 and that assisting owners by entering into contracts
13 with them which provide for rental assistance payments
14 is a valid public purpose and in the public interest;
15 and

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



1 § -112 Definitions. As used in this subpart, unless the
2 context otherwise requires:

3 "Eligible project" means a rental housing project which:

4 (1) Is financed by the corporation pursuant to subpart B
5 or E, or the corporation determines will require

6 rental assistance to make it financially feasible;

7 (2) Is subject to a regulatory agreement with the
8 corporation;

9 (3) Maintains at least twenty per cent of its units for
10 eligible tenants; and

11 (4) Meets other qualifications as established by rules
12 adopted by the corporation.

13 Notwithstanding any provisions of law to the contrary,

14 "eligible project" may also include a rental housing project

15 which is financed by the corporation pursuant to part VI subpart

16 A.

17 "Eligible tenant" means a family or an individual whose

18 income does not exceed eighty per cent of the area median income

19 as determined by the United States Department of Housing and

20 Urban Development.

21 "Owner" means the owner of an eligible project.



1 "Regulatory agreement" means an agreement between the
2 corporation and the owner relating to an eligible project which
3 includes provisions relating to rents, charges, profits, return
4 on owner's equity, development costs, and methods of operation.

5 "Rental assistance contract" means an agreement between an
6 owner and the corporation providing for periodic rental
7 assistance payment for units in an eligible project.

8 **§ -113 Rental assistance revolving fund.** (a) There is
9 created a rental assistance revolving fund to be administered by
10 the corporation.

11 (b) The aggregate principal sum in the rental assistance
12 revolving fund which without limitation, may include sums made
13 available from any government program or grant, from private
14 grants or contributions, from the proceeds of any bond issue, or
15 by appropriation, shall be invested by the corporation in a
16 manner which will maximize the rate of return on investment of
17 the fund; provided that any investment shall be consistent with
18 section -67 but need not comply with section 36-21.

19 (c) The corporation may use, as needed, the aggregate
20 principal sum and the accumulated earnings in the rental
21 assistance revolving fund to make payments under the rental
22 assistance contracts or to subsidize tenants' rents in projects



1 developed under this part; provided that the corporation shall
2 use up to \$25,000,000 plus any bond proceeds to provide interim
3 construction financing to:

4 (1) Qualified sponsors who are private nonprofit or profit
5 entities; or

6 (2) The corporation, for the development of affordable
7 rental housing; provided further that the corporation,
8 in allotting interim construction financing moneys
9 pursuant to this part, shall give preference to rental
10 housing projects developed by qualified sponsors who
11 are private nonprofit or profit entities.

12 **§ -114 Rental assistance contracts.** (a) The
13 corporation may enter into a rental assistance contract and a
14 regulatory agreement with the owner of an eligible project, when
15 the owner of an eligible project is other than the corporation.

16 (b) Prior to the execution of a rental assistance
17 contract, the corporation may execute an agreement to enter into
18 a rental assistance contract with an owner, which agreement
19 shall provide for the execution of a rental assistance contract
20 upon satisfaction of the terms set forth in such agreement and
21 otherwise established by the corporation. Each rental
22 assistance contract heretofore entered into by the corporation



1 which provided that rental assistance payments shall be made
2 solely from the earnings on the investment of the rental
3 assistance revolving fund shall hereafter, without modification
4 of such contracts, be payable from the aggregate principal sum
5 and the accumulated earnings in the rental assistance revolving
6 fund.

7 (c) A rental assistance contract and any subsidy of
8 tenants' rents in projects developed under this part shall be
9 for a term not in excess of thirty-five years and shall be
10 approved by the board of directors of the corporation. Upon
11 approval by the corporation, the director of finance is
12 authorized to guarantee the obligation of the corporation for
13 the term of the rental assistance contract or the subsidy of
14 tenants' rents in an amount equal to the aggregate obligation of
15 the corporation to make assistance payments; provided that the
16 aggregate of all outstanding guarantees shall not exceed
17 \$100,000,000. Pursuant to the guarantee, the corporation shall
18 make annual rental payments to the owner in accordance with the
19 approved rental assistance contract or to the tenants in
20 accordance with the approved subsidy.

21 (d) Each rental assistance contract shall set forth a
22 maximum annual rental assistance payment amount. The



1 corporation shall establish procedures for determining the
2 maximum annual rental assistance payment amount and may
3 consider:

- 4 (1) The cost of constructing the eligible project;
5 (2) The estimated annual operating cost of the eligible
6 project;
7 (3) The estimated maximum rentals which may be charged for
8 units in the eligible project;
9 (4) The amount of funds available for the funding of
10 rental assistance contracts;
11 (5) The number of eligible projects requiring assistance
12 under this part; and
13 (6) A restricted rate of return on equity to the owner,
14 which rate shall be established by the corporation by
15 rule adopted pursuant to chapter 91.

16 **§ -115 Rental assistance program; rules.** (a) Prior to
17 the execution of a rental assistance contract and annually
18 thereafter, the owner shall submit a proposed rental schedule to
19 the corporation for approval that shall list every rental unit
20 in the project and designate which units are to be maintained
21 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:

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 the preceding section, the
14 corporation shall determine the amount of rental assistance
15 payments payable to the owner for the forthcoming year, which
16 shall under no circumstances exceed the maximum annual rental
17 assistance payment amount determined in accordance with section
18 -114. The amount determined pursuant to this subsection
19 shall take into account the estimated amount to be derived by
20 the owner from rentals to be charged for the forthcoming year
21 and the limited rate of return on equity permitted in accordance
22 with section -114(d)(6).



1 (d) The corporation shall establish standards and
2 requirements pursuant to rules adopted pursuant to chapter 91,
3 for:

4 (1) The awarding of rental assistance contracts and the
5 allocation of annual rental assistance payments;

6 (2) The form of lease to be used by the owner in renting
7 units in an eligible project;

8 (3) The marketing and tenant selection and admission
9 processes to be employed by the owner with respect to
10 an eligible project; and

11 (4) The maintenance and operation of eligible projects.

12 (e) The corporation shall establish procedures pursuant to
13 rules adopted pursuant to chapter 91, for:

14 (1) The annual review of rental schedules for eligible
15 projects;

16 (2) The periodic review of the income of tenants renting
17 units in eligible projects; and

18 (3) The periodic inspection of eligible projects to
19 monitor the owners' compliance with the terms and
20 conditions of their rental assistance contracts.

21 (f) When an eligible project is not owned by the
22 corporation, the corporation shall be entitled to share in the



1 appreciation in value of units maintained for eligible tenants
2 within an eligible project realized at the time of refinancing
3 or prepayment of the eligible project loan. The corporation's
4 share shall be calculated by multiplying the appreciation in
5 value of units maintained for eligible tenants realized upon
6 refinancing or prepayment by the ratio of the owner's equity to
7 the discounted value of the aggregate rental assistance
8 payments. The discount rate shall be established by rules
9 adopted by the corporation.

10 The corporation shall exempt projects owned by a county
11 from the shared appreciation requirement set forth in this
12 section if all of the following requirements are met:

13 (1) The funds derived by the county as a result of
14 appreciation in value of the units are used for
15 housing projects wherein:

16 (A) At least sixty per cent of the project is
17 affordable to families earning one hundred per
18 cent or less of the applicable area median
19 income; and

20 (B) At least half of the foregoing sixty per cent is
21 affordable to families earning eighty per cent or
22 less of the applicable area median income;



1 and

2 (2) The project from which the appreciation in value is
3 derived remains as affordable as it was prior to the
4 refinancing or prepayment of the eligible project
5 loan.

6 § -116 Benefits of program not exclusive. Nothing in
7 this subpart shall be construed to prohibit, with respect to an
8 eligible project, the operation of the rental assistance program
9 in conjunction with other state or federal programs including
10 the state rent supplements provided for in subpart D.

11 § -117 Additional powers. The powers conferred upon the
12 corporation by this subpart shall be in addition and
13 supplemental to the powers conferred by any other law, and
14 nothing herein shall be construed as limiting any powers,
15 rights, privileges, or immunities so conferred.

16 D. Taxable Mortgage Securities Programs

17 § -121 Definitions. Whenever used in this subpart,
18 unless the context otherwise requires:

19 "Eligible borrower" means:

20 (1) Any person or family, irrespective of race, creed,
21 national origin, or sex, who:



- 1 (A) Is a citizen of the United States or a declarant
2 alien;
- 3 (B) Is a bona fide resident of the state;
- 4 (C) Is at least of legal age;
- 5 (D) Does not personally, or whose spouse if the
6 person is married, own a majority interest in any
7 residential property in the state; and
- 8 (E) Meets other qualifications as established by
9 rules adopted by the corporation; or
- 10 (2) A qualified sponsor of an affordable housing project
11 who meets the qualification requirements as
12 established by rules adopted by the corporation.
- 13 "Eligible loan" or "loan" means:
- 14 (1) A loan to an eligible borrower for the purchase of a
15 housing unit, including a condominium unit; provided
16 that the property financed is located in the state,
17 will be occupied as the principal place of residence
18 by the eligible borrower, and meets other requirements
19 as established by rules adopted by the corporation
20 pursuant to chapter 91; 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 -122.

6 **§ -122 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 § -123 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 pursuant to chapter
15 91, necessary or convenient for the operation of the housing
16 loan programs established under this subpart.

17 § -124 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 renegotiate, refinance, or foreclose
12 any loan in default; and may commence any action to protect or
13 enforce any right conferred upon it by any law, or as provided
14 in any mortgage, insurance policy, contract, or other agreement;
15 and may bid for and purchase the property secured by the loan at
16 any foreclosure or other sale; or acquire, or take possession of
17 the property secured by the loan and may operate, manage, lease,
18 dispose of, or otherwise deal with the property securing the
19 loan.

20 § -125 **Additional powers.** The powers conferred upon the
21 corporation by this subpart shall be in addition and
22 supplemental to the powers conferred upon it by any other law,



1 and nothing herein shall be construed as limiting any powers,
2 rights, privileges, or immunities so conferred upon it.

3 E. State Mortgage Guarantee Program

4 § -131 State mortgage guarantee. (a) The corporation
5 may guarantee:

6 (1) Up to the top twenty-five per cent of the principal
7 balance of real property mortgage loans for the
8 purchase of qualified single-family or multifamily
9 housing units;

10 (2) A maximum of one hundred per cent of the principal
11 balance of real property mortgage loans of qualified
12 single-family housing under section 213 of the
13 Hawaiian Homes Commission Act; or

14 (3) Up to one hundred per cent of the principal balance of
15 real property mortgage loans of single-family or
16 multifamily housing developed under self-help or shell
17 housing programs;

18 plus the interest due thereon, made to qualified borrowers by
19 qualified private lenders; provided that at no time shall the
20 corporation's liability, contingent or otherwise, on these
21 guarantees exceed \$10,000,000.

22 For purposes of this section:



1 "Self-help housing program" means development or
2 preservation of housing in which prospective homeowners have
3 contributed labor, materials, or real property; provided that at
4 least two-thirds of the participating homeowners are qualified
5 by income for assistance under this subpart and that the program
6 is carried out under the sponsorship of a nonprofit community
7 development organization.

8 "Shell housing program" means development of housing which
9 is habitable but unfinished and can be completed or expanded;
10 provided that at least one hundred per cent of the participating
11 homeowners are qualified by income for assistance under this
12 chapter and that the program is carried out under the
13 sponsorship of a public, nonprofit, or private organization.

14 (b) The loans shall be secured by a duly recorded first
15 mortgage upon the fee simple or leasehold interest of the
16 borrower in the single-family or multifamily dwelling owned and
17 occupied by the borrower and the borrower's permitted assigns.
18 Private lenders shall include all banks, savings and loan
19 associations, mortgage companies, and other qualified companies
20 and trust funds whose business includes the making of loans in
21 the State.



1 (c) Loans guaranteed under this section shall be in
2 accordance with rules adopted by the corporation pursuant to
3 chapter 91.

4 (d) To be eligible for loans under this section, a
5 qualified borrower shall be:

6 (1) A citizen of the United States or a resident alien;

7 (2) Qualified under the rules adopted by the corporation
8 pursuant to chapter 91; and

9 (3) In compliance with the rules as may be adopted
10 pursuant to chapter 91 by the corporation.

11 The corporation may secure the services of a private lender to
12 process all applications and determine who is a qualified
13 borrower under this chapter.

14 (e) When the application for an insured loan has been
15 approved by the corporation, the corporation shall issue to the
16 lender a guarantee for that percentage of the loan on which it
17 guarantees payment of principal and interest. The private
18 lender shall collect all payments from the borrower and
19 otherwise service the loan.

20 (f) In return for the corporation's guarantee, the private
21 lender shall remit out of monthly payments collected, an
22 insurance fee as established by the corporation. The funds



1 remitted shall be deposited to the credit of the state general
2 fund.

3 (g) When any installment of principal and interest has
4 been due for sixty days and has not been paid by the borrower,
5 the private lender may file a claim for the guaranteed portion
6 of the overdue payments with the corporation which may then
7 authorize vouchers for these payments, thereby acquiring a
8 division of interest in the collateral pledged by the borrower
9 in proportion to the amount of the payment. The corporation
10 shall be reimbursed for any amounts so paid plus the applicable
11 interest rate when payment is collected from the borrower.

12 (h) If there is any default in any payment by the
13 borrower, the lender shall notify the corporation within fifteen
14 days. Should the lender deem that foreclosure proceedings are
15 necessary to collect moneys due from the borrower, it shall
16 notify the corporation. Within thirty days of either
17 notification, the corporation may elect to request an assignment
18 of the loan on payment in full to the lender of the principal
19 balance and interest due. Foreclosure proceedings shall be held
20 in abeyance in the interim.

21 (i) Every qualified borrower who is granted a loan under
22 this section shall comply with the following conditions:



- 1 (1) Extend no portion of the qualified borrower's loan for
2 purposes other than those sanctioned by the
3 corporation;
- 4 (2) Not sell or otherwise dispose of the mortgaged
5 property except upon the prior written consent of the
6 corporation and except upon any conditions that may be
7 prescribed in writing by the private lender;
- 8 (3) Undertake to pay when due all taxes, liens, judgments,
9 or assessments which may be lawfully assessed against
10 the property mortgaged, together with cost and expense
11 of any foreclosure of the mortgage;
- 12 (4) Keep insured to the satisfaction of the private lender
13 all improvements and other insurable property covered
14 by the mortgage. Insurance shall be made payable to
15 the mortgagee as its interest may appear at the time
16 of the loss. At the option of the private lender,
17 subject to the rules and standards of the corporation,
18 sums received may be used to pay for reconstruction of
19 the improvements destroyed, or for decreasing the
20 amount of the indebtedness;
- 21 (5) Keep the improvements in good repair; and



1 (6) The private lender may impose any other condition in
2 its mortgage; provided the form of the mortgage has
3 received the prior approval of the corporation.

4 All of the above conditions shall be held and construed to be
5 provisions of any mortgage executed by virtue of this section
6 regardless of whether or not they are expressly incorporated in
7 the mortgage document.

8 (j) Loans guaranteed and made under this subpart shall be
9 repaid in accordance with a payment schedule specified by the
10 private lender with payments applied first to interest and then
11 to principal. Additional payments in any sums and the payment
12 of the entire principal, may be made at any time within the
13 period of the loan. The private lender for satisfactory cause
14 and at its discretion, may extend the time within which the
15 installments of principal may be made for a period not to exceed
16 two years.

17 (k) All interest and fees collected under this subpart by
18 the corporation shall be deposited into the general fund. All
19 moneys necessary to guarantee payment of loans made under this
20 subpart and to carry on the operations of the corporation in
21 administering and granting loans under this subpart shall be
22 appropriated by the legislature out of the proceeds of the



1 general fund. The corporation shall include in its legislative
2 budgetary request for the upcoming fiscal period, the amounts
3 necessary to effectuate the purposes of this section.

4 **§ -132 Mortgage guaranty agreements.** (a) To induce
5 appropriate officials of any agency or instrumentality of the
6 United States to commit to insure mortgages under the National
7 Housing Act, as amended, the corporation may enter into guaranty
8 agreements with the officials whenever:

9 (1) The purchaser-mortgagor in question is ineligible for
10 mortgage insurance purposes under the National Housing
11 Act because of credit standing, debt obligation, or
12 income characteristics;

13 (2) The purchaser-mortgagor in question is a "displaced
14 person" as defined in chapter 111 and the guaranty
15 agreement will enable the purchaser-mortgagor to
16 obtain suitable replacement housing in accordance with
17 that chapter; and

18 (3) The corporation finds that the purchaser-mortgagor
19 would be a satisfactory credit risk with ability to
20 repay the mortgage loan if the purchaser-mortgagor
21 were to receive budget, debt, management and related
22 counseling.



1 (b) Such guaranty agreements may obligate the corporation

2 to:

3 (1) Provide or cause to be provided such counseling; and

4 (2) Indemnify an agency or instrumentality of the United

5 States for a period not to exceed five years for any

6 loss sustained by the agency or instrumentality by

7 reason of insurance of a mortgage.

8 (c) The total of guaranties made pursuant to this section

9 and guaranties made pursuant to section -131 shall not exceed

10 \$10,000,000.

11 § -133 Additional powers. The powers conferred upon the

12 corporation by this subpart shall be in addition and

13 supplemental to the powers conferred by any other law, and

14 nothing herein shall be construed as limiting any powers,

15 rights, privileges, or immunities so conferred.

16 F. Downpayment Loan Program

17 § -141 Downpayment loans. (a) The corporation may make

18 direct downpayment loans to eligible borrowers. The downpayment

19 loan to any borrower shall not exceed thirty per cent of the

20 purchase price of the residential property or \$15,000, whichever

21 is less. The interest rate on the loans may range from zero per

22 cent to eight per cent, depending on the buyer's incomes.



1 (b) The repayment of every downpayment loan shall be
2 secured by a duly recorded second mortgage executed by the
3 borrower to the State on the residential property purchased with
4 the downpayment loan.

5 (c) The principal of the downpayment loan, together with
6 accrued interest, shall be due and payable upon the sale,
7 transfer, or refinancing of the home, or shall be repaid by the
8 borrower in installments as determined by the corporation;
9 provided that the corporation may provide a period in which the
10 payment could be waived. The period over which the principal
11 and interest shall be paid need not coincide with the period
12 over which the loan from the mortgage lender for the balance of
13 the purchase price must be repaid. The borrower may repay the
14 whole or any part of the unpaid balance of the downpayment loan,
15 plus accrued interest at any time without penalty.

16 (d) The corporation may secure the services of the
17 mortgage lender who loans to the borrower the balance of the
18 purchase price of the residential property or the services of
19 any other mortgage lender doing business in the state to
20 collect, on behalf of the State, the principal and interest of
21 the downpayment loan and otherwise service the downpayment loan,



1 for a servicing fee not in excess of the prevailing loan
2 servicing fees.

3 (e) The corporation shall adopt rules pursuant to chapter
4 91 to carry out the purposes of this subpart.

5 **§ -142 Qualifications for downpayment loans.** (a) No
6 person shall be qualified for a downpayment loan unless the
7 person:

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

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

10 (3) Is a bona fide resident of the state;

11 (4) Will physically reside in the residential property to
12 be purchased for the term of the loan;

13 (5) Is accepted by a mortgage lender as a person to whom
14 it is willing to lend money for the purchase of the
15 residential property; provided the required
16 downpayment is made; and

17 (6) Provides a portion of the downpayment which shall be
18 equal to at least three per cent of the sales price.

19 (b) No person who owns in fee simple or in leasehold any
20 other residential property within the state shall be eligible to
21 become a borrower under this section. A person shall be deemed
22 to own a residential property if the person, the person's



1 spouse, or both (unless separated and living apart under a
2 decree of a court of competent jurisdiction) own a majority
3 interest in a residential property.

4 **§ -143 Restrictions on borrower.** Every loan made under
5 this subpart shall be subject to the following conditions:

- 6 (1) The borrower shall expend no portion of the borrower's
7 downpayment loan for purposes other than to make a
8 downpayment for the purchase of a residential
9 property;
- 10 (2) The residential property purchased with the
11 downpayment loan and mortgaged to the State to secure
12 the repayment of the loan shall not be sold or
13 assigned without the prior approval in writing of the
14 corporation and the first mortgage lender;
- 15 (3) The borrower shall pay, when due, all taxes, liens,
16 judgments, or assessments which may be lawfully levied
17 against the residential property and all costs and
18 expenses of any foreclosure of the mortgage made to
19 the State;
- 20 (4) The borrower shall maintain fire and casualty
21 insurance in amounts equal to the replacement value of
22 all improvements and insurable portions of the



1 residential property with an insurance company
2 authorized to do business in the state. All proceeds
3 of that insurance shall be made payable to the first
4 mortgage lender and the corporation as their
5 respective interests may appear at the time of any
6 loss or damage. Subject to the rules of the
7 corporation, in the event of any loss or damage to the
8 improvements or property covered by the insurance, the
9 proceeds receivable by the State shall be applied
10 toward the reconstruction of the improvements or
11 property destroyed or damaged, unless otherwise
12 determined by the corporation on behalf of the State;
13 and

14 (5) The borrower shall maintain the improvements in good
15 repair.

16 All of the above conditions shall be a part of any
17 downpayment mortgage executed under this part, regardless of
18 whether or not they are expressly incorporated in the mortgage
19 document.

20 § -144 Default. If the borrower defaults in the payment
21 of any installment of principal or interest of the downpayment
22 loan, the corporation or mortgage lender shall take all



1 necessary action to collect the delinquent amounts and may take
2 all actions generally allowed holders of mortgages, including
3 the power to foreclose. Upon any foreclosure of the second
4 mortgage, the corporation or mortgage lender on behalf of the
5 corporation, may purchase the interest of the borrower in and to
6 the residential property, take possession thereof and assume all
7 of the obligations of the borrower under the first mortgage held
8 by the private lender and any other liens having priority over
9 the second mortgage that may then exist. On the acquisition of
10 the borrower's interest, the corporation, at its option, may pay
11 in full the unpaid balance of the borrower's obligation secured
12 by the first mortgage and other prior liens, and repair,
13 renovate, modernize, or improve the residential property, and,
14 with or without clearing the property of all prior mortgages and
15 liens, sell, lease, or rent the property or use or dispose of
16 the property in any manner that the corporation is authorized by
17 law.

18 § -145 **Additional powers.** The powers conferred upon the
19 corporation by this subpart shall be in addition and
20 supplemental to the powers conferred by any other law, and
21 nothing herein shall be construed as limiting any powers,
22 rights, privileges, or immunities so conferred.



1 G. Homebuyers' Club

2 § -151 Homebuyers' club program. (a) The corporation
3 may establish a homebuyers' club program for participants who
4 are desirous of purchasing a home and who have adequate incomes
5 but lack sufficient funds for the downpayment and closing costs.
6 The primary focus of this program is to facilitate the purchase
7 of homes by providing participants with strategies to save
8 money, to resolve credit problems, and to educate participants
9 on how to shop for and purchase a home.

10 (b) In establishing this program, the corporation shall
11 adopt rules pursuant to chapter 91 relating to establishing a
12 savings program for participants based upon individual analyses
13 of income and family expenses. The rules may also provide for
14 integration of the homebuyers' club program with other
15 governmental programs including but not limited to individual
16 housing accounts under section 235-5.5, the state mortgage
17 guarantee program, the downpayment loan program, and the rent-
18 to-own program.

19 (c) The corporation may secure the services of another
20 public or private entity to carry out the purposes of this
21 section.



1 § -152 Additional powers. The powers conferred upon the
2 corporation by this subpart shall be in addition and
3 supplemental to the powers conferred by any other law, and
4 nothing herein shall be construed as limiting any powers,
5 rights, privileges, or immunities so conferred.

6 H. Rent-to-Own Program

7 § -161 Rent-to-own program. (a) The corporation may
8 establish a rent-to-own program under which housing units that
9 are for sale may be rented to program participants. Under this
10 program, the corporation shall credit a portion of the rent
11 received toward the purchase of the unit.

12 (b) The sales price shall be established at the beginning
13 of the rental term and shall remain fixed for the first five
14 years after the rental agreement is executed. During this
15 period, the participant shall have the option of purchasing the
16 unit at the designated sales price. If the participant does not
17 elect to purchase the unit within the five-year period, the
18 renter shall forfeit the right to continue living in the unit
19 and the unit shall be made available to another purchaser or
20 renter.



1 (c) The corporation shall have the right to re-establish
2 the sales price upon expiration of the option period or upon
3 resale of the unit.

4 **§ -162 Additional powers.** The powers conferred upon the
5 corporation by this subpart shall be in addition and
6 supplemental to the powers conferred by any other law, and
7 nothing herein shall be construed as limiting any powers,
8 rights, privileges, or immunities so conferred.

9 I. Dwelling Unit Revolving Fund

10 **§ -171 Dwelling unit revolving fund.** There is created a
11 dwelling unit revolving fund. The funds appropriated for the
12 purpose of the dwelling unit revolving fund and all moneys
13 received or collected by the corporation for the purpose of the
14 revolving fund shall be deposited in the revolving fund. The
15 proceeds in the revolving fund shall be used to reimburse the
16 general fund to pay the interest on general obligation bonds
17 issued for the purposes of the revolving fund, for the necessary
18 expenses in administering part III, and for carrying out the
19 purposes of part III, including but not limited to the expansion
20 of community facilities constructed in conjunction with housing
21 projects, permanent primary or secondary financing, and
22 supplementing building costs, federal guarantees required for



1 operational losses, and all things required by any federal
2 agency in the construction and receipt of federal funds or low-
3 income housing tax credits for housing projects.

4 **§ -172 Additional powers.** The powers conferred upon the
5 corporation by this subpart shall be in addition and
6 supplemental to the powers conferred by any other law, and
7 nothing herein shall be construed as limiting any powers,
8 rights, privileges, or immunities so conferred.

9 J. Rental Housing Trust Fund

10 **§ -181 Additional definitions.** As used in this subpart,
11 unless the context otherwise requires:

12 "Develop" or "development" means the planning, financing,
13 or acquisition of real and personal property; demolition of
14 existing structures; clearance of real property; construction,
15 reconstruction, alteration, or repairing of approaches, streets,
16 sidewalks, utilities, and services, or other site improvements;
17 construction, reconstruction, repair, remodeling, extension,
18 equipment, or furnishing of buildings or other structures; or
19 any combination of the foregoing, of any housing project. It
20 shall include any undertakings necessary therefor, and the
21 acquisition of any housing, in whole or in part.



1 "Fund" means the rental housing trust fund established in
2 this subpart.

3 § -182 Rental housing trust fund. (a) There is hereby
4 established a rental housing trust fund to be placed within the
5 corporation.

6 (b) An amount from the fund, to be set by the corporation
7 and authorized by the legislature, may be used for
8 administrative expenses incurred by the corporation in
9 administering the fund; provided that fund moneys may not be
10 used to finance day-to-day administrative expenses of projects
11 allotted fund moneys.

12 (c) The following may be deposited into the fund:
13 appropriations made by the legislature, private contributions,
14 repayment of loans, interest, other returns, and moneys from
15 other sources.

16 (d) The fund shall be used to provide loans or grants for
17 the development, pre-development, construction, acquisition,
18 preservation, and substantial rehabilitation of rental housing
19 units. Permitted uses of the fund may include but are not
20 limited to planning, design, land acquisition, costs of options,
21 agreements of sale, downpayments, equity financing, capacity
22 building of nonprofit housing developers, or other housing



1 development services or activities as provided in rules adopted
2 by the corporation pursuant to chapter 91. The rules may
3 provide for a means of recapturing loans or grants made from the
4 fund if a rental housing project financed under the fund is
5 refinanced or sold at a later date. The rules may also provide
6 that moneys from the fund shall be leveraged with other
7 financial resources to the extent possible.

8 (e) Moneys available in the fund shall be used for the
9 purpose of providing, in whole or in part, loans or grants for
10 rental housing projects in the following order of priority:

11 (1) Projects or units in projects that are allocated low-
12 income housing credits pursuant to the state housing
13 credit ceiling under Section 42(h) of the Internal
14 Revenue Code of 1986, as amended, or projects or units
15 in projects that are funded by programs of the United
16 States Department of Housing and Urban Development and
17 United States Department of Agriculture Rural
18 Development wherein:

19 (A) At least fifty per cent of the available units
20 are for persons and families with incomes at or
21 below eighty per cent of the median family income
22 of which at least five per cent of the available



1 units are for persons and families with incomes
2 at or below thirty per cent of the median family
3 income; and

4 (B) The remaining units are for persons and families
5 with incomes at or below one hundred per cent of
6 the median family income; provided that the
7 corporation may establish rules pursuant to
8 chapter 91, to ensure full occupancy of fund
9 projects;

10 and

11 (2) Mixed-income rental projects or units in a mixed-
12 income rental project wherein all of the available
13 units are for persons and families with incomes at or
14 below one hundred forty per cent of the median family
15 income.

16 (f) The corporation shall submit an annual report to the
17 legislature no later than twenty days prior to the convening of
18 each regular session describing the projects funded and, with
19 respect to rental housing projects targeted for persons and
20 families with incomes at or below thirty per cent of the median
21 family income, its efforts to develop those rental housing
22 projects, a description of proposals submitted for this target



1 group and action taken on the proposals, and any barriers to
2 developing housing units for this target group.

3 (g) For the purposes of this subpart, the applicable
4 median family income shall be the median family income for the
5 county or standard metropolitan statistical area in which the
6 project is located as determined by the United States Department
7 of Housing and Urban Development, as adjusted from time to time.

8 (h) The corporation may provide loans and grants under
9 this section; provided that the corporation shall establish
10 loan-to-value ratios to protect the fund from inordinate risk
11 and that under no circumstances shall the rules permit the loan-
12 to-value ratio to exceed one hundred per cent; and provided
13 further that the underwriting guidelines include a debt-coverage
14 ratio of not less than 1.0 to 1.

15 (i) For the period commencing July 1, 2006, through June
16 30, 2007, the fund may be used to provide grants for rental
17 units set aside for persons and families with incomes at or
18 below thirty per cent of the median family income in any project
19 financed in whole or in part by the fund in proportion of those
20 units to the total number of units in the project. At the
21 conclusion of the period described in this subsection, the
22 corporation shall report to the legislature on the number and



1 use of grants provided and whether the grants were an effective
2 use of the funds for purposes of developing rental housing for
3 families at or below thirty per cent of median family income.

4 **§ -183 Eligible applicants for funds.** Eligible
5 applicants for funds shall include nonprofit and for-profit
6 corporations, limited liability companies, partnerships, and
7 government agencies, who are qualified in accordance with rules
8 adopted by the corporation pursuant to chapter 91.

9 **§ -184 Eligible projects.** (a) Activities eligible for
10 assistance from the fund shall include but not be limited to:

11 (1) New construction, rehabilitation, or preservation of
12 low-income rental housing units that meet the criteria
13 for eligibility described in subsection (c);

14 (2) The leveraging of moneys with the use of fund assets;

15 (3) Pre-development activity grants or loans to nonprofit
16 organizations; and

17 (4) Acquisition of housing units for the purpose of
18 preservation as low-income or very low-income housing.

19 (b) Preference shall be given to projects producing units
20 in at least one of the following categories:

21 (1) Multifamily units;

22 (2) Attached single-family units;



- 1 (3) Apartments;
- 2 (4) Townhouses;
- 3 (5) Housing units above commercial or industrial space;
- 4 (6) Single room occupancy units;
- 5 (7) Accessory apartment units;
- 6 (8) Employee housing;
- 7 (9) United States Department of Housing and Urban
- 8 Development mixed finance development of public
- 9 housing units; and
- 10 (10) Other types of units meeting the criteria for
- 11 eligibility set forth in subsection (c).
- 12 (c) The corporation shall establish an application process
- 13 for fund allocation that gives preference to projects meeting
- 14 the criteria set forth below that are listed in descending order
- 15 of priority:
- 16 (1) Serve the original target group;
- 17 (2) Provide at least five per cent of the total number of
- 18 units for persons and families with incomes at or
- 19 below thirty per cent of the median family income;
- 20 (3) Provide maximum number of units for persons or
- 21 families with incomes at or below eighty per cent of
- 22 the median family income;



- 1 (4) Are committed to serving the target population over a
2 longer period of time;
- 3 (5) Increase the integration of income levels of the
4 immediate community area;
- 5 (6) Meet the geographic needs of the target population of
6 the proposed rental housing project, such as proximity
7 to employment centers and services; and
- 8 (7) Have favorable past performance in developing, owning,
9 managing, or maintaining affordable rental housing.

10 The corporation may include other criteria in the above
11 process as it deems necessary to carry out the purposes of this
12 part.

13 If the corporation, after applying the process described in
14 this subsection, finds a nonprofit project equally ranked with a
15 for-profit or government project, the corporation shall give
16 preference to the nonprofit project in allotting fund moneys.

17 § -185 Additional powers. The powers conferred upon the
18 corporation by this subpart shall be in addition and
19 supplemental to the powers conferred by any other law, and
20 nothing in this subpart shall be construed as limiting any
21 powers, rights, privileges, or immunities conferred upon the
22 corporation.



1 PART IV. EXPENDITURES OF REVOLVING FUNDS UNDER THE
2 CORPORATION EXEMPT FROM APPROPRIATION AND ALLOTMENT

3 § -191 Expenditures of revolving funds under the
4 corporation exempt from appropriation and allotment. Except as
5 to administrative expenditures, and except as otherwise provided
6 by law, expenditures from these revolving funds administered by
7 the corporation under subparts I and J, part III, or section
8 -70, -113, 201G-142, or 516-44 may be made by the
9 corporation without appropriation or allotment of the
10 legislature; provided that no expenditure shall be made from and
11 no obligation shall be incurred against any revolving fund in
12 excess of the amount standing to the credit of the fund or for
13 any purpose for which the fund may not lawfully be expended.
14 Nothing in sections 37-31 to 37-41 shall require the proceeds of
15 the revolving funds identified in subparts I and J, part III, or
16 section -70, -113, 201G-142, or 516-44 to be
17 reappropriated annually.

18 § -192 Additional powers. The powers conferred upon the
19 corporation by this subpart shall be in addition and
20 supplemental to the powers conferred by any other law, and
21 nothing herein shall be construed as limiting any powers,
22 rights, privileges, or immunities so conferred."



1 PART II

2 SECTION 3. 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.** As used in this chapter, unless the
9 context otherwise requires:

10 "Authority" means the Hawaii public housing authority.

11 "Board" means the board of directors of the Hawaii public
12 housing authority.

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

17 "Community facilities" includes real and personal property,
18 and buildings, equipment, lands, and grounds for recreational or
19 social assemblies, for educational, health, or welfare purposes
20 and necessary or convenient utilities, when designed primarily
21 for the benefit and use of the authority or the occupants of the
22 dwelling accommodations.



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

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

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

9 "Elder or elderly households" means households in which at
10 least one member is sixty-two years of age, the spouse or
11 partner has attained the age of majority, and the remaining
12 members have attained the age of fifty-five years at the time of
13 application to the project. A live-in aide shall cease to be a
14 resident therein upon the recovery of, or removal from the
15 project of, the elder.

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 the age of
4 majority.

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" includes the State and the United States and
11 any political subdivision, agency, or instrumentality, corporate
12 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, Administrator of
13 Veterans Affairs, Federal National Mortgage Association,
14 Government National Mortgage Association, Federal Home Loan
15 Mortgage Corporation, private mortgage lender, private mortgage
16 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 which:



- 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 Department
9 of Veterans Affairs or the United States Department of
10 Agriculture, or an approved mortgage loan servicer for
11 the Federal National Mortgage Association or the
12 Federal Home Loan Mortgage Corporation.

13 "Nonprofit organization" means a corporation, association,
14 or other duly chartered entity that is registered with the State
15 and has received a written determination from the Internal
16 Revenue Service that it is exempt under either Section
17 501(c)(3), Section 501(c)(4), or so much of Section 501(c)(2) as
18 applies to title holding corporations that turn over their
19 income to organizations that are exempt under either Section
20 501(c)(3) or 501(c)(4), of the Internal Revenue Code of 1986, as
21 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" or "complex" means a housing
8 project directly controlled, owned, developed, or managed by the
9 authority pursuant to the federal low rent public housing
10 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 which enters into a trust
18 indenture.

19 "Trust indenture" means an agreement by and between the
20 authority and the trustee, which 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 eight-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 and 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. The authority may
22 call upon the attorney general for legal services as it may



1 require. The authority may delegate to one or more of its
2 agents or employees the powers and duties as it deems proper.

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

4 There is created a board of directors of the Hawaii public
5 housing authority consisting of nine members, of whom eight
6 shall be public members appointed by the governor as provided in
7 section 26-34. Public members shall be appointed from each of
8 the counties of Honolulu, Hawaii, Maui, and Kauai. At least one
9 public member shall be a person who is directly assisted by the
10 authority under the federal low-rent public housing or federal
11 section 8 tenant-based housing assistance payments program while
12 serving on the board. The public members of the board shall
13 serve four-year staggered terms; provided that the initial
14 appointments shall be as follows:

- 15 (1) Three members to be appointed for four years;
16 (2) Three members to be appointed for three years; and
17 (3) Two members to be appointed for two years.

18 The director of human services, or a designated representative,
19 shall be an ex officio voting member. The authority shall be
20 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 shall be ineligible to serve as chairperson of the
2 board.

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

4 (1) Sue and be sued;

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

6 (3) Make and execute contracts and other instruments
7 necessary or convenient to exercise its powers; and

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

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

14 **§ -5 Resident advisory boards; establishment.** (a) The

15 authority may establish a resident advisory board or boards,

16 which shall be comprised of federal public housing residents or
17 section 8 tenant-based housing assistance recipients, to assist

18 and make recommendations to the authority regarding the

19 development of the public housing agency plan and any

20 significant amendments or modifications to it. The members of

21 the resident advisory board or boards shall adequately reflect

22 and represent residents of federal public housing projects and



1 recipients of section 8 tenant-based assistance administered by
2 the authority.

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

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

13 **§ -6 Nomination of resident board member.** (a) In the
14 event of a vacancy for the resident member on the authority
15 board, the resident advisory board shall compile a list of five
16 individuals for the governor's consideration for appointment to
17 the board; provided the nominees to the board shall be:

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

22 (2) At least eighteen years of age; and



1 (3) Authorized members of the assisted household.

2 (b) Any individual satisfying the requirements of
3 subsection (a)(1), (2), and (3) may also submit that
4 individual's name for the governor's consideration for
5 appointment to the board.

6 **§ -7 Fair housing law to apply.** Notwithstanding any law
7 to the contrary, chapter 515 shall apply to this chapter.

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

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



1 any remedies for the enforcement of any pledge or lien given by
2 the authority on its rents, fees, or revenues. The authority
3 and its property shall be exempt from all taxes and assessments.

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

9 (d) The authority may insure or provide for the insurance
10 of its property or operations against risks as it deems
11 advisable.

12 **§ -9 Cooperative agreements with other governmental**
13 **agencies.** (a) The authority may:

14 (1) Obtain the aid and cooperation of governments in the
15 planning, construction, and operation of public
16 housing projects and enter into agreements and
17 arrangements as it deems advisable to obtain aid and
18 cooperation;

19 (2) Arrange or enter into agreements with any government
20 for the acquisition by the government of property,
21 options, or property rights or for the furnishing,
22 installing, opening, or closing of streets, roads,



1 alleys, sidewalks, or other places, or for the
2 furnishing of property, services, parks, sewage,
3 water, and other facilities in connection with public
4 housing projects, or for the changing of the map of a
5 political subdivision or the planning, replanning,
6 zoning, or rezoning of any part of a political
7 subdivision;

8 (3) Procure insurance or guarantees from any government
9 for the payment of any debts or parts thereof incurred
10 by the authority, including the power to pay premiums
11 on any insurance; and

12 (4) Agree to make payments to the state or county
13 government, if the government is authorized to accept
14 payments, as the authority deems consistent with the
15 maintenance of the character of public housing
16 projects or the purposes of this chapter.

17 (b) For the purpose of aiding and cooperating in the
18 planning, construction, and operation of public housing projects
19 located within their respective territorial boundaries, the
20 state or county government, upon those terms, with or without
21 consideration, as it determines, may:



- 1 (1) Dedicate, grant, sell, convey, or lease any of its
2 property, or grant easements, licenses, or any other
3 rights or privileges therein to the authority or to
4 the federal government;
- 5 (2) To the extent that it is within the scope of the
6 state's or county's respective functions:
- 7 (A) Cause the services customarily provided by each
8 to be rendered for the benefit of public housing
9 projects and the occupants thereof;
- 10 (B) Provide and maintain parks and sewage, water,
11 lights, and other facilities adjacent to or in
12 connection with public housing projects;
- 13 (C) Open, close, pave, install, or change the grade
14 of streets, roads, roadways, alleys, sidewalks,
15 or other related facilities; and
- 16 (D) Change the map of a political subdivision or
17 plan, replan, zone, or rezone any part of a
18 political subdivision;
- 19 (3) Enter into agreements with the authority with respect
20 to the exercise of their powers relating to the
21 repair, closing, or demolition of unsafe, unsanitary,
22 or unfit dwellings;



1 (4) Notwithstanding any other law with respect to what
2 constitutes legal investments, employ any available
3 funds belonging to them or within their control,
4 including funds derived from the sale or furnishing of
5 property or facilities to the authority, in the
6 purchase of the bonds or other obligations of the
7 authority to the extent provided by section -21;
8 and exercise all the rights of any holder of the bonds
9 or other obligations;

10 (5) Do any and all things necessary or convenient to aid
11 and cooperate in the planning, undertaking, and
12 construction of public housing projects; and

13 (6) Enter into contracts with the authority or the federal
14 government for any period, agreeing to exercise any of
15 the powers conferred hereby or to take any other
16 action in aid of public housing projects.

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

21 For the purpose of aiding and cooperating in the planning,
22 construction, and operation of public housing projects, the



1 department of land and natural resources, the Hawaiian homes
2 commission, and any other agency of the State having power to
3 manage or dispose of its public lands, with the approval of the
4 governor and with or without consideration, may grant, sell,
5 convey, or lease for any period, any parts of public lands,
6 without limit as to area, to the authority or to the federal
7 government.

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

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

18 Insofar as this subsection is inconsistent with the
19 provisions of any other law, this subsection shall be
20 controlling.

21 (c) The government of any county in which a public housing
22 project is located or is about to be located may make donations



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

7 **§ -10 Agents, including corporations.** The authority may
8 exercise any or all of the powers conferred upon it, either
9 generally or with respect to any specific public housing project
10 through an agent that it may designate, including any
11 corporation that is formed under the laws of this State, and for
12 purposes the authority may cause one or more corporations to be
13 formed under the laws of this State or may acquire the capital
14 stock of any corporation. Any corporate agent, all of the stock
15 of which shall be owned by the authority or its nominee, may to
16 the extent permitted by law, exercise any of the powers
17 conferred upon the authority herein.

18 **§ -11 Development of property.** (a) The authority, in
19 its own behalf or on behalf of any government, may:

- 20 (1) Clear, improve, and rehabilitate property; and
21 (2) Plan, develop, construct, and finance public housing
22 projects.



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

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

16 (d) The authority shall not develop any public land where
17 the development may endanger the receipt of any federal grant,
18 impair the eligibility of any public body for a federal grant,
19 prevent the participation of the federal government in any
20 government program, or impair any covenant between the
21 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, employees, teachers,
6 or other government workers, or university and college students
7 and faculty.

8 **§ -12 Development of property; additional powers.**

9 Notwithstanding any law to the contrary, whenever the bids
10 submitted for any development or rehabilitation project
11 authorized pursuant to part II exceed the amount of funds
12 available for that project, the authority, with the approval of
13 the governor, may disregard the bids and enter into an agreement
14 to carry out the project, or undertake the project or
15 participate in the project under the agreement; provided that
16 the total cost of the agreement and the authority's
17 participation, if any, shall not exceed the amount of funds
18 available for the project; provided further that if the
19 agreement is with a nonbidder, the scope of the project under
20 agreement shall remain the same as that for which bids were
21 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.** The authority may acquire any real property,
20 including fixtures and improvements, or interest therein,
21 through voluntary negotiation; through exchange of land in
22 accordance with section 171-50, provided that the public land to



1 be exchanged need not be of like use to that of the private
2 land; or by the exercise of the power of eminent domain which it
3 deems necessary by the adoption of a resolution declaring that
4 the acquisition of the property described therein is in the
5 public interest and required for public use. The authority
6 shall exercise the power of eminent domain granted by this
7 section in the same manner and procedure as is provided by
8 chapter 101, and otherwise in accordance with all applicable
9 provisions of the general laws of the State; provided that
10 condemnation of parcels greater than fifteen acres shall be
11 subject to legislative disapproval expressed in a concurrent
12 resolution adopted by majority vote of the senate and the house
13 of representatives in the first regular or special session
14 following the date of condemnation.

15 The authority may acquire by the exercise of the power of
16 eminent domain property already devoted to a public use;
17 provided that no property belonging to any government may be
18 acquired without its consent, and that no property belonging to
19 a public utility corporation may be acquired without the
20 approval of the public utilities commission, and subject to
21 legislative disapproval expressed in a concurrent resolution
22 adopted by majority vote of the senate and the house of



1 representatives in the first regular or special session
2 following the date of condemnation.

3 **§ -16 Contracts with federal government.** (a) The
4 authority may:

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



- 1 authority on any property included in any public
2 housing project;
- 3 (5) Agree to any conditions attached to federal financial
4 assistance relating to the determination of prevailing
5 salaries or wages or payment of not less than
6 prevailing salaries or wages or compliance with labor
7 standards, in the development or administration of
8 projects, and include in any construction contract
9 related to a project, stipulations requiring that the
10 contractor and any subcontractors comply with
11 requirements as to minimum salaries or wages and
12 maximum hours of labor;
- 13 (6) Comply with any conditions required by the federal
14 government in any contract for financial assistance;
15 and
- 16 (7) Execute contracts with the federal government.
- 17 (b) In any contract for annual contributions with the
18 federal government, the authority may obligate itself to convey
19 to the federal government possession of or title to the project
20 to which the contract relates, if a substantial default, as
21 defined by contract occurs. Notwithstanding any other law to



1 the contrary, this obligation shall be specifically enforceable
2 and shall not constitute a mortgage.

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

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

19 **§ -17 Public works contracts.** The authority may make,
20 execute, and carry out contracts for, or in connection with, any
21 housing project in the manner provided in chapter 103D and
22 section 103-53; and, with regard to the contracts, the term



1 "procurement officers", as used in chapter 103D, shall mean the
2 authority or officer authorized by the authority to act as its
3 contracting officer. Unless made and executed in the name of
4 the State, each contract made and executed as authorized in this
5 section shall state therein that it is so made and executed.

6 **§ -18 Remedies of an obligee; mandamus; injunction;**
7 **possessory action; receiver; accounting; etc.** An obligee of the
8 authority shall have the right, in addition to all other rights
9 that may be conferred on the obligee subject only to any
10 contractual restrictions binding upon the obligee, and subject
11 to the prior and superior rights of others:

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

20 (2) By suit, action, or proceeding in equity to enjoin any
21 acts or things which may be unlawful, or the violation
22 of any of the rights of the obligee of the authority;



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



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

5 **§ -19 Subordination of mortgage to agreement with**
6 **government.** The authority may agree in any mortgage made by it
7 that the mortgage shall be subordinate to a contract for the
8 supervision by a government of the operation and maintenance of
9 the mortgaged property and the construction of improvements
10 thereon. In that event, any purchaser or purchasers at a sale
11 of the property of the authority pursuant to a foreclosure of
12 the mortgage or any other remedy in connection therewith shall
13 obtain title subject to the contract.

14 **§ -20 Duty to make reports.** Except as otherwise
15 provided by law, the authority shall be responsible for the
16 following reports:

- 17 (1) The authority shall file at least once a year with the
18 governor a report of its activities for the preceding
19 fiscal year;
- 20 (2) The authority shall report to the state comptroller on
21 moneys deposited in depositories other than the state



1 treasury under section 40-81, and rules adopted
2 thereunder;

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

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

11 (B) Recommendations with reference to any additional
12 legislation or other action that may be necessary
13 in order to carry out the purposes of this part.

14 **§ -21 Bonds; authorization.** (a) The authority, with
15 the approval of the governor, may issue from time to time bonds
16 (including refunding bonds to pay, retire, or provide for the
17 retirement of bonds previously issued by the authority) in
18 amounts not exceeding the total amount of bonds authorized to be
19 issued by the legislature for any of its corporate purposes.

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



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

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

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

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

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

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

19 (5) Any combination of the above.

20 (e) Any pledge made by the authority shall create a
21 perfected security interest in the revenues, moneys, or property
22 so pledged and thereafter received by the authority from and



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

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



1 (g) Neither the members of the authority nor any person
2 executing the bonds shall be liable personally on the bonds by
3 reason of the issuance thereof.

4 **§ -22 Bonds; interest rate, price, and sale.** (a) The
5 bonds shall bear interest at rates payable at times that the
6 authority, with the approval of the governor, may determine
7 except for deeply discounted bonds that are subject to
8 redemption or retirement at their accreted value; provided that
9 the discounted value of the bonds shall not exceed ten per cent
10 of any issue; and provided further that no bonds may be issued
11 without the approval of the director of finance and the
12 governor. Notwithstanding any other law to the contrary, the
13 authority may, subject to the approval of the director of
14 finance and the governor, issue bonds pursuant to section
15 -21, in which the discounted value of the bonds exceeds ten
16 per cent of the issue.

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



1 underwriting fees; financial consultant, legal, accounting, and
2 other services incurred; reserve account, trustee, custodian,
3 and rating agency fees; and interest on the bonds for a period
4 determined by the authority.

5 **§ -23 Trustee; designation, duties.** (a) The authority
6 may designate a trustee for each issue of bonds secured under
7 the same trust indenture; provided that the trustee shall be
8 approved by the director of finance.

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

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



1 to other purposes as may be authorized in the proceedings
2 providing for the issuance of the bonds.

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

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

7 (2) The purchase, registration, transfer, exchange, and
8 redemption of the bonds.

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

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



1 **§ -24 Trust indenture.** (a) A trust indenture may
2 contain covenants and provisions authorized by part III of
3 chapter 39, and as deemed necessary or convenient by the
4 authority for the purposes of this part.

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

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

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

16 (1) The investment of the proceeds of the bonds, the
17 investment of any reserve for the bonds, the
18 investment of the revenues of the public housing
19 project or system of public housing projects, and the
20 use and application of the earnings from investments;
21 and



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

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

14 § -25 **Investment of reserves, etc.** The authority may
15 invest any funds held in reserves or sinking funds or any funds
16 not required for immediate disbursement, including the proceeds
17 of bonds, in property or securities in which the director of
18 finance may legally invest, as provided in section 36-21, except
19 that funds held outside the state treasury may be invested for
20 terms not to exceed thirty-five years. No provisions with
21 respect to the acquisition, operation, or disposition of



1 property by other public bodies shall be applicable to the
2 authority unless the legislature shall specifically so state.

3 **§ -26 Security for funds deposited by the authority.**

4 The authority may by resolution provide that all moneys
5 deposited by it shall be secured:

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

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

14 **§ -27 Arbitrage provisions; interest rate.** (a) Any law
15 to the contrary notwithstanding, neither the authority nor the
16 director of finance shall make loans or purchase mortgages with
17 the proceeds of general obligation bonds of the State or from a
18 revolving fund established or maintained from the proceeds of
19 bonds, at a rate of interest or upon terms and conditions which
20 would cause any general obligation bond of the State or any bond
21 to be an "arbitrage bond" within the meaning of that term as
22 defined in the Internal Revenue Code of 1986, as amended, and



1 the regulations of the Internal Revenue Service adopted pursuant
2 thereto.

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

16 (c) The director of finance shall approve those rates so
17 as to produce up to, but not in excess of, the maximum yield to
18 the State or the authority permitted under the Internal Revenue
19 Code of 1986, as amended, and the regulations of the Internal
20 Revenue Service adopted pursuant thereto, on the assumption that
21 the general obligation bonds of the State, the proceeds of which
22 have been or are to be used for the purposes of making loans or



1 purchasing mortgages under this chapter, would otherwise be
2 "arbitrage bonds" under the Internal Revenue Code of 1986, as
3 amended, and the regulations of the Internal Revenue Service
4 adopted pursuant thereto, were the maximum yield to be exceeded.
5 The establishment of the rates of interest shall be exempt from
6 chapter 91.

7 **§ -28 Public housing revolving fund; housing project**

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

13 (b) All moneys received and collected by the authority,
14 not otherwise pledged or obligated nor required by law to be
15 placed in any other special fund, shall be deposited into the
16 public housing revolving fund.

17 (c) A separate special fund shall be established for each
18 public housing project or projects financed from the proceeds of
19 bonds secured under the trust indenture. Each fund shall be
20 designated "housing project bond special fund" and shall bear
21 additional designation as the authority deems appropriate to
22 properly identify the fund.



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

9 § -29 **Quitclaim deeds.** Unless otherwise provided by
10 law, the authority shall issue quitclaim deeds and leases
11 whenever it conveys, transfers, sells, or assigns any property
12 developed, constructed, or sponsored under this chapter.

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

14 § -31 **Rentals and tenant selection.** (a) In the
15 operation or management of public housing projects, the
16 authority (acting directly or by an agent or agents) shall at
17 all times, observe the following duties with respect to rentals
18 and tenant selections:

19 (1) The authority may establish maximum limits of annual
20 net income for tenant selection in any public housing
21 project, less any exemptions as may be authorized by
22 federal regulations pertaining to public housing. The



1 authority may agree to conditions as to tenant
2 eligibility or preference required by the federal
3 government pursuant to federal law in any contract for
4 financial assistance with the authority;

5 (2) The authority may rent or lease the dwelling
6 accommodations therein only at rentals within the
7 financial reach of persons who lack the amount of
8 income which it determines to be necessary to obtain
9 safe, sanitary, and uncongested dwelling
10 accommodations within the area of operation of the
11 authority and to provide an adequate standard of
12 living; and

13 (3) The authority may rent or lease to a tenant a dwelling
14 consisting of the number of rooms (but no greater
15 number) which it deems necessary to provide safe and
16 sanitary accommodations to the proposed occupants
17 thereof, without overcrowding.

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

20 (1) To vest in an obligee the right, in the event of a
21 default by the authority, to take possession of a
22 public housing project or cause the appointment of a



1 receiver thereof, free from all the restrictions
2 imposed by this part with respect to rentals, tenant
3 selection, manner of operation, or otherwise; or
4 (2) To vest in obligees the right, in the event of a
5 default by the authority, to acquire title to a public
6 housing project or the property mortgaged by the
7 authority, free from all the restrictions imposed by
8 this part.

9 **§ -32 Delinquent accounts.** (a) Notwithstanding section
10 40-82, the authority, with the approval of the attorney general,
11 may delete from its accounts receivable records, delinquent
12 accounts for vacated units within federal low rent public
13 housing projects that have been delinquent for at least ninety
14 days.

15 (b) The delinquent accounts may be assigned to a
16 collection agency.

17 (c) Before the authority seeks eviction of a tenant due to
18 delinquency in payment of rent, the authority shall comply with
19 the procedures set forth in section 201G-52(b) before proceeding
20 with the eviction hearing.

21 **§ -33 Investigatory powers.** (a) The authority may:



- 1 (1) Investigate living, dwelling, and housing conditions
2 and the means and methods of improving the conditions;
- 3 (2) Enter upon any building or property to conduct
4 investigations or to make surveys or soundings;
- 5 (3) Conduct examinations and investigations and hear
6 testimony and take proof under oath at public or
7 private hearings on any matter material for its
8 information;
- 9 (4) Issue subpoenas requiring the attendance of witnesses
10 or the production of books and papers, and order the
11 examination of witnesses who are unable to attend
12 before the authority, are excused from attendance, or
13 by leave of courts as provided by chapter 624, are out
14 of the state; and
- 15 (5) Make available to any government agency charged with
16 the duty of abating or requiring the correction of
17 nuisances or like conditions, or of demolishing unsafe
18 or unsanitary structures within its territorial
19 limits, its findings and recommendations with regard
20 to any building or property where conditions exist
21 which are dangerous to the public health, morals,
22 safety, or welfare.



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

9 § -34 **Additional powers.** The powers conferred upon the
10 corporation by this subpart shall be in addition and
11 supplemental to the powers conferred by any other law, and
12 nothing herein shall be construed as limiting any powers,
13 rights, privileges, or immunities so conferred.

14 **PART III. STATE LOW INCOME HOUSING**

15 A. State low income housing; administration

16 § -41 **Definitions.** As used in this subpart, unless the
17 context otherwise requires:

18 "Administer" or "administration" means the management,
19 operation, maintenance, and regulation of any state low income
20 housing project. It also includes any and all undertakings
21 necessary therefor.



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

12 **§ -42 Housing, tenant selection.** Subject to the
13 following limitations and preferences, the authority shall
14 select tenants upon the basis of those in greatest need for
15 housing. The authority may limit the tenants of any state low
16 income housing project to classes of persons when required by
17 federal law or regulation as a term or condition of obtaining
18 assistance from the federal government. Within the priorities
19 established by the authority recognizing need, veterans with a
20 permanent disability of ten per cent or more as certified by the
21 United States Department of Veterans' Affairs, the dependent



1 parents of the veteran and the deceased veteran's widow shall be
2 given first preference.

3 **§ -43 Rentals.** (a) Notwithstanding any law to the
4 contrary, the authority shall fix the rates of the rentals for
5 dwelling accommodations and other facilities in the state low
6 income housing projects provided for by this subpart, at rates
7 that will produce revenues that will be sufficient to pay all
8 expenses of management, operation, and maintenance, including
9 the cost of insurance, a proportionate share of the
10 administrative expenses of the authority (to be fixed by it),
11 and the costs of repairs, equipment, and improvements, so that
12 the state low income housing projects shall be and always remain
13 self-supporting. The authority, in its discretion, may fix the
14 rates in amounts that will produce additional revenues (in
15 addition to the foregoing) sufficient to amortize the cost of
16 the state low income housing project or projects, including
17 equipment, over a period or periods of time that the authority
18 may deem advisable.

19 (b) Notwithstanding any law to the contrary, if any state
20 low income housing project or projects have been specified in
21 any resolution of issuance adopted pursuant to part I or if the
22 income or revenues from any project or projects have been



1 pledged by the authority to the payment of any bonds issued
2 under part I, or if any of the property of any state low income
3 housing project or projects is security for any bonds, the
4 authority shall fix the rates of the rentals for dwelling
5 accommodations and other facilities in the state low income
6 housing project or projects specified or encumbered at increased
7 rates that will produce the revenues required by subsection (a)
8 and, in addition, those amounts that may be required by part I,
9 by any resolution of issuance adopted under part I and by any
10 bonds or mortgage or other security issued or given under part
11 I.

12 **§ -44 Administration of state low income housing**
13 **projects and programs.** (a) The authority may construct,
14 develop, and administer property or housing for the purpose of
15 state low income housing projects and programs.

16 (b) State low income housing projects shall be subject to
17 chapter 521.

18 (c) The authority shall adopt necessary rules in
19 accordance with chapter 91, including the establishment and
20 collection of reasonable fees for administering the state low
21 income housing projects or programs and to carry out any state
22 program under subsection (a).



1 § -45 **State low income housing revolving fund.** The
2 director of finance shall establish a revolving fund to be known
3 as "the state low income housing revolving fund".
4 Notwithstanding any law to the contrary, moneys received by the
5 authority under or pursuant to this subpart, including refunds,
6 reimbursements, rentals, fees, and charges received from
7 tenants, shall be deposited in the state low income housing
8 revolving fund. Except as otherwise provided in this chapter,
9 the state low income housing revolving fund may be expended by
10 the authority for any and all of the purposes of this subpart,
11 including, without prejudice to the generality of the foregoing,
12 the expenses of management, operation, and maintenance of state
13 low income housing, including but not limited to:

- 14 (1) The cost of insurance, a proportionate share of the
15 administrative expenses of the authority, and the cost
16 of repairs, equipment, and improvement;
- 17 (2) The acquisition, clearance, and improvement of
18 property;
- 19 (3) The construction and reconstruction of building sites;
- 20 (4) The construction, reconstruction, repair, remodeling,
21 extension, equipment, and furnishing of any state low
22 income housing project;



1 (5) The development and administration of any state low
2 income housing project;

3 (6) The payment of rentals; and

4 (7) Administration and other expenses.

5 **§ -46 Investigatory powers.** (a) The authority may:

6 (1) Investigate living, dwelling, and housing conditions
7 and the means and methods of improving those
8 conditions;

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

11 (3) Conduct examinations and investigations, hear
12 testimony and take proof under oath at public or
13 private hearings on any matter material for its
14 information;

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

21 (5) Make available to any government agency charged with
22 the duty of abating or requiring the correction of



1 nuisances or like conditions, or of demolishing unsafe
2 or unsanitary structures within its jurisdictional
3 limits, its findings and recommendations with regard
4 to any building or property where conditions exist
5 which are dangerous to the public health, morals,
6 safety, or welfare.

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

14 **§ -47 Housing; government aid; political subdivisions.**

15 Any political subdivision may appropriate money for the purposes
16 of meeting any local participation in housing costs or expenses
17 required to obtain assistance from the federal government in the
18 development and administration of state low income housing
19 projects and programs under this subpart, or of providing funds
20 for use by the authority in developing and administering state
21 low income housing projects.



1 **§ -48 Additional powers.** The powers conferred upon the
2 authority by this subpart shall be in addition and supplemental
3 to the powers conferred upon it by any other law, and nothing in
4 this subpart shall be construed as limiting any powers, rights,
5 privileges, or immunities conferred upon it.

6 B. State low income housing; liens

7 **§ -51 Definitions.** As used in this subpart, unless the
8 context otherwise requires:

9 "State low income housing project" means and includes any
10 state low income housing project or projects owned, managed,
11 administered, or operated by the authority.

12 "Tenant" includes any person occupying a room, dwelling
13 accommodation, living quarters, or space in any state low income
14 housing project, under or by virtue of any tenancy lease,
15 license, or permit under or from the authority.

16 **§ -52 Lien on personalty for rent, etc.** The authority
17 shall have a statutory lien on all personal property, not exempt
18 from execution, belonging to, or in the lawful possession of,
19 every tenant while the personal property is in or upon any state
20 low income housing project, for the amount of its proper charges
21 against the tenant for rent of a room, dwelling accommodation,
22 living quarters, or space in the state low income housing



1 project, or for utilities, facilities, or services in the state
2 low income housing project. The lien shall commence with the
3 tenancy or occupancy of the tenant and continue for one year
4 after the charge or charges are due and owing to the authority.
5 Whenever any tenant fails or refuses to pay the charge or
6 charges after the charges are due and owing, the authority shall
7 have the right and power, acting by its authorized agents or
8 representatives, without process of law and without any
9 liability for the taking, seizure, and retention of the personal
10 property, to take and seize any of the personal property
11 belonging to, or in the lawful possession of, the tenant which
12 is found in or upon the public housing project, and to hold and
13 retain the personal property, as security for the payment of the
14 charge or charges, until the amount of the charge or charges is
15 paid and discharged. If the charge or charges, due and owing,
16 are not paid and discharged within thirty days after the taking
17 and seizure, the authority may sell the personal property.

18 **§ -53 Foreclosure of lien, notice, etc.** The lien upon
19 personal property which has been taken and retained by the
20 authority may be foreclosed by the authority by selling the
21 personal property at public auction:



- 1 (1) After first mailing by United States mail, postage
2 prepaid, a notice of the foreclosure, addressed to the
3 tenant who owns, or was in possession of, the personal
4 property, at the tenant's last address shown on the
5 records of the authority, stating that, unless the
6 charge or charges then due and owing from the tenant
7 to the authority are paid within ten days from the
8 time of mailing the notice, the personal property will
9 be sold at public auction; and
- 10 (2) After first giving public notice of the foreclosure
11 and sale at least two times in the county in which the
12 personal property is located. Each notice shall
13 contain a brief description of the personal property;
14 the name of the tenant, if known; the name of the
15 owner of the personal property, if known; the amount
16 of the charge or charges; and the time and place of
17 the sale. Notices of several foreclosures and sales
18 may be combined in one notice; and whenever combined
19 and given, the expenses of notice and sale shall be a
20 statutory lien upon the property described in the
21 notice in a ratable proportion according to the amount
22 received for each lot of property so noticed for sale.



1 If the tenant fails to pay to the authority within ten days
2 after the mailing of the notice of foreclosure the charge or
3 charges, the authority may sell the property at public auction
4 at the time and place stated in the notice, or at a time or
5 times or place or places to which the sale may be postponed or
6 adjourned at the time and place stated in the notices, and may
7 apply the proceeds thereof to the payment of the charge or
8 charges and the expenses of notice and sale. The balance, if
9 any remaining, shall be paid over to the tenant who formerly
10 owned, or was in possession of, the property. If the balance is
11 not claimed by the tenant within thirty days after the sale,
12 then the balance shall be paid over to the director of finance
13 and it shall be kept by the director in a special deposit for a
14 period not to exceed six months. If claimed by the tenant
15 during that period it shall be paid to the tenant. If no claim
16 is made during that period, the sum shall become a government
17 realization and paid into the general fund.

18 **§ -54 Sheriff or police to assist.** The authority, in
19 taking, seizing, holding, retaining, or selling any personal
20 property pursuant to sections -52 and -53, may require the
21 assistance of the sheriff or any authorized police officer of



1 any county. Any sheriff or officer, when required shall assist
2 the authority.

3 § -55 **Existing contracts not impaired.** Sections -52
4 and -53 shall not be construed as to impair or affect the
5 obligation of any contract existing on or before May 9, 1949.

6 § -56 **Lien on abandoned personalty, sale, etc.** Whenever
7 the authority has in its possession for four months after the
8 termination of any residence or occupancy herein mentioned, any
9 personal property that has been left in or about any state low
10 income housing project by any person who formerly resided in, or
11 occupied a room, dwelling accommodation, living quarters, or
12 space in the state low income housing project, the authority may
13 sell the same at public auction and apply the proceeds thereof
14 to the payment of its charges for storage of the personal
15 property, and for public notice and sale, and to the payment of
16 other amounts, if any, then due and owing from the former
17 resident or occupant for rent or for any utility or service.
18 Before any sale is made, the authority shall first give public
19 notice of the time and place of the sale at least two times in
20 the county in which the personal property is located. The
21 notice shall contain a brief description of the property; the
22 name, if known, of the former resident or occupant who left the



1 property in or about the housing project; the amount of the
2 charges for storage, if any, and the indebtedness, if any; and
3 the time and place of the sale. The charges for storage, if
4 any, and for notice and sale, and the indebtedness, if any,
5 shall be a lien upon the personal property. Notices of several
6 sales may be combined and given in one notice, and whenever
7 combined and given, the expenses of notice and sale shall be a
8 lien and shall be satisfied in ratable proportion according to
9 the amount received for each lot of property so noticed for
10 sale.

11 **§ -57 Disposition of surplus proceeds.** After the sale
12 the authority shall apply the proceeds as provided in section
13 -56. The balance, if any remaining, shall be paid over to
14 the former resident or occupant. If the balance is not claimed
15 by the former resident or occupant within thirty days after the
16 sale thereof, then the balance shall be paid over to the
17 director of finance and shall be kept by the director in a
18 special deposit for a period not to exceed six months. If
19 claimed by the former resident or occupant during that period,
20 it shall be paid to the former resident or occupant. If no
21 claim is made during that period, the sum shall become a
22 government realization and paid into the general fund.



1 **§ -58 Lien attaches to personalty in possession.**

2 Sections -56 and -57 shall also apply to any personal
3 property which, before May 2, 1949, was left in, or about any
4 public housing project, and was taken into the possession of the
5 authority, as herein set forth and provided.

6 **§ -59 Priority of housing lien.** The statutory liens
7 provided for in this subpart shall be preferred and have
8 priority over all other liens or claims and over all attachments
9 or other process.

10 **§ -60 Rights, powers, supplemental.** The rights
11 conferred upon the authority by this subpart shall be in
12 addition and supplemental to the rights or powers conferred upon
13 the authority by any other law.

14 **PART IV. HOUSING FOR ELDERS**

15 **§ -71 Resident selection; dwelling accommodations;**
16 **rentals.** In the administration of elder or elderly housing, the
17 authority shall observe the following with regard to resident
18 selection, dwelling accommodations, and rentals:

19 (1) Except as hereinafter provided, it shall accept elder
20 or elderly households as residents in the housing
21 projects;



- 1 (2) It may accept as residents in any housing unit one or
2 more persons, related or unrelated by marriage. It
3 may also accept as a resident in any dwelling
4 accommodation or in any project, in the case of
5 illness or other disability of an elder who is a
6 resident in the dwelling accommodation or in the
7 project, a person designated by the elder as the
8 elder's live-in aide whose qualifications as a live-in
9 aide are verified by the authority, although the
10 person is not an elder; provided that the person shall
11 cease to be a resident therein upon the recovery of,
12 or removal from the project of, the elder;
- 13 (3) It may rent or lease to an elder a dwelling
14 accommodation consisting of any number of rooms as the
15 authority deems necessary or advisable to provide safe
16 and sanitary accommodations to the proposed resident
17 or residents without overcrowding;
- 18 (4) Notwithstanding that the elder has no written rental
19 agreement or that it has expired, so long as the elder
20 continues to tender the usual rent to the authority or
21 proceeds to tender receipts for rent lawfully
22 withheld, no action or proceeding to recover



1 possession of the dwelling unit may be maintained
2 against the elder, nor shall the authority otherwise
3 cause the elder to quit the dwelling unit
4 involuntarily, demand an increase in rent from the
5 elder, or decrease the services to which the elder has
6 been entitled during hospitalization of the elder due
7 to illness or other disability; and

8 (5) Elder or elderly housing shall be subject to chapter
9 521.

10 § -72 **Housing for elders revolving fund.** There is
11 created a housing for elders revolving fund to be administered
12 by the authority. Notwithstanding any law to the contrary,
13 moneys received or collected by the authority pursuant to this
14 subpart shall be deposited into the revolving fund. Revenues
15 from the fund may be used to pay the expenses of management,
16 operation, and maintenance of housing, including but not limited
17 to the cost of insurance, a proportionate share of the
18 administrative expenses of the authority, and the costs of
19 repairs, equipment, and improvements.

20 § -73 **Additional powers.** The powers conferred upon the
21 authority by this subpart shall be in addition and supplemental
22 to the powers conferred by any other law, and nothing herein



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

3 **PART V. AUTHORITY-COUNTY COOPERATION**

4 **§ -81 Gifts, etc. to counties from authority.** The
5 authority may make and pay gifts, or donations, of money
6 directly to any county. Any county may receive the gifts or
7 donations as a general fund realization, and expend the funds
8 for any purpose authorized by law.

9 **§ -82 Facilities and services by counties to authority**
10 **and tenants.** Each county within which the authority may own,
11 operate, or administer any public housing project or complex
12 under any law or laws, and to which, or for whose benefit, the
13 authority has made (by payment to the county) or may hereafter
14 make, gifts or donations, including any payment in lieu of
15 taxes, upon request of the authority, shall provide and furnish
16 to the authority, in regard to every public housing project or
17 complex within the county, and to the tenants and other
18 occupants of the housing project, free of charge and without
19 condition or other requirement, all the facilities, services,
20 and privileges as it provides or furnishes, with or without
21 charge or other consideration, to any person or persons
22 whomsoever, including, without limitation to the generality of



1 the foregoing, police protection, fire protection, street
2 lighting, or paving maintenance, traffic control, garbage or
3 trash collection and disposal, use of streets or highways, use
4 of county incinerators or garbage dumps, storm drainage, and
5 sewage disposal. In addition, each county, upon request of the
6 authority and free of charge and without condition or other
7 requirement, shall open or close, but not construct or
8 reconstruct, streets, roads, highways, alleys, or other
9 facilities within any public housing project or complex within
10 the county. Nothing in this section shall be construed to
11 restrict or limit the power of the authority to agree to pay, or
12 to pay, for any and all of the facilities, services, and
13 privileges, if in its discretion it deems the payment advisable.

14 **§ -83 Construction of additional powers.** Sections
15 -41 and -42 shall not be construed as abrogating,
16 limiting, or modifying part II, including amendments thereto.

17 **§ -84 Charges for prior services by counties to**
18 **authority.** Every county (including departments, boards, or
19 instrumentalities thereof) which has, prior to May 14, 1949,
20 provided or furnished any facilities, services, or privileges,
21 including, without limitation to the generality of the
22 foregoing, garbage and trash collection and disposal, use of



1 streets or highways, and use of county incinerators or garbage
2 dumps, to the authority in regard to any public housing project
3 or complex owned, operated, or administered by the authority
4 under any law or laws, or to the tenants or occupants of the
5 public housing project or complex, for which facilities,
6 services, or privileges the authority, or the tenants or
7 occupants have not paid, is prohibited from charging,
8 collecting, or receiving any privileges, except the sum or sums
9 as the authority, in its discretion, may hereafter agree to pay.

10 **§ -85 Garbage, trash disposal.** Every county that
11 maintains or operates any garbage or trash collection and
12 disposal service, free of charge, shall collect and dispose of
13 garbage and trash at, and from any public housing project or
14 complex located within a county, which is owned, operated, or
15 administered by the authority. Upon request of the authority,
16 each county shall allow the authority to establish, maintain, or
17 operate its own garbage and trash collection and disposal
18 service for any or all public housing project or complex located
19 within the county, and in regard to the service, shall allow the
20 authority to use, free of charge, all incinerators, garbage
21 dumps, and other facilities that the county may own, control, or
22 operate.



1 Nothing in this section shall prohibit or prevent the
2 authority from paying, and any county from receiving, any sum or
3 sums which the authority in its discretion may agree to pay as
4 reasonable compensation for the services or facilities provided
5 by any county pursuant to this section.

6 **§ -86 Furnishing of free water not required.** Sections
7 -82 to -85 shall not be construed to require the
8 furnishing of any free water to the authority or to the tenants
9 or occupants of any public housing project or complex owned,
10 operated, or administered by the authority.

11 **§ -87 Powers, etc., supplemental.** The powers conferred
12 upon the authority by sections -41 to -45 shall be in
13 addition and supplemental to the powers conferred by any other
14 law, and nothing in the sections shall be construed as limiting
15 any other powers, rights, privileges, or immunities of the
16 authority.

17 **§ -88 Regulation of traffic within public housing**
18 **projects in city and county of Honolulu.** Any law to the
19 contrary notwithstanding, the city council of the city and
20 county of Honolulu may regulate traffic within the various
21 public housing projects of the authority in the city and county
22 of Honolulu by ordinance.



1 **§ -89 Regulation of traffic within public housing**
2 **projects in other counties.** Any law to the contrary
3 notwithstanding, the county councils of the counties of Hawaii,
4 Maui, and Kauai may regulate traffic within the various public
5 housing projects of the authority within their respective
6 counties by ordinance as provided by law.

7 **§ -90 Regulations, effective when.** No ordinance or laws
8 enacted by the council of any county regulating traffic within
9 the public housing projects of the authority within the county
10 shall be valid or effective unless prior thereto, the authority
11 has entered into a written contract with the county absolving
12 the county from any and all responsibility or liability for the
13 construction, maintenance, and repair of any streets, lanes,
14 alleys, or highways or street markers, traffic signs, or signal
15 devices within the projects of the authority.

16 **§ -91 Additional powers.** The powers conferred upon the
17 authority by this subpart shall be in addition and supplemental
18 to the powers conferred by any other law, and nothing herein
19 shall be construed as limiting any powers, rights, privileges,
20 or immunities so conferred.

21 **PART VI. HOMELESS ASSISTANCE**

22 A. General Provisions



1 **§ -101 Additional definitions.** As used in this part
2 unless the 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 board members, trustees, officers, partners,
9 principals, stockholders, members, managers, employees,
10 contractors, agents of these entities, or any person who was
11 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 nighttime residence; and

18 (2) An individual or family who has a primary nighttime
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 board and officers and any 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 profit organization incorporated under the laws of
2 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
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 In addition, the organization shall be qualified by the
13 authority to operate and manage a homeless facility, or any
14 other program for the homeless authorized by this part, pursuant
15 to eligibility standards and criteria established by rules
16 adopted pursuant to chapter 91.

17 "Transitional shelter" means a homeless facility designed
18 to provide temporary shelter and appropriate and available
19 services to homeless families or individuals for up to twenty-
20 four months, pursuant to rules adopted in accordance with
21 chapter 91.



1 **§ -102 Duties.** (a) In addition to any other power or
2 duty prescribed by law, the authority shall administer and
3 operate homeless facilities and any other program for the
4 homeless authorized by this part; establish programs for the
5 homeless; and take any other actions necessary to effectuate the
6 purposes of this part.

7 (b) The authority shall adopt rules pursuant to chapter 91
8 for the purposes of this part; provided that these rules or any
9 rules relating directly to homelessness authorized by any
10 statute, shall be exempt from the requirements of chapter 91,
11 and shall take effect immediately upon filing with the office of
12 the lieutenant governor.

13 **§ -103 Exception to liability for donors.** (a) Any
14 donor who gives money to a provider agency, to a homeless
15 facility, to or through the authority, or for any other program
16 for the homeless authorized by this part, shall not be liable
17 for any civil damages resulting from the donation.

18 (b) Any donor who gives land and improvements, or who
19 leases land and improvements at a nominal consideration, to a
20 provider agency, to a homeless facility, to or through the
21 authority, or for any other program for the homeless authorized
22 by this part, shall not be liable for any civil damages



1 resulting from the donation except as may result from the
2 donor's gross negligence or wanton acts or omissions; provided
3 that, if the donor at the time of donation gave the authority a
4 full accounting of all the dangers concerning the land and
5 improvements known to the donor, then the donor shall not be
6 liable for any civil damages resulting from the donation.

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

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

20 **§ -104 Contract or conveyance to the authority.**

21 Notwithstanding any other law to the contrary, the board of land
22 and natural resources or other state agency holding lands and



1 improvements thereon, for purposes of this part, may contract or
2 otherwise convey at a nominal consideration, by direct
3 negotiation and without recourse to public auction, the land and
4 improvements, or the management, operation, and administrative
5 responsibility over the land and improvements, to the authority
6 or its designee. The land and improvements shall be used by the
7 authority or its designee for homeless facilities, or for any
8 other program for the homeless authorized by this part.

9 **§ -105 Program administration.** To the extent that
10 appropriations are made available, the authority may contract
11 with a provider agency to administer homeless facilities, or any
12 other program for the homeless created by this part. The
13 selection of provider agencies to administer homeless
14 facilities, or any other program for the homeless authorized by
15 this part, shall not be subject to chapters 42F, 102, 103, and
16 103F. The selection of provider agencies shall be subject to
17 qualifying standards and criteria established by rule adopted
18 pursuant to chapter 91.

19 **§ -106 Time limits.** To the extent that appropriations
20 are made available, a provider agency shall provide shelter or
21 any other program assistance authorized by this part to eligible
22 homeless families and homeless individuals not later than two



1 days, or a time set by rule which shall not be later than seven
2 days, after they apply and qualify for the shelter or other
3 program assistance, pursuant to rule. Such time limits may be
4 waived at the discretion of the authority for a maximum period
5 of fourteen days for the purpose of implementing repairs to the
6 subject shelter, which repairs the authority deems major or
7 extensive.

8 **§ -107 Determination of eligibility and need.** (a) The
9 provider agency operating and managing a homeless facility, or
10 any other program for the homeless authorized by this part, or
11 the authority operating and managing its own homeless facility,
12 shall be responsible for determining if an applicant is eligible
13 for shelter or other services at the homeless facility or
14 through any other program for the homeless, pursuant to
15 standards and criteria established by rule adopted pursuant to
16 chapter 91.

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



1 the homeless facility or other program for the homeless
2 authorized by this part.

3 (c) The authority may establish by rule adopted pursuant
4 to chapter 91, standards and criteria for eligibility, need, and
5 priority for each program; provided that the authority may
6 establish by rule adopted pursuant to chapter 91, exceptions to
7 these eligibility requirements based on special circumstances.

8 **§ -108 Abuse of assistance.** (a) The provider agency
9 operating and managing a homeless facility, or any other program
10 for the homeless authorized by this part, or the authority
11 operating and managing its own homeless facility, shall be
12 responsible for determining if a participant is no longer
13 eligible for shelter or other services at the homeless facility
14 or through any other program for the homeless, pursuant to
15 standards and criteria established by rule adopted pursuant to
16 chapter 91.

17 (b) Pursuant to rule adopted pursuant to chapter 91, and
18 the right of due process, the authority or its designee, or
19 provider agencies together with the authority, may act to bar
20 homeless families or individuals from participating further in
21 any homeless facility, may issue a writ of possession, and take



1 other actions as provided by rule adopted pursuant to chapter
2 91.

3 The enforcement of a writ of possession shall be effected
4 either by an officer appointed by the authority, who shall have
5 all of the powers of a police officer for all action in
6 connection with the enforcement of the writ, or any other law
7 enforcement officer of the State or any county, whose duty it
8 shall be to enforce the writ. The person enforcing the writ
9 shall remove all persons from the premises and put the authority
10 or its designee, or the provider agency designated by the
11 authority, in full possession thereof.

12 Upon eviction, the household goods and personal effects of
13 the person against whom the writ is entered, and those of any
14 persons using the premises incident to the person's holding, may
15 be removed from the premises immediately and sold or otherwise
16 disposed of by the authority or its designee, or the provider
17 agency. If the action is taken, the authority or its designee,
18 or the provider agency, shall have a lien on the property so
19 removed for the expenses incurred by it in moving the property.

20 (c) Any person who enters or remains unlawfully in or upon
21 the premises or living quarters of any homeless facility, or any
22 other program for the homeless authorized by this part, after



1 reasonable warning or request to leave by that provider agency's
2 authorities, the authority or its designee, or a police officer,
3 shall be guilty of a misdemeanor; provided that the offense in
4 this subsection shall be in addition to any other applicable
5 offense in the Hawaii penal code. A warning or request shall
6 only be issued if the person has engaged in unlawful conduct or
7 has violated house rules and regulations; provided that the
8 warning or request for violation of house rules and regulations
9 shall be issued only if that provider agency, or the authority
10 or its designee, has filed a copy of its current house rules and
11 regulations governing tenancy or participation at the shelter,
12 facility, or program, and any changes thereto, with the director
13 of commerce and consumer affairs. The house rules and
14 regulations shall be reasonable and a copy shall be provided to
15 each tenant or participant. The warning or request shall
16 supersede any invitation by a tenant or participant at the
17 shelter, facility, or program to that person to visit the
18 premises or living quarters.

19 **§ -109 Exemptions.** (a) Any compensation received by a
20 provider agency for services rendered to homeless families or
21 individuals, or in operating or managing a homeless facility
22 authorized by this part, is exempt from taxes under chapter 237.



1 (b) Any county mayor may exempt by executive order, donors
2 and homeless provider agencies from real property taxes, water
3 and sewer development fees, rates collected for water supplied
4 to consumers and for use of sewers, and any other county taxes,
5 charges, or fees; provided that any county may enact ordinances
6 to regulate the exemptions granted by this subsection.

7 (c) Any provider agency operating or managing a homeless
8 facility, or any other program for the homeless authorized by
9 this part, is exempt, for purposes of those facilities or
10 programs, from any requirements contained in part VIII of
11 chapter 346 and chapters 467 and 521.

12 **§ -110 Emergency/transitional shelter volunteers**

13 **exempted.** (a) For the purposes of this section,
14 "emergency/transitional shelter volunteer" means an individual
15 who:

- 16 (1) Is a tenant at an emergency or transitional shelter
17 administered pursuant to this part;
- 18 (2) Is not an employee of the provider agency operating or
19 managing the shelter;
- 20 (3) Is under the direction of the provider agency
21 operating or managing the shelter and not the
22 corporation or State; and



1 (4) Provides up to eighty hours of volunteer labor or
2 services per month to the provider agency operating or
3 managing the shelter, notwithstanding payment of
4 stipends or credits for labor and services.

5 (b) Provider agencies may accept labor and services from
6 emergency/transitional shelter volunteers.

7 (c) In addition to any exemptions granted to nonpaid
8 labor, emergency/transitional shelter volunteers who acknowledge
9 in writing that they are emergency/transitional shelter
10 volunteers, shall not be construed to be in the employ of the
11 provider agency operating or managing the shelter. The
12 volunteers' labor and services provided to the provider agency
13 operating or managing the shelter shall not be construed to
14 constitute employment, and the volunteers shall not be construed
15 to be employees of the provider agency operating or managing the
16 shelter, under any labor law.

17 **§ -111 Annual performance audits.** (a) The authority
18 shall require any provider agency that dispensed shelter or
19 assistance for any homeless facility or any other program for
20 the homeless authorized by this part to submit to the
21 corporation a financial audit and report on an annual basis
22 conducted by a certified public accounting firm. This audit and



1 report shall contain information specific to the funds received
2 under state homeless programs contracts. The audit shall
3 include recommendations to address any problems found.

4 (b) Continuing contracts with provider agencies to
5 participate in any program for the homeless authorized by this
6 part shall require that the provider agency address the
7 recommendations made by the auditing agency, subject to
8 exceptions as set by the authority.

9 (c) Failure to carry out the recommendations made by the
10 auditing agency may be grounds for the authority to bar a
11 provider agency from further contracts for programs authorized
12 by this part until the barred provider has addressed all
13 deficiencies.

14 **§ -112 Provider agency and donor cooperation are not in**
15 **restraint of trade.** No provider agency or any other agency, or
16 donor or donors, or method or act thereof that complies with
17 this part, shall be deemed a conspiracy or combination in
18 restraint of trade or an illegal monopoly, or an attempt to
19 lessen competition or fix prices arbitrarily, or the creation of
20 a combination or pool, or to accomplish any improper or illegal
21 purpose. Any cooperation or agreement established pursuant to
22 rule adopted pursuant to chapter 91, shall not be considered as



1 illegal, in restraint of trade, or as part of a conspiracy or
2 combination to accomplish an illegal purpose or act.

3 **§ -113 Construction of part.** If there is any conflict
4 between this part and any other law, this part shall control.

5 **§ -114 Homeless shelter stipends.** (a) The stipend
6 limits per "shelter unit of zero bedrooms" shall be adjusted by
7 the authority each first day of July pursuant to standards
8 established by rule adopted pursuant to chapter 91, which may
9 consider changes in the cost of operating homeless facilities,
10 the fair market rents, the consumer price index, or other
11 relevant factors. A "shelter unit of zero bedrooms" means a
12 living unit which is a studio unit or a single-room occupancy
13 unit. The homeless shelter stipend at transitional shelters for
14 larger shelter unit sizes shall be related to the difference in
15 unit size, pursuant to standards established by rule adopted
16 pursuant to chapter 91.

17 (b) The authority may make or may contract to make
18 homeless shelter stipend payments on behalf of one or more
19 homeless families or individuals to a provider agency operating
20 or managing an emergency or transitional shelter or, in the case
21 that the authority itself operates and manages a homeless
22 facility, to the authority in amounts and under circumstances as



1 provided by rule adopted pursuant to chapter 91. The contract
2 may specify a minimum total amount of homeless shelter stipends
3 to be received by a provider agency for making its shelter and
4 services available to eligible homeless families or individuals,
5 as provided by rule adopted pursuant to chapter 91.

6 (c) In making homeless shelter stipend payments to a
7 provider agency, the authority may establish minimal services to
8 be provided by the provider agency to homeless families or
9 individuals at the agency's shelter. The authority may also
10 direct provider agencies to establish and manage a savings
11 account program as described in subsection (d). Additionally,
12 the authority may direct provider agencies to subcontract for
13 outreach services from other private agencies specializing in
14 programs for the unsheltered homeless.

15 (d) Provider agencies and the authority may establish and
16 collect shelter and services payments from homeless families or
17 individuals in addition to the amount received in homeless
18 shelter stipend payments pursuant to rule. Provider agencies
19 and the authority may also set aside a portion of the payments
20 in a savings account to be made available to homeless families
21 or individuals when these families and individuals vacate the
22 shelter.



1 **§ -115 Additional powers.** The powers conferred upon the
2 authority by this part shall be in addition and supplemental to
3 the powers conferred by any other law, and nothing in this part
4 shall be construed as limiting any powers, rights, privileges,
5 or immunities conferred upon the authority.

6 B. Hale Kokua Program

7 **§ -121 Findings and purpose.** The legislature finds that
8 the issue of homelessness should be regarded as one of the
9 State's most significant social problems. The severity of the
10 problem is visible in every area of the state, and evidence that
11 the problem is escalating is becoming more and more apparent.
12 The problem of homelessness impacts everyone, and the burden of
13 rectifying this problem should be approached comprehensively and
14 as a collective responsibility.

15 The purpose of this subpart is to establish a homeless
16 assistance program known as the "Hale Kokua" program which would
17 authorize the payment of a state grant and a monthly rent
18 supplement to any interested property owner who sets aside any
19 existing rental space or undertakes the improvement or
20 construction of any adjoining or separate dwelling unit for the
21 purpose of renting the unit to any family or individual



1 classified as employed but homeless under the program for a
2 period of five years.

3 The program shall place a priority on assisting homeless
4 families in the greatest need. To ensure that no particular
5 district or community of the state is unduly burdened by the
6 sudden influx of homeless families holding rental contracts with
7 qualified homeowners under the program, the number of homeowners
8 authorized to take part in the Hale Kokua program shall be
9 limited to ten per census tract.

10 The Hale Kokua program shall assist homeless families and
11 individuals who are willing to engage in self-improvement
12 programs and regular employment with an alternative to living in
13 homeless shelters where homeless families as well as the special
14 needs homeless are indiscriminately grouped together.
15 Developing the employment skills of participating tenants is an
16 integral component of the program.

17 Accordingly, the program shall allow other available
18 programs to focus more intently on the special needs of the
19 homeless. The program also calls for the establishment of a
20 cooperative effort between the State, the counties, and the
21 federal government to provide the community and the Hale Kokua
22 program with the resources and the incentives to eliminate the



1 condition of homelessness. Since the Hale Kokua program
2 involves the public and private sectors, the cost of
3 implementing this program should be far less than the cost of
4 building new homeless shelter facilities.

5 The program has the potential to drastically reduce the
6 actual number of homeless families and individuals living in
7 public areas, to ultimately provide full and free access to
8 Hawaii's malls, streets, parks, and campgrounds. As a result,
9 Hawaii's overall quality of life will be enriched and Hawaii's
10 reputation as one of the most beautiful visitor destinations
11 will be enhanced.

12 **§ -122 Definitions.** As used in this subpart, unless the
13 context otherwise requires:

14 "Employed but homeless" means any person who is homeless as
15 defined in subpart A who is employed at a minimum of nineteen
16 hours a week or participates in an employment training program
17 and does volunteer work for a total of nineteen hours per week
18 until employment can be found.

19 **§ -123 Hale Kokua program; established.** There is
20 established, within the Hawaii public housing authority, a
21 homeless assistance program known as the "Hale Kokua" program,
22 to provide incentives and assistance to private homeowners



1 throughout the state who set aside existing dwelling units, or
2 construct or renovate dwelling units, for rental for a period of
3 five years by families or individuals classified as employed but
4 homeless. The Hawaii public housing authority shall administer
5 the Hale Kokua program and adopt the standards and framework
6 necessary to implement the program statewide after the initial
7 phase of the program.

8 **§ -124 Powers and duties.** (a) The authority may
9 contract with private services to carry out the duties and
10 responsibilities of the program.

11 Notwithstanding any other law to the contrary, any
12 contracts entered into by the authority with a private sector
13 entity pursuant to this subsection shall not be subject to
14 chapters 76 and 89.

15 (b) The duties of the authority or contracted agency shall
16 include:

- 17 (1) Carrying out the requirements of the Hale Kokua
18 program under this subpart;
- 19 (2) Developing and adopting the requirements, eligibility
20 qualifications, registration, background check,
21 initial screening procedures, and procedures for
22 follow-up after placement to determine the ability to



1 make rental payments and the need for social services
2 and referrals for homeless families and individuals to
3 qualify them as tenants under this program;

4 (3) Developing and adopting the requirements,
5 qualifications, and the registration procedures for
6 property owners who provide rental housing to
7 qualified homeless tenants; provided that priority
8 shall be given to those not requesting construction
9 grants;

10 (4) Developing appropriate procedures to address potential
11 liabilities of the State; and adopting the procedures
12 to place qualified homeless tenants with property
13 owners participating in the program. Participating
14 property owners shall interview and make final tenant
15 selection from lists of prospective tenants compiled
16 by the administrator or the contracted agency;

17 (5) Establishing the procedures and requirements for the
18 disbursement of building improvement grants and rental
19 subsidies and the amounts thereof to property owners
20 participating in the program;

21 (6) Working with the counties to develop and propose
22 uniform incentives to encourage and facilitate the



1 participation of property owners, including real
2 property tax waivers or reductions, and exemptions in
3 zoning or building code requirements which shall be
4 conditioned on participation in the program and which
5 shall lapse when program participation ends;

6 (7) Monitoring the financial status and progress of
7 homeless tenants and cooperating with other agencies
8 in establishing and coordinating job training, and
9 other programs to help tenants to progress toward
10 self- sufficiency;

11 (8) Promoting and assisting in the development of
12 employer- employee relationships between homeless
13 tenants and participating property owners, including
14 but not limited to tenant caretaker, housekeeper, or
15 groundskeeper employment situations;

16 (9) Working towards securing financial, in-kind, and
17 administrative assistance from law enforcement and
18 other state and county agencies and the private sector
19 to implement the program;

20 (10) Working towards securing funding assistance from
21 federal agencies and programs involved in housing
22 development, job-training, or homeless assistance;



- 1 (11) Monitoring the progress of the Hale Kokua program, and
2 collecting annual statistics showing the numbers of
3 homeless people, homeless families, and homeless
4 children, using appropriate measurement systems; and
5 (12) Preparing recommendations to improve and expand the
6 program, including but not limited to incentives for
7 participating property owners to sign up for
8 additional terms;
9 provided that the authority shall adopt rules pursuant to
10 chapter 91 to effectuate this section.

11 **§ -125 Homeowner participation; limitation; payments and**
12 **assistance.** (a) The administrator shall limit the
13 participation of not more than ten property owners within each
14 census tract at any given period in time, without regard to the
15 existence or operation of shelters and other facilities to aid
16 the homeless in the tract. The authority or contracted agency
17 shall notify prospective participants registered on the waiting
18 list in each census tract of the opportunity to participate in
19 the program as these opportunities may arise in each tract.
20 (b) Assistance to any qualified property owner providing
21 rental housing to any homeless tenant under this subpart for a



1 period of five years shall include but not be limited to at
2 least one of the following:

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

8 (2) The payment of a monthly state rent subsidy to
9 supplement the monthly rental payments made by the
10 homeless tenant;

11 (3) Real property tax rate waivers or reductions proposed
12 by the administrator and approved by the council of
13 the county in which the property is located;

14 (4) Zoning and building code exemptions applicable to the
15 construction of adjoining or separate dwelling units
16 on the owner's property, provided that the county, by
17 ordinance, may establish minimum development and
18 construction standards for these units and procedures
19 for approval thereto; and

20 (5) Other incentives consistent with the purposes of this
21 subpart to assist in the participation of property
22 owners under the program.



1 **§ -126 Early withdrawal from program; recovery of grant.**

2 (a) Any property owner who withdraws without just cause from
3 the Hale Kokua program prior to five years shall return the
4 state grant for construction improvements within ninety days of
5 the date of withdrawal. The authority shall effect the recovery
6 of the grant, including but not limited to the filing of liens
7 against the real property of withdrawing property owners. The
8 administrator shall be awarded reasonable attorneys' fees and
9 costs as determined by the court in any action brought to
10 enforce this subpart.

11 (b) The respective county government whose jurisdiction
12 includes the site shall determine the disposition of the
13 additional unit constructed with the grant.

14 **§ -127 Availability of funding.** All rental subsidies,
15 grants, and payments allocated by the Hale Kokua program under
16 this subpart shall be subject to the availability of funds.

17 **PART VII. STATE RENT SUPPLEMENT PROGRAM**

18 **§ -131 Rent supplements.** (a) The authority is
19 authorized to make, and contract to make, annual payments to a
20 "housing owner" on behalf of a "qualified tenant", as those
21 terms are defined in this subpart, in amounts and under



1 circumstances as are prescribed in rules adopted by the
2 authority.

3 (b) The authority is authorized to use state rent
4 supplement program funds for project-based operating subsidies
5 for state low-income housing units that are transferred by the
6 authority to private organizations for the purpose of managing
7 and operating the units; provided that fifty per cent of the
8 units are rented to households whose income does not exceed
9 fifty per cent of the median family income as determined by the
10 U.S. Department of Housing and Urban Development; provided
11 further that the remainder of the units are rented to households
12 whose income does not exceed eighty per cent of the median
13 family income as determined by the U.S. Department of Housing
14 and Urban Development.

15 **§ -132 Housing owner defined.** As used in this subpart,
16 the term "housing owner" means:

17 (1) A private nonprofit corporation or other private
18 nonprofit legal entity, a limited dividend corporation
19 or other limited dividend legal entity, or a
20 cooperative housing corporation, that is a mortgagor
21 under section 202, 207, 213, 221(d)(3), 221(d)(5), or
22 231 of the National Housing Act, as amended, or that



1 conforms to the standards of those sections but that
2 is not a mortgagor under those sections or any other
3 private mortgagor under the National Housing Act, as
4 amended, for very low income, low-income, or moderate-
5 income family housing, regulated or supervised under
6 federal or state laws or by political subdivisions of
7 the State, or agencies thereof, as to rents, charges,
8 capital structure, rate of return, and methods of
9 operation, from the time of issuance of the building
10 permit for the project;

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

13 (3) The authority.

14 **§ -133 Qualified tenant defined.** As used in this
15 subpart, the term "qualified tenant" means any single person or
16 family, pursuant to criteria and procedures established by the
17 authority, that has been determined to have an income not
18 exceeding the very low income limit as determined by the
19 authority pursuant to rules adopted by the authority in
20 accordance with chapter 91; provided that the qualified tenant's
21 primary place of residence shall be in the State or that the
22 qualified tenant intends to make the State the qualified



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

10 **§ -134 Relationship of annual payment to rental and**
11 **income.** The amount of the annual payment with respect to any
12 dwelling unit shall not exceed the amount by which the fair
13 market rental for that unit exceeds thirty per cent of the
14 tenant's income as determined by the authority pursuant to
15 procedures and regulations established pursuant to rule in
16 accordance with chapter 91.

17 **§ -135 Determination of eligibility of occupants and**
18 **rental charges.** (a) For purposes of carrying out this subpart,
19 the authority shall establish criteria and procedures for
20 determining the eligibility of occupants and rental charges,
21 including criteria and procedures with respect to periodic
22 review of tenant incomes and periodic adjustment of rental



1 charges. The authority shall issue, upon the request of a
2 housing owner, certificates as to the income of the single
3 persons and families applying for admission to, or residing in,
4 dwellings of that owner.

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

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

17 **§ -136 Rules.** The authority may adopt rules necessary
18 to carry out the purpose of this subpart pursuant to chapter 91,
19 including rules relating to determining preference among
20 applicants for state rent supplements.

21 **§ -137 Additional powers.** The powers conferred upon the
22 authority by this subpart shall be in addition and supplemental



1 to the powers conferred by any other law, and nothing herein
2 shall be construed as limiting any powers, rights, privileges,
3 or immunities so conferred.

4 **PART VIII. STATE SALES HOUSING PROGRAM**

5 **§ -141 State sales housing.** Notwithstanding any law to
6 the contrary, but subject to any resolution of issuance under
7 subpart A, the authority may permit any member of a tenant
8 family of a public housing project, or any individual meeting
9 the income standards under Section 221(d)(3) of the National
10 Housing Act to enter into a contract for the acquisition of a
11 dwelling unit and lot or the acquisition of a dwelling unit and
12 the lease of its lot, the lease to conform to chapter 171 with
13 the exception that the lease shall not require bid, auction, or
14 negotiation, in any public housing project, state low income
15 housing project, or elderly housing project which is suitable
16 for sale and for occupancy by the purchaser or a member or
17 members of the purchaser's family, upon the following terms:

18 (1) The purchaser shall pay at least:

19 (A) A pro rata share cost of any services furnished
20 to the purchaser by the authority, including but
21 not limited to administration, maintenance,



- 1 repairs, utilities, insurance, provision of
2 reserves, and other expenses;
- 3 (B) Taxes on the purchaser's dwelling unit; and
- 4 (C) Monthly payments of interest and principal
5 sufficient to amortize a sales price, equal to
6 the greater of the unamortized debt or the
7 appraised value (at the time the purchase
8 contract is entered into) of the dwelling unit,
9 in not more than forty years;
- 10 (2) The interest rate shall be fixed at not less than the
11 average interest cost of loans outstanding on the
12 project, except that in the case of a project on which
13 bonds are not outstanding, the interest rate shall be
14 fixed at not less than the going rate applicable to
15 that project;
- 16 (3) The principal payments shall not be less than one-half
17 of one per cent a year of the sales price during the
18 first five years after purchase, one per cent a year
19 during the next five years, one and one-half per cent
20 a year during the third five years, and thereafter not
21 less than the principal payments resulting from a



1 level debt service of interest and principal over the
2 balance of the payment period; and

3 (4) If at any time:

4 (A) A purchaser fails to carry out the purchaser's
5 contract with the authority and if no member of
6 the purchaser's family who resides in the
7 dwelling assumes the contract; or

8 (B) The purchaser or a member of the purchaser's
9 family who assumes the contract does not reside
10 in the dwelling, the authority shall have an
11 option to acquire the purchaser's interest under
12 the contract upon payment to the purchaser or the
13 purchaser's estate of an amount equal to the
14 purchaser's aggregate principal payments plus the
15 value to the authority of any improvements made
16 by the purchaser, less an amount equal to two and
17 one-half per cent of the sales price.

18 § -142 **Additional powers.** The powers conferred upon the
19 authority by this subpart shall be in addition and supplemental
20 to the powers conferred by any other law, and nothing herein
21 shall be construed as limiting any powers, rights, privileges,
22 or immunities so conferred."



1 PART III

2 SECTION 4. Act 196, Session Laws of Hawaii 2005, is
3 amended by amending section 26 to read as follows:

4 "SECTION 26. (a) All references to the "housing and
5 community development corporation of Hawaii", or "corporation",
6 or similar terms as the case may be in [~~chapter 201G, and~~] the
7 title to chapter 201G, chapter 201G, part II, subparts C, D, and
8 G, sections 27-11, 53-6, 76-16, 209-16(b), 290-1(b), 290-8, and
9 521-7, Hawaii Revised Statutes, shall be amended to "Hawaii
10 public housing [~~administration~~], authority",
11 [~~"administration"~~] "authority", or similar terms, as the case
12 may be, as the context requires.

13 (b) All references to the "housing and community
14 development corporation of Hawaii", or "corporation", or similar
15 terms as the case may be in chapter 516, and sections 10-2,
16 10-13.6, 36-24, 46-15.1, 53-17, 53-22(e), 111-8, 111-9, 171-2,
17 171-18.5, 171-50.2, 206E-15, 209-16(a), 209-17, 237-29, [~~290-~~
18 ~~1(e)~~], 519-2(b), and 519-3(b), Hawaii Revised Statutes, shall be
19 amended to [~~"Hawaii housing finance and development~~
20 ~~administration"~~, ~~"administration"~~] "Hawaii housing and finance
21 development corporation", "corporation", or similar terms, as
22 the case may be, as the context requires."



1 SECTION 5. Chapter 201G, parts I, III, and IV, Hawaii
2 Revised Statutes, are repealed. Chapter 201G, part II, subparts
3 A, B, E, F, and H, Hawaii Revised Statutes, are repealed.

4 PART IV

5 SECTION 6. The purpose of this part is to:

- 6 (1) Amend Act 196, Session Laws of Hawaii 2005 to transfer
7 appropriate housing functions to the Hawaii housing
8 finance and development corporation; and
9 (2) Make additional technical and conforming amendments to
10 ensure that references to chapter 201G throughout the
11 Hawaii Revised Statutes are amended to the new chapter
12 designated "Hawaii housing finance and development
13 corporation".

14 SECTION 7. Section 46-15.1, Hawaii Revised Statutes, is
15 amended by amending subsection (a) to read as follows:

16 "(a) Any law to the contrary notwithstanding, any county
17 shall have and may exercise the same powers, subject to
18 applicable limitations, as those granted the Hawaii housing
19 finance and development [~~administration~~] corporation pursuant to
20 chapter [201G] _____ insofar as such powers may be reasonably
21 construed to be exercisable by a county for the purpose of
22 developing, constructing, and providing low and moderate income



1 housing; provided that no county shall be empowered to cause the
2 State to issue general obligation bonds to finance a project
3 pursuant to this section; provided further that county projects
4 shall be granted an exemption from general excise or receipts
5 taxes in the same manner as projects of the Hawaii housing
6 finance and development [~~administration~~] corporation pursuant to
7 section [~~+201G-116+;~~] -36; and provided further that the
8 provisions of section [~~201G-15~~] -16 shall not apply to this
9 section unless federal guidelines specifically provide local
10 governments with that authorization and the authorization does
11 not conflict with any state laws. The powers shall include the
12 power, subject to applicable limitations, to:

- 13 (1) Develop and construct dwelling units, alone or in
14 partnership with developers;
- 15 (2) Acquire necessary land by lease, purchase, exchange,
16 or eminent domain;
- 17 (3) Provide assistance and aid to a public agency or
18 person in developing and constructing new housing and
19 rehabilitating old housing for elders of low and
20 moderate income, other persons of low and moderate
21 income, and persons displaced by any governmental



- 1 action, by making long-term mortgage or interim
2 construction loans available;
- 3 (4) Contract with any eligible bidders to provide for
4 construction of urgently needed housing for persons of
5 low and moderate income;
- 6 (5) Guarantee the top twenty-five per cent of the
7 principal balance of real property mortgage loans,
8 plus interest thereon, made to qualified borrowers by
9 qualified lenders;
- 10 (6) Enter into mortgage guarantee agreements with
11 appropriate officials of any agency or instrumentality
12 of the United States in order to induce those
13 officials to commit to insure or insure mortgages
14 under the provisions of the National Housing Act, as
15 amended;
- 16 (7) Make a direct loan to any qualified buyer for the
17 downpayment required by a private lender to be made by
18 the borrower as a condition of obtaining a loan from
19 the private lender in the purchase of residential
20 property;
- 21 (8) Provide funds for a share, not to exceed fifty per
22 cent of the principal amount of a loan made to a



1 qualified borrower by a private lender who is unable
2 otherwise to lend the borrower sufficient funds at
3 reasonable rates in the purchase of residential
4 property; and

5 (9) Sell or lease completed dwelling units.

6 For purposes of this section, a limitation is applicable to
7 the extent that it may reasonably be construed to apply to a
8 county."

9 SECTION 8. Section 53-1, Hawaii Revised Statutes, is
10 amended by amending the definition of "Housing and community
11 development corporation of Hawaii", "corporation", "government",
12 "federal government", and "real property" to read as follows:

13 "Hawaii housing finance and development corporation",
14 "corporation", "government", "federal government", and "real
15 property" have the respective meanings set forth for these terms
16 in chapter [~~201G~~] _____."

17 SECTION 9. Section 53-17, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "**§53-17 Bonds of agency to be legal investments.** Bonds
20 issued by a redevelopment agency in connection with one or more
21 redevelopment plans or redevelopment projects pursuant to this
22 part shall be legal investments and security for public deposits



1 to the same extent and for the same public officers and bodies,
2 political subdivisions, persons, companies, corporations,
3 associations, banks, institutions, and fiduciaries as bonds or
4 obligations issued by the Hawaii housing finance and development
5 [~~administration~~] corporation under chapter [201G] _____ in
6 connection with slum clearance and housing projects."

7 SECTION 10. Section 171-18.5, Hawaii Revised Statutes, is
8 amended by amending subsection (a) to read as follows:

9 "(a) This section applies to the amount to which the
10 department of Hawaiian home lands is entitled pursuant to
11 Article XII, Section 1 of the State Constitution from land
12 previously cultivated as sugarcane land under any provision of
13 law which is conveyed by the department to the Hawaii housing
14 finance and development [~~administration~~] corporation for the
15 development of "housing projects" as defined under section
16 [~~201G-1-~~] _____-1. The amount to which the department of Hawaiian
17 home lands is entitled shall be determined by multiplying the
18 fair market value of the land by thirty per cent. For the
19 purpose of this section, "fair market value" means the amount of
20 money which a purchaser willing but not obliged to buy the land
21 would pay to an owner willing but not obliged to sell it, taking
22 into consideration the highest and best use of the land. For



1 the purpose of this section, "highest and best use" means the
2 most profitable, probable, and legal use to which the land can
3 be put."

4 SECTION 11. Section 237-29, Hawaii Revised Statutes, is
5 amended by amending subsection (a) to read as follows:

6 "(a) All gross income received by any qualified person or
7 firm for the planning, design, financing, construction, sale, or
8 lease in the State of a housing project which has been certified
9 or approved under section [~~201G-116~~] -36 shall be exempt from
10 general excise taxes."

11 SECTION 12. Section 247-3, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "**§247-3 Exemptions.** The tax imposed by section 247-1
14 shall not apply to:

15 (1) Any document or instrument that is executed prior to
16 January 1, 1967;

17 (2) Any document or instrument that is given to secure a
18 debt or obligation;

19 (3) Any document or instrument that only confirms or
20 corrects a deed, lease, sublease, assignment,
21 transfer, or conveyance previously recorded or filed;



- 1 (4) Any document or instrument between husband and wife,
2 reciprocal beneficiaries, or parent and child, in
3 which only a nominal consideration is paid;
- 4 (5) Any document or instrument in which there is a
5 consideration of \$100 or less paid or to be paid;
- 6 (6) Any document or instrument conveying real property
7 that is executed pursuant to an agreement of sale, and
8 where applicable, any assignment of the agreement of
9 sale, or assignments thereof; provided that the taxes
10 under this chapter have been fully paid upon the
11 agreement of sale, and where applicable, upon such
12 assignment or assignments of agreements of sale;
- 13 (7) Any deed, lease, sublease, assignment of lease,
14 agreement of sale, assignment of agreement of sale,
15 instrument or writing in which the United States or
16 any agency or instrumentality thereof or the State or
17 any agency, instrumentality, or governmental or
18 political subdivision thereof are the only parties
19 thereto;
- 20 (8) Any document or instrument executed pursuant to a tax
21 sale conducted by the United States or any agency or
22 instrumentality thereof or the State or any agency,



- 1 instrumentality, or governmental or political
2 subdivision thereof for delinquent taxes or
3 assessments;
- 4 (9) Any document or instrument conveying real property to
5 the United States or any agency or instrumentality
6 thereof or the State or any agency, instrumentality,
7 or governmental or political subdivision thereof
8 pursuant to the threat of the exercise or the exercise
9 of the power of eminent domain;
- 10 (10) Any document or instrument that solely conveys or
11 grants an easement or easements;
- 12 (11) Any document or instrument whereby owners partition
13 their property, whether by mutual agreement or
14 judicial action; provided that the value of each
15 owner's interest in the property after partition is
16 equal in value to that owner's interest before
17 partition;
- 18 (12) Any document or instrument between marital partners or
19 reciprocal beneficiaries who are parties to a divorce
20 action or termination of reciprocal beneficiary
21 relationship that is executed pursuant to an order of



- 1 the court in the divorce action or termination of
2 reciprocal beneficiary relationship;
- 3 (13) Any document or instrument conveying real property
4 from a testamentary trust to a beneficiary under the
5 trust;
- 6 (14) Any document or instrument conveying real property
7 from a grantor to the grantor's revocable living
8 trust, or from a grantor's revocable living trust to
9 the grantor as beneficiary of the trust;
- 10 (15) Any document or instrument conveying real property, or
11 any interest therein, from an entity that is a party
12 to a merger or consolidation under chapter 414, 414D,
13 415A, 421, 421C, 425, 425E, or 428 to the surviving or
14 new entity;
- 15 (16) Any document or instrument conveying real property, or
16 any interest therein, from a dissolving limited
17 partnership to its corporate general partner that
18 owns, directly or indirectly, at least a ninety per
19 cent interest in the partnership, determined by
20 applying section 318 (with respect to constructive
21 ownership of stock) of the federal Internal Revenue



1 Code of 1986, as amended, to the constructive
2 ownership of interests in the partnership; and
3 (17) Any document or instrument conveying real property to
4 any nonprofit or for-profit organization that has been
5 certified by the [~~housing and community development~~
6 ~~corporation of Hawaii~~] Hawaii housing finance and
7 development corporation for low-income housing
8 development."

9 SECTION 13. Act 196, Session Laws of Hawaii 2005, is
10 amended by amending sections 21, 22, 23, 24, and 25 by
11 substituting the words "Hawaii housing finance and development
12 corporation", or like term, wherever the words "Hawaii housing
13 finance and development administration", or like term, appears,
14 as the context requires.

15 PART V

16 SECTION 14. The purpose of this part is to make additional
17 technical and conforming amendments to ensure that references to
18 chapter 201G throughout the Hawaii Revised Statutes are amended
19 to the new chapter designated "Hawaii public housing authority".

20 SECTION 15. Section 521-7, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "§521-7 Exclusions from application of chapter. Unless
2 created solely to avoid the application of this chapter, this
3 chapter shall not apply to:

4 (1) Residence at an institution, whether public or
5 private, where residence is merely incidental to
6 detention or the provision of medical, geriatric,
7 educational, religious, or similar services;

8 (2) Residence in a structure directly controlled and
9 managed by the University of Hawaii for housing
10 students or faculty of the University of Hawaii or
11 residence in a structure erected on land leased from
12 the University of Hawaii by a nonprofit corporation
13 for the exclusive purpose of housing students or
14 faculty of the University of Hawaii;

15 (3) Occupancy under a bona fide contract of sale of the
16 dwelling unit or the property of which it is a part
17 where the tenant is, or succeeds to the interest of,
18 the purchaser;

19 (4) Residence by a member of a fraternal organization in a
20 structure operated without profit for the benefit of
21 the organization;



- 1 (5) Transient occupancy on a day-to-day basis in a hotel
2 or motel;
- 3 (6) Occupancy by an employee of the owner or landlord
4 whose right to occupancy is conditional upon such
5 employment or by a pensioner of the owner or landlord
6 or occupancy for a period of up to four years
7 subsequent thereto, pursuant to a plan for the
8 transfer of the dwelling unit or the property of which
9 it is a part to the occupant;
- 10 (7) A lease of improved residential land for a term of
11 fifteen years or more, measured from the date of the
12 commencement of the lease;
- 13 (8) Occupancy by the prospective purchaser after an
14 accepted offer to purchase and prior to the actual
15 transfer of the owner's rights;
- 16 (9) Occupancy in a homeless facility, or any other program
17 for the homeless authorized under chapter [~~201G, part~~
18 ~~IV~~] _____, part VI;
- 19 (10) Residence or occupancy in a public housing complex or
20 shelter directly controlled, owned, or managed by the
21 Hawaii housing finance and development
22 [~~administration~~] corporation; or



1 (11) Residence or occupancy in a transitional facility for
2 abused family or household members."

3 PART VI

4 SECTION 16. There is appropriated out of the general fund
5 of the State of Hawaii the sum of \$708,300 or so much thereof as
6 may be necessary for fiscal year 2006-2007 to be expended to
7 purchase a computer network, printers, and faxes for the Hawaii
8 housing finance and development corporation.

9 The sum appropriated shall be expended by the Hawaii
10 housing finance and development corporation for the purposes of
11 this Act.

12 SECTION 17. There is appropriated out of the general
13 revenues of the State of Hawaii the sum of \$ or so
14 much thereof as may be necessary for fiscal year 2006-2007 for
15 the Hawaii housing finance and development corporation.

16 The sum appropriated shall be expended by the Hawaii
17 housing finance and development corporation.

18 SECTION 18. There is appropriated out of the special funds
19 the sum of \$366,303 or so much thereof as may be necessary for
20 fiscal year 2006-2007 as follows:

21 (1) One full-time equivalent (1.00 FTE) executive director
22 position;



- 1 (2) One full-time equivalent (1.00 FTE) executive
2 assistant position;
- 3 (3) One full-time equivalent (1.00 FTE) secretary II
4 position;
- 5 (4) One full-time equivalent (1.00 FTE) clerk III
6 position;
- 7 (5) One full-time equivalent (1.00 FTE) account clerk V
8 position; and
- 9 (6) One full-time equivalent (1.00 FTE) secretary III
10 position.

11 The sum appropriated shall be expended by the Hawaii
12 housing finance and development corporation for the purposes of
13 this Act.

14 PART VII

15 SECTION 19. There is appropriated out of the general
16 obligation bond fund the sum of \$1,800,000 or so much thereof as
17 may be necessary for fiscal year 2006-2007 to be expended on
18 renovations to the Hawaii public housing authority's school
19 street office.

20 The sum appropriated shall be expended by the Hawaii public
21 housing authority for the purposes of this Act.



1 SECTION 20. There is appropriated out of federal funds the
2 sum of \$99,427 or so much thereof as may be necessary for fiscal
3 year 2006-2007 as follows:

4 (1) One full-time equivalent (1.00 FTE) clerk typist II
5 position;

6 (2) One full-time equivalent (1.00 FTE) account clerk III
7 position;

8 (3) One full-time equivalent (1.00 FTE) clerk typist III
9 position;

10 The sum appropriated shall be expended by the Hawaii public
11 housing authority for the purposes of this Act.

12 PART VIII

13 SECTION 21. All rental agreements made by the housing and
14 community development corporation of Hawaii prior to July 1,
15 2006, that are made applicable to the Hawaii public housing
16 authority by this Act shall remain in full force and effect
17 until the completion of their lease terms.

18 SECTION 22. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

20 SECTION 23. This Act shall take effect on July 1, 2006.

