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# A BILL FOR AN ACT

RELATING TO HOUSING.

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

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

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



1 PART I

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

5 "CHAPTER  
6 HAWAII PUBLIC HOUSING AUTHORITY  
7 PART I. GENERAL POWERS

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

12 "Authority" means the Hawaii public housing authority.

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

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

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



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

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

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

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

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

16 "Elder or elderly housing" means:

17 (1) A housing project intended for and occupied by elder  
18 or elderly households; or

19 (2) Housing provided under any state or federal program  
20 that the Secretary of the United States Department of  
21 Housing and Urban Development determines is  
22 specifically designed and operated to assist elder or



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

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

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

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

13 "Household member" means a person who:

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

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

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

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



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

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

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

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

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



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

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



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

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

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

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

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



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

3       §   -2   **Hawaii public housing authority; establishment,**

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

8       (b) The authority shall employ, exempt from chapter 76 and  
9 section 26-35(a)(4), an executive director and an executive  
10 assistant. The authority may employ, subject to chapter 76,  
11 technical experts and officers, agents, and employees, permanent  
12 or temporary, as required. The authority may also employ  
13 officers, agents, and employees; prescribe their duties and  
14 qualifications; and fix their salaries, not subject to chapter  
15 76, when in the determination of the authority, the services to  
16 be performed are unique and essential to the execution of the  
17 functions of the authority; provided that if the authority hires  
18 an officer, agent, or employee in a capacity not subject to  
19 chapter 76, the authority shall include in an annual report to  
20 the legislature, to be submitted not later than twenty days  
21 prior to the convening of each regular session, the position  
22 descriptions and reasons for hiring the personnel in a civil





1 service exempt capacity. The authority may call upon the  
2 attorney general for legal services as it may require. The  
3 authority may delegate to one or more of its agents or employees  
4 the powers and duties as it deems proper.

5 § -3 **Board; establishment, functions, duties.** (a)

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

17 (b) The board of directors shall select a chairperson and  
18 vice-chairperson from among its members. The director of human  
19 services and the governor's representative shall be ineligible  
20 to serve as chairperson of the board.

21 § -4 **General powers of the authority.** (a) The

22 authority may:



- 1 (1) Sue and be sued;
- 2 (2) Have a seal and alter the same at pleasure;
- 3 (3) Make and execute contracts and other instruments
- 4 necessary or convenient to the exercise of its powers;
- 5 and
- 6 (4) Adopt bylaws and rules in accordance with chapter 91
- 7 for its organization, internal management, and to
- 8 carry into effect its purposes, powers, and programs.

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

12 § -5 **Resident advisory boards; establishment.** (a) The  
 13 authority may establish a resident advisory board or boards,  
 14 which shall be comprised of federal public housing residents or  
 15 section 8 tenant-based housing assistance recipients, to assist  
 16 and make recommendations to the authority regarding the  
 17 development of the public housing agency plan and any  
 18 significant amendments or modifications to it. The members of  
 19 the resident advisory board or boards shall adequately reflect  
 20 and represent residents of federal public housing projects and  
 21 recipients of section 8 tenant-based assistance administered by  
 22 the authority.



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

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

11 § -6 **Nomination of resident board member.** (a) If a  
12 vacancy occurs for the resident member seat on the board of  
13 directors, the resident advisory board shall compile a list of  
14 five individuals for the governor's consideration for  
15 appointment to the board of directors; provided the nominees to  
16 the board of directors shall be:

- 17 (1) Participants who are directly assisted by the  
18 authority under the federal public housing or  
19 section 8 tenant-based programs and who need not be  
20 members of the resident advisory board;
- 21 (2) At least eighteen years of age; and
- 22 (3) Authorized members of the assisted household.



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

5 § -7 **Fair housing law to apply.** Notwithstanding any law  
6 to the contrary, chapter 515 shall apply in administering this  
7 chapter.

8 § -8 **Acquisition, use, and 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 property of the authority nor  
19 shall any judgment against the authority be a charge or lien  
20 upon its real property; provided that this subsection shall not  
21 apply to nor limit the right of obligees to foreclose or  
22 otherwise enforce any mortgage of the authority or the right of



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

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

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

13 § -9 Cooperative agreements with other government  
14 agencies. (a) The authority may:

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

20 (2) Arrange or enter into agreements with any government  
21 agency for the acquisition by that agency of property,  
22 options, or property rights; for the furnishing,



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

8 (3) Procure insurance or guarantees from any government  
9 agency for the payment of any debts or parts thereof  
10 incurred by the authority, including the power to pay  
11 premiums on any such 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 each of  
6           their respective functions:
- 7           (A) Cause the services customarily provided by each  
8           of them to be rendered for the benefit of public  
9           housing 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 the State or county's powers  
21          relating to the repair, closing, or demolition of  
22          unsafe, unsanitary, or unfit dwellings;



1 (4) Employ, notwithstanding any other law as to what  
2 constitutes legal investments, any available funds  
3 belonging to them or within their control, including  
4 funds derived from the sale or furnishing of property  
5 or facilities to the authority, in the purchase of the  
6 bonds or other obligations of the authority, and  
7 exercise all the rights of any holder of the bonds or  
8 other obligations;

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

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

16 In connection with the exercise of the powers conferred by  
17 this subsection, any political subdivision may incur the entire  
18 expense of any public improvements located within its  
19 territorial boundaries without assessment against abutting  
20 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 such 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 administration of low-income  
15 housing or slum clearance projects, any agreement made under  
16 this section relating to the project shall inure to the benefit  
17 of and may be enforced by that government.

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

20 (c) Any county in which a public housing project is  
21 located or is about to be located may make donations or advances  
22 to the authority in sums as the county in its discretion may



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

6       **§ -10 Agents, including corporations.** The authority may  
7 exercise any or all of the powers conferred upon it, either  
8 generally or with respect to any specific public housing project  
9 through an agent that it may designate, including any  
10 corporation that is formed under the laws of this State, and for  
11 those purposes the authority may cause one or more corporations  
12 to be formed under the laws of this State or may acquire the  
13 capital stock of any corporation. Any corporate agent, all of  
14 the stock of which shall be owned by the authority or its  
15 nominee, may to the extent permitted by law, exercise any of the  
16 powers conferred upon the authority in this chapter.

17       **§ -11 Development of property.** (a) The authority, in  
18 its own behalf or on behalf of any government, may:

- 19       (1) Clear, improve, and rehabilitate property; and  
20       (2) Plan, develop, construct, and finance public housing  
21       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, and 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, 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 such purpose. The petition shall be  
10 conclusive proof that the intended use is a public use superior  
11 to that to which the land had been appropriated.

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

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

21           (e) The authority may contract or sponsor with any county,  
22 housing authority, or person, subject to the availability of



1 funds, an experimental or demonstration housing project designed  
2 to meet the needs of elders, disabled, displaced or homeless  
3 persons, low- and moderate-income persons, government employees,  
4 teachers, or university and college students and faculty.

5       **§ -12 Development of property; additional powers.**

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

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

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

20       **§ -13 Administration of federal programs.** (a) The  
21 authority may carry out federal programs designated to be



1 carried out by a public housing agency, or entity designated by  
2 the authority.

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

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

11 § -14 **Federal funds outside of state treasury.**

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

16 § -15 **Eminent domain, exchange, or use of public**

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

20 (1) Voluntary negotiation;



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

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

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

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



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

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

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



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





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

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

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

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



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

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

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



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



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

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

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

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

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



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

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

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

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

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



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

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

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

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

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

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

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

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



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

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



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

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

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

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





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

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

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

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



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

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

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

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

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

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



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

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

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

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

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

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



1 use and application of the earnings from investments;

2 and

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

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

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



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

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

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

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

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

17       **§ -27 Arbitrage provisions; interest rate.** (a) Any  
18 other provision of law to the contrary notwithstanding, neither  
19 the authority nor the director of finance shall make loans or  
20 purchase mortgages with the proceeds of general obligation bonds  
21 of the State or from a revolving fund established or maintained  
22 from the proceeds of bonds, at a rate of interest or upon terms



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

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

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



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

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

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

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

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



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

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

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

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

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





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



- 1           (1) Vest in an obligee the right, in the event of a  
2           default by the authority, to take possession of a  
3           public housing project or cause the appointment of a  
4           receiver thereof, free from all the restrictions  
5           imposed by this part with respect to rentals, tenant  
6           selection, manner of operation, or otherwise; or
- 7           (2) Vest in obligees the right, in the event of a default  
8           by the authority, to acquire title to a public housing  
9           project or the property mortgaged by the authority,  
10          free from all the restrictions imposed by this part.
- 11          §    -32 **Delinquent accounts.** (a) Notwithstanding section  
12 40-82, the authority, with the approval of the attorney general,  
13 may delete from its accounts receivable records delinquent  
14 accounts for vacated units within federal low-income public  
15 housing projects that have been delinquent for at least ninety  
16 days.
- 17          (b) The delinquent accounts may be assigned to a  
18 collection agency.
- 19          (c) When the authority seeks eviction of a tenant due to  
20 delinquency in payment of rent, the authority shall comply with



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

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

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

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

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

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

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



1 limits, its findings and recommendations with regard  
2 to any building or property where conditions exist  
3 that are dangerous to the public health, morals,  
4 safety, or welfare.

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

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

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

19 **A. State Low-Income Housing; Administration**

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



1 "Administer" or "administration" means the management,  
2 operation, maintenance, and regulation of any state low-income  
3 housing project. It also includes any and all undertakings  
4 necessary therefor.

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

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



1 obtaining assistance from the federal government. Within the  
2 priorities established by the authority recognizing need,  
3 veterans with a permanent disability of ten per cent or more as  
4 certified by the United States Department of Veterans Affairs,  
5 the dependent parents of the veteran, and the deceased veteran's  
6 widow shall be given first preference.

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



1 (b) Notwithstanding any provision of law to the contrary,  
2 if:

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

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

9 (3) Any of the property of any state low-income housing  
10 project or projects is security for the bonds,

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

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



1 (b) State low-income housing projects shall be subject to  
2 chapter 521.

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

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





- 1           (1) The cost of insurance, a proportionate share of the
- 2           administrative expenses of the authority, and the cost
- 3           of repairs, equipment, and improvement;
- 4           (2) The acquisition, clearance, and improvement of
- 5           property;
- 6           (3) The construction and reconstruction of building sites;
- 7           (4) The construction, reconstruction, repair, remodeling,
- 8           extension, equipment, and furnishing of any state low-
- 9           income housing project;
- 10          (5) Administration and other expenses;
- 11          (6) The payment of rentals; and
- 12          (7) The development and administration of any state low-
- 13          income housing project.
- 14          § -46 **Investigatory powers.** (a) The authority may:
- 15          (1) Investigate living, dwelling, and housing conditions
- 16          and the means and methods of improving those
- 17          conditions;
- 18          (2) Enter upon any building or property to conduct
- 19          investigations or to make surveys or soundings;
- 20          (3) Conduct examinations and investigations, and hear
- 21          testimony and take proof under oath at public or



1 private hearings on any matter material for its  
2 information;

3 (4) Issue subpoenas requiring the attendance of witnesses  
4 or the production of books and papers, and order the  
5 examination of witnesses who are unable to attend  
6 before the authority, are excused from attendance, or  
7 by leave of courts as provided by chapter 624, are out  
8 of the State; and

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

17 (b) Investigations or examinations may be conducted by the  
18 authority, or by a committee appointed by it consisting of one  
19 or more directors, or by counsel, or by an officer or employee  
20 specially authorized by the authority to conduct it. Any person  
21 designated by the authority to conduct an investigation or



1 examination may administer oaths, take affidavits, and issue  
2 subpoenas or orders for the taking of depositions.

3       **§ -47 Government aid; political subdivisions.** Any  
4 political subdivision may appropriate moneys for the purposes of  
5 meeting any local participation in housing costs or expenses  
6 required in order to obtain assistance from the federal  
7 government in the development and administration of state low  
8 income housing projects and programs under this subpart, or of  
9 providing funds for use by the authority in developing and  
10 administering state low-income housing projects.

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

16                   **B. State Low-Income Housing; Liens**

17       **§ -51 Definitions.** As used in this subpart, unless a  
18 different meaning clearly appears from the context:

19       "State low-income housing project" means any state low-  
20 income housing project or projects owned, managed, administered,  
21 or operated by the authority.



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

5 § -52 Lien on personalty for rent, etc. (a) The  
6 authority shall have a statutory lien on all personal property,  
7 not exempt from execution, belonging to, or in the lawful  
8 possession of, every tenant while the personal property is in or  
9 upon any state low-income housing project, for the amount of its  
10 proper charges against the tenant for rent of a room, dwelling  
11 unit, living quarters, or space in the state low-income housing  
12 project, or for utilities, facilities, or services in the state  
13 low-income housing project. The lien shall commence with the  
14 tenancy or occupancy of the tenant and continue for one year  
15 after the charge or charges are due and owing to the authority.

16 (b) Whenever any tenant fails or refuses to pay the charge  
17 or charges after the same are so due and owing, the authority  
18 shall have the right and power, acting by its authorized agents  
19 or representatives, without process of law and without any  
20 liability for the taking, seizure, and retention of the personal  
21 property, to take and seize any of the personal property  
22 belonging to, or in the lawful possession of, the tenant that is



1 found in or upon the public housing project. The authority may  
2 hold and retain the property as security for the payment of the  
3 charge or charges, until the amount of the charge or charges is  
4 paid and discharged. If the charge or charges, so due and  
5 owing, are not paid and discharged within thirty days after the  
6 taking and seizure, the authority may sell the personal property  
7 in the manner provided in section -53.

8 § -53 Foreclosure of lien, notice, etc. (a) The lien  
9 of the authority upon personal property that has been taken and  
10 retained by it as provided in section -52 may be foreclosed  
11 by the authority by selling the property at public auction:

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

21 (2) After first giving public notice of the foreclosure  
22 and sale at least two times in the county in which the



1 personal property is located. Each notice shall  
2 contain a brief description of the personal property;  
3 the name of the tenant, if known; the name of the  
4 owner of the personal property, if known; the amount  
5 of the charge or charges; and the time and place of  
6 the sale. Notices of several foreclosures and sales  
7 may be combined in one notice; and whenever so  
8 combined and given, the expenses of notice and sale  
9 shall be a statutory lien upon the property described  
10 in the notice in a ratable proportion according to the  
11 amount received for each lot of property so noticed  
12 for sale.

13 (b) If the tenant fails to pay to the authority within ten  
14 days after the mailing of the notice of foreclosure the charge  
15 or charges, the authority may sell the property at public  
16 auction at the time and place stated in the notice, or at a time  
17 or times or place or places to which the sale may be postponed  
18 or adjourned at the time and place stated in the notice, and may  
19 apply the proceeds thereof to the payment of the charge or  
20 charges and the expenses of notice and sale. The balance, if  
21 any remaining, shall be paid over to the tenant who formerly  
22 owned, or was in possession of, the property. If the balance is



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

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

14       §   **-55 Existing contracts not impaired.** Sections   -52  
15 and   -53 shall not be construed as to impair or affect the  
16 obligation of any contract existing on or before May 9, 1949.

17       §   **-56 Lien on abandoned personalty, sale, etc.** Whenever  
18 the authority has in its possession for four months after the  
19 termination of any residency or occupancy mentioned in this  
20 subpart, any personal property that has been left in or about  
21 any state low-income housing project by any person who formerly  
22 resided in, or occupied a room, dwelling unit, living quarters,



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





1           **§ -57 Disposition of surplus proceeds.** After the sale,  
2 the authority shall apply the proceeds as provided in section  
3 -56. The balance, if any remaining, shall be paid over to  
4 the former resident or occupant. If the balance is not claimed  
5 by the former resident or occupant within thirty days after the  
6 sale thereof, then the balance shall be paid over to the  
7 director of finance and shall be kept by the director in a  
8 special deposit for a period not to exceed six months. If  
9 claimed by the former resident or occupant during that period,  
10 it shall be paid to the former resident or occupant. If no  
11 claim is made during the period, the sum shall become a  
12 government realization and shall be paid into the general fund.

13           **§ -58 Lien attaches to personalty in possession.**

14 Sections -56 and -57 shall also apply to any personal  
15 property which, before May 2, 1949, was left in or about any  
16 public housing project, and was taken into the possession of the  
17 authority or its predecessor in interest, as herein set forth  
18 and provided.

19           **§ -59 Priority of housing lien.** The statutory liens  
20 provided for in this subpart shall be preferred and have  
21 priority over all other liens or claims and over all attachments  
22 or other process.



1           §   -60   **Rights and powers supplemental.**   The rights and  
2 powers conferred upon the authority by this subpart shall be in  
3 addition and supplemental to the rights and powers conferred  
4 upon the authority by any other law.

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

6   **A.   Housing for Elders**

7           §   -71   **Resident selection; dwelling units; rentals.**   In  
8 the administration of elder or elderly housing, the authority  
9 shall observe the following with regard to resident selection,  
10 dwelling units, and rentals:

- 11           (1)   Except as provided in this section, the authority  
12               shall accept elder or elderly households as residents  
13               in the housing projects;
- 14           (2)   It may accept as residents in any dwelling unit one or  
15               more persons, related or unrelated by blood or  
16               marriage.   It may also accept as a resident in any  
17               dwelling unit or in any housing project, in the case  
18               of illness or other disability of an elder who is a  
19               resident in the dwelling unit or in the project, a  
20               person designated by the elder as the elder's live-in  
21               aide whose qualifications as a live-in aide are  
22               verified by the authority, although the person is not



1 an elder; provided that the person shall cease to be a  
2 resident therein upon the recovery of, or removal from  
3 the project of, the elder;

4 (3) It may rent or lease to an elder a dwelling unit  
5 consisting of any number of rooms as the authority  
6 deems necessary or advisable to provide safe and  
7 sanitary accommodations to the proposed resident or  
8 residents without overcrowding;

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

21 (5) Elder or elderly housing shall be subject to chapter  
22 521.



1           §    **-72 Housing for elders revolving fund.**    There is  
2 created a housing for elders revolving fund to be administered  
3 by the authority. Notwithstanding any law to the contrary,  
4 moneys received or collected by the authority pursuant to this  
5 subpart shall be deposited into the revolving fund. Revenues  
6 from the fund may be used to pay the expenses of management,  
7 operation, and maintenance of housing projects for elders,  
8 including but not limited to the cost of insurance, a  
9 proportionate share of the administrative expenses of the  
10 authority, and the costs of repairs, equipment, and  
11 improvements.

12           §    **-73 Additional powers.**    The powers conferred upon the  
13 authority by this subpart shall be in addition and supplemental  
14 to the powers conferred by any other law, and nothing in this  
15 subpart shall be construed as limiting any powers, rights,  
16 privileges, or immunities so conferred.

17   **B. Housing for Teachers**

18           §    **-81 Purpose.**    The purpose of this subpart is to create  
19 a special fund for the accounting and control of receipts and  
20 disbursements in connection with the authority's functions of  
21 planning, construction, repair, maintenance, and operation of  
22 housing for teachers employed and assigned by the department of



1 education. Teachers' housing shall be provided only if the  
2 community does not have adequate housing for teachers at  
3 reasonable cost.

4       §   -82 **Teachers' housing revolving fund.** There is  
5 established a revolving fund to be known as the teachers'  
6 housing revolving fund. All unexpended balances of  
7 appropriations, allocations, allotments, special or revolving  
8 funds or other funds heretofore created and made available for  
9 the purposes of developing or administering teachers' housing  
10 projects shall be transferred to the teachers' housing revolving  
11 fund. Notwithstanding any law to the contrary, all moneys,  
12 including refunds, reimbursements, and rentals for housing from  
13 teacher tenants shall be deposited in the revolving fund.

14       The revolving fund may be used by the authority for any and  
15 all of the purposes of teachers' housing, including without  
16 prejudice to the generality of the foregoing, the planning,  
17 construction, maintenance, and operation of teachers' housing,  
18 as well as for the salaries of the necessary personnel in charge  
19 thereof.

20       Whenever the governor determines that the amount in the  
21 teachers' housing revolving fund is in excess of the



1 requirements of the teachers' housing program, the authority  
2 shall transfer that excess to the state general fund.

3       §    **-83 Annual statements.** The authority shall annually  
4 forward to the director of human services and the director of  
5 finance a full, detailed description and financial statement of  
6 the planning, construction, repair, maintenance, and operation  
7 of teachers' housing.

8       §    **-84 Rules.** The authority may adopt rules pursuant to  
9 chapter 91 necessary or desirable for the purpose of this  
10 subpart.

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



1           §   **-86 Additional powers.** The powers conferred upon the  
2 authority by this subpart shall be in addition and supplemental  
3 to the powers conferred by any other law, and nothing in this  
4 subpart shall be construed as limiting any powers, rights,  
5 privileges, or immunities so conferred.

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

7           §   **-91 Definitions.** As used in this part unless the  
8 context otherwise requires:

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

12           "Public housing project" or "complex" means a housing  
13 project directly controlled, owned, developed, or managed by the  
14 authority pursuant to part II.

15           "Tenant" means any person occupying a room, dwelling unit,  
16 living quarters, or space in any public housing project, under  
17 or by virtue of any tenancy, lease, license, or permit under or  
18 from the authority.

19           §   **-92 Termination and eviction.** (a) Except as  
20 otherwise provided, the authority may terminate any lease,  
21 rental agreement, permit, or license covering the use and  
22 occupation of any dwelling unit or other premises located within



1 a public housing project and evict from any premises any tenant,  
2 licensee, or other occupant for any of the following reasons:

- 3 (1) Failure to pay rent when due;
- 4 (2) Violation of any of the provisions of a lease, rental  
5 agreement, permit, or license;
- 6 (3) Violation of any of the rules of the authority;
- 7 (4) Failure to maintain the dwelling unit in a clean,  
8 sanitary, and habitable condition; or
- 9 (5) The existence of any other circumstances giving rise  
10 to an immediate right to possession by the authority.

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

- 18 (1) Inform the tenant that continued delinquency shall  
19 result in the tenant's eviction;
- 20 (2) Inform the tenant of the tenant's right to apply for  
21 an interim adjustment in rent;





- 1 (3) Explain to the tenant the steps of the grievance and  
2 eviction processes and how the processes protect the  
3 tenant;
- 4 (4) Provide the tenant with a sample letter for demanding  
5 a grievance hearing;
- 6 (5) Set forth the location, date, and time, which shall be  
7 no earlier than fourteen days from the date of the  
8 written notice, at which the tenant may meet with the  
9 authority or its agent to discuss the delinquency in  
10 rent; and
- 11 (6) Inform the tenant that the tenant shall either attend  
12 the meeting or, if applicable, contact the authority  
13 or the authority's agent before the meeting time to  
14 reschedule the meeting.
- 15 (c) At the meeting described in subsection (b), the  
16 authority or its agent shall:
- 17 (1) Inquire into the cause of the tenant's delinquency and  
18 offer suggestions, if any, that the authority may feel  
19 appropriate to address the causes of delinquency;
- 20 (2) Consider whether a reasonable payment plan is  
21 appropriate for the tenant's situation and, if  
22 appropriate, offer a payment plan to the tenant; and



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

3 (d) The authority shall develop a checklist outlining all  
4 of the requirements listed in subsection (c). The authority or  
5 its agent and the tenant shall complete, sign, and date the  
6 checklist to memorialize the meeting.

7 (e) If the tenant fails to attend or reschedule the  
8 meeting provided for in subsection (b), the authority shall  
9 provide the tenant with a second written notice. The notice  
10 shall inform the tenant that:

11 (1) The authority shall proceed to terminate the tenant's  
12 tenancy because of the tenant's outstanding rent  
13 delinquency and the tenant's failure to respond to the  
14 authority's written notice issued pursuant to  
15 subsection (b);

16 (2) The tenant has thirty days from receipt of the second  
17 written notice to request a grievance hearing; and

18 (3) If the tenant fails to request a grievance hearing  
19 within thirty days, the authority has the right to  
20 proceed with the eviction hearing pursuant to  
21 section -93.



1 (f) If the tenant meets with the authority as provided for  
2 in subsection (b), the authority shall decide, based upon the  
3 facts discussed at the meeting, what action is appropriate to  
4 address the tenant's case. The authority shall notify the  
5 tenant of its decision in writing. If the authority decides to  
6 proceed with an action to terminate the tenancy, the authority  
7 shall further inform the tenant in the same written notice that:

- 8 (1) The tenant has thirty days from receipt of this notice  
9 to request a grievance hearing; and  
10 (2) If the tenant fails to request a grievance hearing  
11 within thirty days, the authority has the right to  
12 proceed with the eviction hearing pursuant to section  
13 -93.

14 § -93 Hearings. (a) Where the authority proposes to  
15 terminate a lease, rental agreement, permit, or license, and  
16 evict a tenant, licensee, or other occupant under section -92,  
17 a hearing shall be held to determine whether cause exists for  
18 the action. The authority shall give written notice to the  
19 person concerned specifying the reason for which the eviction is  
20 proposed and fixing the date and place of hearing. The written  
21 notice shall further inform the tenant, licensee, or other  
22 occupant of the right to inspect and copy the tenant file at the



1 tenant's expense before the hearing is held. The notice shall  
2 be given at least five days before the date set for the hearing.  
3 At the hearing, before final action is taken, the person  
4 concerned shall be entitled to be heard in person or through  
5 counsel, and shall be accorded a full and fair hearing in  
6 accordance with the requirements of a contested case hearing  
7 provided for under sections 91-9 and 91-10 to 91-13. This full  
8 and fair hearing shall be deemed to be a contested case hearing  
9 before the authority that is required pursuant to chapter 91.

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

17 (c) The eviction board shall have the same powers  
18 respecting administering oaths, compelling the attendance of  
19 witnesses and the production of documentary evidence, and  
20 examining witnesses, as are possessed by circuit courts. In  
21 case of disobedience by any person of any order of the eviction  
22 board, or of any subpoena issued by the eviction board, or the



1 refusal of any witness to testify to any matter regarding which  
2 the witness may lawfully be questioned, any circuit judge, on  
3 application by the eviction board, shall compel obedience as in  
4 the case of disobedience of the requirements of a subpoena  
5 issued by a circuit court, or a refusal to testify therein.

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

18       (b) When the grounds for termination of the tenancy may be  
19 cured by the tenant, licensee, or other occupant, the tenant  
20 shall have ten days from receipt of the notice provided for in  
21 subsection (a) to cure the grounds. If the grounds are cured  
22 within the ten-day period, no writ of possession may be issued.



1 If the grounds are not cured within the ten-day period, the  
2 authority may issue a writ of possession forthwith.

3 (c) The authority may adopt rules pursuant to chapter 91  
4 to define curable and noncurable grounds for eviction. The  
5 authority may consider a tenant's history in determining  
6 noncurable grounds for eviction. A tenant's history may include  
7 chronic or consistent delinquency, or repeated violations of the  
8 terms of the rental agreement.

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

17 (e) Upon eviction, the household goods and personal  
18 effects of the person against whom the order is entered, and  
19 those of any persons using the premises incident to the person's  
20 holding, may be removed from the premises and stored by the  
21 authority. If the action is taken, the authority shall have a  
22 lien on the property so taken for the expenses incurred by it in



1 moving and storing the same, and the authority is authorized to  
2 sell or otherwise dispose of the property if unclaimed after  
3 thirty days.

4       §    **-95 Ex parte motion.** If a tenant or licensee cannot  
5 be served with an order of eviction or writ of possession, and  
6 the facts shall appear by affidavit to the authority, service to  
7 the tenant or licensee may be made according to the special  
8 order of the authority. The order shall require the officer to  
9 affix a certified copy of the order of eviction or writ of  
10 possession in a conspicuous place upon the premises such as the  
11 door or wall of the dwelling unit.

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

18       (b) Except as otherwise provided in this section,  
19 proceedings for review shall be instituted in the circuit court  
20 within thirty days after the preliminary ruling or within thirty  
21 days after service of the certified copy of the final decision  
22 and order of the authority pursuant to the rules of court,



1 except where a statute provides for a direct appeal to the  
2 intermediate appellate court. In such cases, the appeal shall  
3 be treated in the same manner as an appeal from the circuit  
4 court, including payment of the fee prescribed by section 607-5  
5 for filing the notice of appeal. The court in its discretion  
6 may permit other interested persons to intervene.

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

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

18 (e) If, before the date set for hearing, application is  
19 made to the court for leave to present additional evidence and  
20 the evidence is material and good cause exists for the failure  
21 to present the evidence in the proceeding before the authority,  
22 the court may order the authority to hear the evidence upon the





1 conditions as the court deems proper. The authority may modify  
2 its findings, decision, and order by reason of the additional  
3 evidence and shall file with the reviewing court, to become a  
4 part of the record, the additional evidence, together with any  
5 modification of its findings or decision.

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

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

- 18 (1) In violation of constitutional or statutory  
19 provisions;
- 20 (2) In excess of the statutory authority or jurisdiction  
21 of the authority;
- 22 (3) Made upon unlawful procedure;



- 1 (4) Affected by other error of law;
- 2 (5) Clearly erroneous in view of the reliable, probative,
- 3 and substantial evidence on the whole record; or
- 4 (6) Arbitrary, capricious, or characterized by abuse of
- 5 discretion or clearly unwarranted exercise of
- 6 discretion.

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

12 § -98 Rules. The authority may adopt rules pursuant to  
 13 chapter 91 necessary for the purposes of this part.

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

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

20 § -102 Facilities and services by counties to authority  
 21 and tenants. Each county within which the authority may own,  
 22 operate, or administer any public housing project or complex and



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



1 to pay, for any and all of the facilities, services, and  
2 privileges, if in its discretion it deems the payment advisable.

3       **§ -103 Construction of additional powers.** Sections

4       -101 and     -102 shall not be construed as abrogating,  
5 limiting, or modifying parts II, III, or IV, including  
6 amendments thereto.

7       **§ -104 Charges for prior services by counties to**

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



1           §   **-105 Garbage and trash disposal.** Every county that  
2 maintains or operates any garbage or trash collection and  
3 disposal service shall collect, free of charge, and dispose of  
4 garbage and trash at and from any public housing project or  
5 complex located within the county, which is owned, operated, or  
6 administered by the authority. Upon request of the authority,  
7 each county shall allow the authority to establish, maintain, or  
8 operate its own garbage and trash collection and disposal  
9 service for any or all public housing projects or complexes  
10 located within the county, and in regard to the service, shall  
11 allow the authority to use, free of charge, all incinerators,  
12 garbage dumps, and other facilities that the county may own,  
13 control, or operate.

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

19           §   **-106 Furnishing of free water not required.** Sections  
20 -102 to -105 shall not be construed to require the  
21 furnishing of any free water to the authority or to the tenants

1 or occupants of any public housing project or complex owned,  
2 operated, or administered by the authority.

3       **§ -107 Regulation of traffic within public housing**  
4 **projects in the various counties.** (a) Any law to the contrary  
5 notwithstanding, the council of the city and county of Honolulu  
6 may regulate traffic within the various public housing projects  
7 of the authority in that county by ordinance.

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

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

21       **§ -108 Additional powers.** The powers conferred upon the  
22 authority by this part shall be in addition and supplemental to



1 the powers conferred by any other law, and nothing in this part  
2 shall be construed as limiting any powers, rights, privileges,  
3 or immunities so conferred.

4 **PART VII. HOMELESS ASSISTANCE**

5 **A. General Provisions**

6 **§ -121 Definitions.** As used in this part:

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

16 "Emergency shelter" means a homeless facility designed to  
17 provide temporary shelter and appropriate and available services  
18 to homeless families or individuals for up to six weeks.

19 "Homeless" means:

- 20 (1) An individual or family who lacks a fixed, regular,  
21 and adequate night-time residence; or



1 (2) An individual or family who has a primary night-time  
2 residence that is:

3 (A) A supervised publicly or privately operated  
4 shelter designed to provide temporary living  
5 accommodations;

6 (B) An institution that provides temporary residence  
7 for individuals intended to be institutionalized;  
8 or

9 (C) A public or private place not designed for or  
10 ordinarily used as sleeping accommodations for  
11 human beings.

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

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

18 "Homeless shelter stipend" means a payment to a provider  
19 agency or to the authority on behalf of a homeless family or  
20 individual to assist with the costs of operating a homeless  
21 facility and providing appropriate services.





1 "Provider agency" means an organization, including its  
2 governing board, officers, employees, contractors, or agents,  
3 contracted by the authority to provide labor and services to any  
4 homeless facility, or any other program for the homeless  
5 authorized by this part, that is:

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

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

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 rule.

21 § -122 Duties. (a) In addition to any other power or  
22 duty prescribed by law, the authority shall administer and



1 operate homeless facilities and any other program for the  
2 homeless authorized by this part; establish programs for the  
3 homeless; and take any other actions necessary to effectuate the  
4 purposes of this part.

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

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

17 (b) Any donor who gives land and improvements, or who  
18 leases land and improvements at a nominal consideration, to a  
19 provider agency, to a homeless facility to or through the  
20 authority, or for any other program for the homeless authorized  
21 by this part, shall not be liable for any civil damages  
22 resulting from the donation except as may result from the



1 donor's gross negligence or wanton acts or omissions; provided  
2 that, if the donor at the time of donation gave the authority a  
3 full accounting of all the dangers concerning the land and  
4 improvements known to the donor, then the donor shall not be  
5 liable for any civil damages resulting from the donation.

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

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

19 **§ -124 Contract or conveyance to the authority.**

20 Notwithstanding any other law to the contrary, the board of land  
21 and natural resources or other state agency holding lands and  
22 improvements, may contract or otherwise convey at a nominal



1 consideration, by direct negotiation and without recourse to  
2 public auction, the land and improvements, or the management,  
3 operation, and administrative responsibility over the land and  
4 improvements, to the authority or its designee. The land and  
5 improvements shall be used by the authority or its designee for  
6 homeless facilities or for any other program for the homeless  
7 authorized by this part.

8       §    **-125 Program administration.** To the extent that  
9 appropriations are made available, the authority may contract  
10 with a provider agency to administer homeless facilities, or any  
11 other program for the homeless created by this part. The  
12 selection of provider agencies to administer homeless  
13 facilities, or any other program for the homeless authorized by  
14 this part, shall not be subject to chapters 42F, 102, 103, and  
15 103F. The selection of provider agencies shall be subject to  
16 qualifying standards and criteria established by rule.

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

21       §    **-126 Time limits.** To the extent that appropriations  
22 are made available, a provider agency shall provide shelter or



1 any other program assistance authorized by this part to eligible  
 2 homeless families and homeless individuals not later than two  
 3 days, or such time as is set by rule which shall not be later  
 4 than seven days, after they apply and qualify for the shelter or  
 5 other program assistance. These time limits may be waived at  
 6 the discretion of the authority for a maximum period of fourteen  
 7 days for the purpose of implementing repairs to the subject  
 8 shelter, that the authority deems major or extensive.

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

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 standards and  
4 criteria for eligibility, need, and priority for each program;  
5 provided that the authority may establish by rule exceptions to  
6 these eligibility requirements based on special circumstances.

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

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

21 The enforcement of a writ of possession shall be effected  
22 either by an officer appointed by the authority, who shall have



1 all of the powers of a police officer for all action in  
2 connection with the enforcement of the writ, or any other law  
3 enforcement officer of the State or any county, whose duty it  
4 shall be to enforce the writ. The person enforcing the writ  
5 shall remove all persons from the premises and put the authority  
6 or its designee, or the provider agency designated by the  
7 authority, in full possession thereof.

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

16       (c) Any person who enters or remains unlawfully in or upon  
17 the premises or living quarters of any homeless facility, or any  
18 other program for the homeless authorized by this part, after  
19 reasonable warning or request to leave by that provider agency's  
20 agents, the authority or its designee, or a police officer,  
21 shall be guilty of a misdemeanor; provided that the offense in  
22 this subsection shall be in addition to any other applicable



1 offense in the Hawaii Penal Code. A warning or request shall  
2 only be issued if the person has engaged in unlawful conduct or  
3 has violated house rules and regulations; provided that the  
4 warning or request related to a violation of house rules shall  
5 be issued only if that provider agency, or the authority or its  
6 designee, has filed a copy of its current house rules governing  
7 tenancy or participation at the shelter, facility, or program,  
8 and any changes thereto, with the director of commerce and  
9 consumer affairs. The house rules shall be reasonable and a  
10 copy shall be provided to each tenant or participant. The  
11 warning or request shall supersede any invitation by a tenant or  
12 participant at the shelter, facility, or program to that person  
13 to visit the premises or living quarters.

14       **§ -129 Exemptions.** (a) Any compensation received by a  
15 provider agency for services rendered to homeless families or  
16 individuals, or in operating or managing a homeless facility  
17 authorized by this part, is exempt from taxation under chapter  
18 237.

19       (b) Any county mayor may exempt, by executive order,  
20 donors and provider agencies from real property taxes, water and  
21 sewer development fees, rates collected for water supplied to  
22 consumers and for use of sewers, and any other county taxes,





1 charges, or fees; provided that any county may enact ordinances  
2 to regulate the exemptions granted by this subsection.

3 (c) Any provider agency operating or managing a homeless  
4 facility, or any other program for the homeless authorized by  
5 this part, is exempt, for purposes of those facilities or  
6 programs, from any requirements contained in part VIII of  
7 chapter 346 and chapters 467 and 521.

8 § -130 **Emergency or transitional shelter volunteers.**

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

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



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

3 (c) In addition to any exemptions granted to nonpaid  
4 labor, emergency or transitional shelter volunteers who  
5 acknowledge in writing that they are emergency or transitional  
6 shelter volunteers, shall not be construed to be in the employ  
7 of the provider agency operating or managing the shelter. The  
8 volunteers' labor and services provided to the provider agency  
9 operating or managing the shelter shall not be construed to  
10 constitute employment, and the volunteers shall not be construed  
11 to be employees of the provider agency operating or managing the  
12 shelter, under any labor law.

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



1 (b) Continuing contracts with provider agencies to  
2 participate in any program for the homeless authorized by this  
3 part shall require that the provider agency address the  
4 recommendations made by the auditing agency, subject to  
5 exceptions as set by the authority.

6 (c) Failure to carry out the recommendations made by the  
7 auditing agency may be grounds for the authority to bar a  
8 provider agency from further contracts for programs authorized  
9 by this part until the barred provider has addressed all  
10 deficiencies.

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



1           §    **-133 Construction of part.**  If there is any conflict  
2 between this part and any other law, this part shall control.

3           §    **-134 Homeless shelter stipends.**  (a)  The stipend  
4 limits per shelter unit of zero bedrooms shall be adjusted by  
5 the authority annually on the first day of July pursuant to  
6 standards established by rule which may consider changes in the  
7 cost of operating homeless facilities, the fair market rents,  
8 the consumer price index, or other relevant factors.  A "shelter  
9 unit of zero bedrooms" means a living unit that is a studio unit  
10 or a single-room occupancy unit.  The homeless shelter stipend  
11 at transitional shelters for larger shelter units shall be  
12 related to the difference in unit size, pursuant to standards  
13 established by rule.

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



1 available to eligible homeless families or individuals, pursuant  
2 to rule.

3 (c) In making homeless shelter stipend payments to a  
4 provider agency, the authority may establish minimum services to  
5 be provided by the provider agency to homeless families or  
6 individuals at the agency's shelter. The authority may also  
7 direct provider agencies to establish and manage a savings  
8 account program as described in subsection (d). Additionally,  
9 the authority may direct provider agencies to subcontract for  
10 outreach services from other private agencies specializing in  
11 programs for the unsheltered homeless.

12 (d) Provider agencies and the authority may establish and  
13 collect shelter and services payments from homeless families or  
14 individuals in addition to the amount received in homeless  
15 shelter stipend payments pursuant to rule. Provider agencies  
16 and the authority may also set aside a portion of the payments  
17 in a savings account to be made available to homeless families  
18 or individuals when these families and individuals vacate the  
19 shelter.

20 § -135 **Additional powers.** The powers conferred upon the  
21 authority by this part shall be in addition and supplemental to  
22 the powers conferred by any other law, and nothing in this part



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

3 **B. Hale Kokua Program**

4 § -141 **Findings and purpose.** The legislature finds that  
5 the issue of homelessness should be regarded as one of the  
6 State's most significant social problems. The severity of the  
7 problem is visible in every area of the State, and evidence that  
8 the problem is escalating is becoming more and more apparent.  
9 The problem of homelessness impacts everyone, and the burden of  
10 rectifying this problem should be approached comprehensively and  
11 as a collective responsibility.

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

21 The program will place a priority on assisting homeless  
22 families in the greatest need. To ensure that no particular



1 district or community of the State is unduly burdened by the  
2 sudden influx of homeless families holding rental contracts with  
3 qualified homeowners under the program, the number of homeowners  
4 authorized to take part in the Hale Kokua program will be  
5 limited to ten per census tract.

6 The Hale Kokua program shall assist homeless families and  
7 individuals who are willing to engage in self-improvement  
8 programs and regular employment by providing an alternative to  
9 living in homeless shelters where homeless families as well as  
10 the special needs homeless are indiscriminately grouped  
11 together. Developing the employment skills of participating  
12 tenants is an integral component of the program. The program  
13 will also allow other available programs to focus more intently  
14 on the special needs of the homeless. The Hale Kokua program  
15 calls for a cooperative effort between the State, the counties,  
16 and the federal government to provide the community and the Hale  
17 Kokua program with the resources and the incentives needed to  
18 eliminate the condition of homelessness. Since the Hale Kokua  
19 program involves the public and private sectors, the cost of  
20 implementing this program should be far less than the cost of  
21 building new homeless shelter facilities.



1           The program has the potential to drastically reduce the  
2 number of homeless families and individuals living in public  
3 areas, and to ultimately provide full and free access to  
4 Hawaii's malls, streets, parks, and campgrounds. As a result,  
5 Hawaii's overall quality of life will be enriched and Hawaii's  
6 reputation as one of the most beautiful visitor destinations  
7 will be enhanced.

8           §    **-142 Definitions.** As used in this subpart, unless the  
9 context clearly requires otherwise:

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

15           §    **-143 Hale Kokua program; established.** There is  
16 established, within the Hawaii public housing authority, a  
17 homeless assistance program known as the Hale Kokua program, to  
18 provide incentives and assistance to private homeowners  
19 throughout the State who set aside existing dwelling units, or  
20 construct or renovate dwelling units, for rental for a period of  
21 five years by families or individuals classified as employed but  
22 homeless. The Hawaii public housing authority shall administer





1 the Hale Kokua program and adopt the standards and framework  
2 necessary to implement the program.

3 § -144 Powers and duties. (a) The authority may  
4 contract with private sector agencies to carry out the duties  
5 and responsibilities of the program.

6 Notwithstanding any other law to the contrary, any  
7 contracts entered into by the authority with a private sector  
8 agency pursuant to this subsection shall not be subject to  
9 chapters 76 and 89.

10 (b) The duties of the authority or contracted agency shall  
11 include:

- 12 (1) Carrying out the requirements of the Hale Kokua  
13 program under this subpart;
- 14 (2) Developing and adopting the requirements, eligibility,  
15 registration, background check, initial screening  
16 procedures, and procedures for follow-up after  
17 placement to determine the ability to make rental  
18 payments and the need for social services and  
19 referrals for homeless families and individuals to  
20 qualify them as tenants under this program;
- 21 (3) Developing and adopting the requirements,  
22 qualifications, and registration procedures for

- 1 property owners who provide rental housing to  
2 qualified homeless tenants; provided that priority  
3 shall be given to those not requesting construction  
4 grants;
- 5 (4) Developing appropriate procedures to address potential  
6 liabilities of the State;
- 7 (5) Adopting procedures to place qualified homeless  
8 tenants with property owners participating in the  
9 program. Participating property owners shall  
10 interview and make final tenant selection from lists  
11 of prospective tenants compiled by the authority or  
12 the contracted agency;
- 13 (6) Establishing the procedures and requirements for the  
14 disbursement of building improvement grants and rental  
15 subsidies and the amounts thereof to property owners  
16 participating in the program;
- 17 (7) Working with the counties to develop and propose  
18 uniform incentives to encourage and facilitate the  
19 participation of property owners, including real  
20 property tax waivers or reductions, and exemptions in  
21 zoning or building code requirements which shall be



1           conditioned on participation in the program and which  
2           shall lapse when program participation ends;

3           (8) Monitoring the financial status and progress of  
4           homeless tenants and cooperating with other agencies  
5           in establishing and coordinating job training and  
6           other programs to help tenants to progress toward  
7           self-sufficiency;

8           (9) Promoting and assisting in the development of  
9           employer-employee relationships between homeless  
10          tenants and participating property owners, including  
11          but not limited to tenant caretaker, housekeeper, or  
12          groundskeeper employment situations;

13          (10) Working towards securing financial, in-kind, and  
14          administrative assistance from law enforcement and  
15          other state and county agencies and the private sector  
16          to implement the program;

17          (11) Working towards securing funding assistance from  
18          federal agencies and programs involved in housing  
19          development, job-training, or homeless assistance;

20          (12) Monitoring the progress of the Hale Kokua program, and  
21          collecting annual statistics showing the numbers of



1 homeless people, homeless families, and homeless  
 2 children, using appropriate measurement systems; and  
 3 (13) Preparing recommendations to improve and expand the  
 4 program, including but not limited to incentives for  
 5 participating property owners to sign up for  
 6 additional terms.

7 **-145 Homeowner participation; limitation; payments and**  
 8 **assistance.** (a) The authority shall limit participation to not  
 9 more than ten property owners within each census tract at any  
 10 given period in time, without regard to the existence or  
 11 operation of shelters and other facilities to aid the homeless  
 12 in the tract. The authority or contracted agency shall notify  
 13 prospective participants registered on the waiting list in each  
 14 census tract of the opportunity to participate in the program as  
 15 these opportunities may arise in each tract.

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

20 (1) The payment of a state grant to offset the cost of  
 21 renovating, building any adjoining addition, or  
 22 constructing any separate structure upon the premises



1 of the owner's property in preparation for its use as  
2 a homeless assistance unit under the program;

3 (2) The payment of a monthly state rent subsidy to  
4 supplement the monthly rental payments made by the  
5 homeless tenant;

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

9 (4) Zoning and building code exemptions applicable to the  
10 construction of adjoining or separate dwelling units  
11 on the owner's property, provided that the county, by  
12 ordinance, may establish minimum development and  
13 construction standards for these units and procedures  
14 for approval thereto; and

15 (5) Other incentives consistent with the purposes of this  
16 subpart to assist in the participation of property  
17 owners under the program.

18 **§ -146 Early withdrawal from program; recovery of grant.**

19 (a) Any property owner who withdraws without just cause from  
20 the Hale Kokua program prior to the end of the five-year period  
21 shall return the state grant for construction improvements  
22 within ninety days of the date of withdrawal. The authority



1 shall effect the recovery of the grant, including but not  
2 limited to the filing of liens against the real property of  
3 withdrawing property owners. The authority shall be awarded  
4 reasonable attorneys' fees and costs as determined by the court  
5 in any action brought to enforce this subpart.

6 (b) The county government whose jurisdiction includes the  
7 site shall determine the disposition of the additional unit  
8 constructed with the grant in accordance with the due process of  
9 law.

10 § -147 **Availability of funding.** All rental subsidies,  
11 grants, and payments allocated by the Hale Kokua program under  
12 this subpart shall be subject to the availability of funds.

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

14 § -151 **Rent supplements.** The authority is authorized to  
15 make and contract to make annual payments to a "housing owner"  
16 on behalf of a "qualified tenant", as those terms are defined in  
17 this part, in such amounts and under such circumstances as are  
18 prescribed in or pursuant to this part. No payment on behalf of  
19 a qualified tenant shall exceed a segregated amount of \$160 a  
20 month.

21 § -152 **Housing owner, defined.** As used in this part,  
22 the term "housing owner" means:



- 1 (1) A private nonprofit corporation or other private  
2 nonprofit legal entity, a limited dividend corporation  
3 or other limited dividend legal entity, or a  
4 cooperative housing corporation, that is a mortgagor  
5 under section 202, 207, 213, 221(d)(3), 221(d)(5), or  
6 231 of the United States Housing Act of 1937, as  
7 amended, or that conforms to the standards of those  
8 sections but that is not a mortgagor under those  
9 sections or any other private mortgagor under the  
10 United States Housing Act of 1937, as amended, for  
11 very low-income, low-income, or moderate-income family  
12 housing, regulated or supervised under federal or  
13 state laws or by political subdivisions of the State,  
14 or agencies thereof, as to rents, charges, capital  
15 structure, rate of return, and methods of operation,  
16 from the time of issuance of the building permit for  
17 the project;
- 18 (2) Any other owner of a standard housing unit or units  
19 deemed qualified by the authority; and
- 20 (3) The authority.
- 21 § -153 **Qualified tenant, defined.** As used in this part,  
22 the term "qualified tenant" means any single person or family,



1 pursuant to criteria and procedures established by the  
 2 authority, who has been determined to have an income not  
 3 exceeding the very low-income limit as determined by the  
 4 authority pursuant to rules adopted by the authority; provided  
 5 that the qualified tenant's primary place of residence shall be  
 6 in the State of Hawaii or the qualified tenant intends to make  
 7 the State of Hawaii the qualified tenant's primary place of  
 8 residence. The terms "qualified tenant" and "tenant" include a  
 9 member of a cooperative who satisfies the foregoing requirements  
 10 and who, upon resale of the member's membership to the  
 11 cooperative, will not be reimbursed for more than fifty per cent  
 12 of any equity increment accumulated through payments under this  
 13 part. With respect to members of a cooperative, the terms  
 14 "rental" and "rental charges" mean the charges under the  
 15 occupancy agreements between the members and the cooperative.

16       **§ -154 Relationship of annual payment to rental and**  
 17 **income.** The amount of the annual payment with respect to any  
 18 dwelling unit shall not exceed the amount by which the fair  
 19 market rental for that unit exceeds thirty per cent of the  
 20 tenant's income as determined by the authority pursuant to  
 21 procedures and rules pursuant to chapter 91.





1           §   -155   **Determination of eligibility of tenants and**  
2   **rental charges.**   (a)   For purposes of carrying out this part,  
3   the authority shall establish criteria and procedures for  
4   determining the eligibility of tenants and rental charges,  
5   including criteria and procedures with respect to periodic  
6   review of the tenant's income and periodic adjustment of rental  
7   charges.   The authority shall issue, upon the request of a  
8   housing owner, certificates as to the income of the individuals  
9   and families applying for admission to, or residing in,  
10   dwellings of that owner.

11           (b)   Procedures adopted by the authority hereunder shall  
12   provide for recertification of the incomes of tenants, except  
13   elders, at intervals of two years, or at shorter intervals, for  
14   the purpose of adjusting rental charges and annual payments on  
15   the basis of tenants' incomes, but in no event shall rental  
16   charges adjusted under this part for any dwelling exceed the  
17   fair market rental of the dwelling.

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



1       §   **-156 Rules.** The authority may adopt under chapter 91  
2 all rules necessary to carry out the purpose of this part,  
3 including rules relating to determining preference among  
4 applicants for state rent supplements.

5       §   **-157 Additional powers.** The powers conferred upon the  
6 authority by this part shall be in addition and supplemental to  
7 the powers conferred by any other law, and nothing in this part  
8 shall be construed as limiting any powers, rights, privileges,  
9 or immunities so conferred.

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

11       §   **-161 State sales housing.** Notwithstanding any law to  
12 the contrary, but subject to any resolution of issuance under  
13 part I, the authority may permit any member of a tenant family  
14 of a public housing project, or any individual meeting the  
15 income standards under section 221(d)(3) of the United States  
16 Housing Act of 1937, as amended, to enter into a contract for  
17 the acquisition of a dwelling unit and lot or the acquisition of  
18 a dwelling unit and the lease of its lot, the lease to conform  
19 to chapter 171 with the exception that the lease shall not  
20 require bid, auction, or negotiation, in any public housing  
21 project, state-low income housing project, or elderly housing  
22 project that is suitable for sale and for occupancy by the



1 purchaser or a member or members of the purchaser's family, upon  
2 the following terms:

3 (1) The purchaser shall pay at least:

4 (A) A pro rata share of the cost of any services  
5 furnished the purchaser by the authority  
6 including but not limited to administration,  
7 maintenance, repairs, utilities, insurance,  
8 provision of reserves, and other expenses;

9 (B) Taxes on the purchaser's dwelling unit; and

10 (C) Monthly payments of interest and principal  
11 sufficient to amortize a sales price, equal to  
12 the greater of the unamortized debt or the  
13 appraised value (at the time the purchase  
14 contract is entered into) of the dwelling unit,  
15 in not more than forty years;

16 (2) The interest rate shall be fixed at not less than the  
17 average interest cost of loans outstanding on the  
18 housing project; provided that in the case of a  
19 housing project on which bonds are not outstanding the  
20 interest rate shall be fixed at not less than the  
21 going rate applicable to that project;



1           (3) The principal payments shall be not less than one-half  
2           of one per cent a year of the sales price during the  
3           first five years after purchase, one per cent a year  
4           during the next five years, one and one-half per cent  
5           a year during the third five years, and thereafter not  
6           less than the principal payments resulting from a  
7           level debt service of interest and principal over the  
8           balance of the payment period; and

9           (4) If at any time:

10           (A) A purchaser fails to carry out the purchaser's  
11           contract with the authority and if no member of  
12           the purchaser's family who resides in the  
13           dwelling unit assumes the contract; or

14           (B) The purchaser or a member of the purchaser's  
15           family who assumes the contract does not reside  
16           in the dwelling unit,

17           the authority shall have an option to acquire the  
18           purchaser's interest under the contract upon payment  
19           to the purchaser or the purchaser's estate of an  
20           amount equal to the purchaser's aggregate principal  
21           payments plus the value to the authority of any



1 improvements made by the purchaser, less an amount  
2 equal to two and one-half per cent of the sales price.

3 § -162 **Additional powers.** The powers conferred upon the  
4 authority by this part shall be in addition and supplemental to  
5 the powers conferred by any other law, and nothing in this part  
6 shall be construed as limiting any powers, rights, privileges,  
7 or immunities so conferred."

8 PART II

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

12 "PART . HOUSING DEVELOPMENT PROGRAMS

13 §201H-A **Criteria.** In administering this chapter and other  
14 laws of the State applicable to the supplying of housing or the  
15 assistance in obtaining housing, the corporation shall give  
16 preference to those applicants most in need of assistance in  
17 obtaining housing, in light of the amount of moneys available  
18 for the various programs. In doing so, the corporation shall  
19 take into consideration the applicant's household income and  
20 number of dependents; the age of the applicant; the physical  
21 disabilities of the applicant or those living with the  
22 applicant; whether or not the present housing of the applicant



1 is below standard; whether or not the applicant's need for  
2 housing has arisen by reason of displacement of the applicant by  
3 governmental actions; and other factors as it may deem  
4 pertinent.

5 **§201H-B Definitions.** The following terms, wherever used  
6 or referred to in this part, shall have the following respective  
7 meanings unless a different meaning clearly appears from the  
8 context:

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

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



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

4 (2) To have submitted the lowest acceptable bid.

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

9 (1) To be qualified by experience, financial  
10 responsibility, and support to construct housing of  
11 the type described and of the magnitude encompassed by  
12 the given project;

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

18 (3) To meet all other requirements the corporation deems  
19 to be just and reasonable, and all requirements  
20 stipulated in this chapter.



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

4 "Qualified resident" means a person 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 physically resides in  
8 the dwelling unit purchased or rented under this  
9 chapter;

10 (4) In the case of the purchase of real property in fee  
11 simple or leasehold, has a gross income sufficient to  
12 qualify for the loan to finance the purchase; or in  
13 the case of a rental, demonstrates an ability to pay  
14 rent as determined by the corporation and meets any  
15 additional criteria established by the corporation for  
16 the respective rental housing development for which  
17 the applicant is applying; and

18 (5) Meets the following qualifications:

19 (A) Is a person who either by the person's self, or  
20 together with spouse or household member, does  
21 not own a majority interest in fee simple or  
22 leasehold lands suitable for dwelling purposes or





1 a majority interest in lands under any trust  
2 agreement or other fiduciary arrangement in which  
3 another person holds the legal title to the land;  
4 and

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

15 provided that for purchasers of market-priced units in an  
16 economically integrated housing project, the term "qualified  
17 resident" means a person who is a citizen of the United States  
18 or a resident alien; is domiciled in the State and shall  
19 physically reside in the dwelling unit purchased; is at least  
20 eighteen years of age; and meets other qualifications as  
21 determined by the developer.



1 "Short term project notes" means evidences of indebtedness  
2 issued by the State for specified housing projects and secured  
3 by the projects, the terms of which call for complete repayment  
4 by the State of the face amount in not less than two nor more  
5 than ten years.

6 **§201H-C Powers and duties, generally.** (a) The  
7 corporation may develop fee simple or leasehold property,  
8 construct dwelling units thereon, including condominiums,  
9 planned units, and cluster developments, and sell, lease, or  
10 rent or cause to be leased or rented, at the lowest possible  
11 price to qualified residents, nonprofit organizations, or  
12 government agencies, with an eligible developer or in its own  
13 behalf:

- 14 (1) Fully completed dwelling units with the appropriate  
15 interest in the land on which the dwelling unit is  
16 located;
- 17 (2) Dwelling units that are substantially complete and  
18 habitable with the appropriate interest in the land on  
19 which the dwelling unit is located; or
- 20 (3) The land with site improvements (other than the  
21 dwelling unit) either partially or fully developed.



1 (b) The corporation shall require all applicants for the  
2 purchase of dwelling units to make application therefor under  
3 oath, and may require additional testimony or evidence under  
4 oath in connection with any application. The determination of  
5 any applicant's eligibility under this chapter by the  
6 corporation shall be conclusive as to all persons thereafter  
7 dealing with the property; provided that the making of any false  
8 statement knowingly by the applicant or other person to the  
9 corporation in connection with any application shall constitute  
10 perjury and be punishable as such. The corporation shall  
11 establish a system to determine preferences by lot in the event  
12 that it receives more qualified applications than it has  
13 dwelling units available.

14 (c) The corporation shall adopt, pursuant to chapter 91,  
15 rules on health, safety, building, planning, zoning, and land  
16 use that relate to the development, subdivision, and  
17 construction of dwelling units in housing projects in which the  
18 State, through the corporation, shall participate. The rules  
19 shall not contravene any safety standards or tariffs approved by  
20 the public utilities commission, and shall follow existing law  
21 as closely as is consistent with the production of lower cost  
22 housing with standards that meet minimum requirements of good



1 design, pleasant amenities, health, safety, and coordinated  
2 development.

3       When adopted, the rules shall have the force and effect of  
4 law and shall supersede, for all housing projects in which the  
5 State, through the corporation, shall participate, all other  
6 inconsistent laws, ordinances, and rules relating to the use,  
7 zoning, planning, and development of land, and the construction  
8 of dwelling units thereon. The rules, before becoming  
9 effective, shall be presented to the legislative body of each  
10 county in which they will be effective and the legislative body  
11 of any county may within forty-five days approve or disapprove,  
12 for that county, any or all of the rules by a majority vote of  
13 its members. On the forty-sixth day after submission, any rules  
14 not disapproved shall be deemed to have been approved by the  
15 county.

16       (d) The corporation may acquire, by eminent domain,  
17 exchange, or negotiation, land or property required within the  
18 foreseeable future for the purposes of this chapter. Whenever  
19 land with a completed or substantially complete and habitable  
20 dwelling or dwellings thereon is acquired by exchange or  
21 negotiation, the exchange value or purchase price for each  
22 dwelling, including land, shall not exceed its appraised value.



1 Land or property acquired in anticipation of future use may be  
2 leased for the interim period by the corporation for such term  
3 and rent as it deems appropriate.

4 (e) Upon authorization by the legislature, the corporation  
5 shall cause the State to issue general obligation bonds to  
6 finance:

7 (1) Land acquisition;

8 (2) The development and improvement of land;

9 (3) The construction of dwelling units;

10 (4) The purchase, lease, or rental of land and dwelling  
11 units by qualified residents, nonprofit organizations,  
12 or government agencies under this chapter;

13 (5) Payment for any services contracted for under this  
14 chapter, including profit or recompense paid to  
15 partners, and including community information and  
16 advocacy services deemed necessary by the corporation  
17 to provide for citizen participation in the  
18 development of housing projects, the implementation of  
19 this chapter, and the staffing of any citizen advisory  
20 committee the corporation may establish;

21 (6) The cost of the repurchase of units under section  
22 201H-Q;



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

3 (8) Any other moneys required to accomplish the purposes  
4 of this chapter.

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

7 **§201H-D Additional powers; development.** Notwithstanding  
8 and without compliance with section 103-7 but with the approval  
9 of the governor, the corporation may enter into and carry out  
10 agreements and undertake projects or participate in projects  
11 authorized by this chapter.

12 **§201H-E Bond financing.** The director of finance may issue  
13 general obligation bonds and short term project notes of the  
14 State in an aggregate amount not to exceed \$105,000,000 for the  
15 dwelling unit revolving fund created by section 201H-EEEE.  
16 Pending the receipt of funds from the issuance and sale of the  
17 bonds and notes, the amount required for the purposes of this  
18 chapter shall be advanced from the general fund of the State.  
19 Upon the receipt of the bond or note funds, the general fund  
20 shall be reimbursed. The director of finance may sequester and  
21 separate the proceeds from the sale of the bonds and notes into



1 separate funds and the amounts in either fund may be used for  
2 any of the purposes set forth in this chapter.

3       **§201H-F Exemption from general excise taxes.** (a) In  
4 accordance with section 237-29, the corporation may approve and  
5 certify for exemption from general excise taxes any qualified  
6 person or firm involved with a newly constructed, or moderately  
7 or substantially rehabilitated project:

8       (1) Developed under this part;

9       (2) Developed under a government assistance program  
10 approved by the corporation, including but not limited  
11 to the United States Department of Agriculture 502  
12 program and Federal Housing Administration 235  
13 program;

14       (3) Developed under the sponsorship of a private nonprofit  
15 organization providing home rehabilitation or new  
16 homes for qualified families in need of decent, low-  
17 cost housing; or

18       (4) Developed by a qualified person or firm to provide  
19 affordable rental housing where at least fifty per  
20 cent of the available units are for households with  
21 incomes at or below eighty per cent of the area median  
22 family income as determined by the United States



1 Department of Housing and Urban Development, of which  
2 at least twenty per cent of the available units are  
3 for households with incomes at or below sixty per cent  
4 of the area median family income as determined by the  
5 United States Department of Housing and Urban  
6 Development.

7 (b) All claims for exemption under this section shall be  
8 filed with and certified by the corporation and forwarded to the  
9 department of taxation. Any claim for exemption that is filed  
10 and approved, shall not be considered a subsidy for the purpose  
11 of this part.

12 (c) For the purposes of this section:

13 "Moderate rehabilitation" means rehabilitation to upgrade a  
14 dwelling unit to a decent, safe, and sanitary condition, or to  
15 repair or replace major building systems or components in danger  
16 of failure.

17 "Substantial rehabilitation":

18 (1) Means the improvement of a property to a decent, safe,  
19 and sanitary condition that requires more than routine  
20 or minor repairs or improvements. It may include but  
21 is not limited to the gutting and extensive  
22 reconstruction of a dwelling unit, or cosmetic





1 improvements coupled with the curing of a substantial  
2 accumulation of deferred maintenance; and

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

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

11 **§201H-G Exemption from tax on income and obligations.**

12 Income earned and obligations issued by a nonprofit entity  
13 determined to constitute a "public housing agency" pursuant to  
14 section 3(6) of the United States Housing Act of 1937, as  
15 amended, and which income and obligations are declared by the  
16 United States Department of Housing and Urban Development to be  
17 exempt from all taxation imposed by the United States pursuant  
18 to section 11(b) of the Act, shall be exempt from all taxation  
19 now or hereafter imposed by the State.

20 **§201H-H Housing development; exemption from statutes,**  
21 **ordinances, charter provisions, and rules.** (a) The corporation  
22 may develop on behalf of the State or with an eligible



1 developer, or may assist under a government assistance program  
2 in the development of, housing projects that shall be exempt  
3 from all statutes, ordinances, charter provisions, and rules of  
4 any government agency relating to planning, zoning, construction  
5 standards for subdivisions, development and improvement of land,  
6 and the construction of dwelling units thereon; provided that:

7 (1) The corporation finds the housing project is  
8 consistent with the purpose and intent of this  
9 chapter, and meets minimum requirements of health and  
10 safety;

11 (2) The development of the proposed housing project does  
12 not contravene any safety standards, tariffs, or rates  
13 and fees approved by the public utilities commission  
14 for public utilities or of the various boards of water  
15 supply authorized under chapter 54;

16 (3) The legislative body of the county in which the  
17 housing project is to be situated shall have approved  
18 the project:

19 (A) The legislative body shall approve or disapprove  
20 the project by resolution within forty-five days  
21 after the corporation has submitted the  
22 preliminary plans and specifications for the



1 project to the legislative body. If on the  
2 forty-sixth day a project is not disapproved, it  
3 shall be deemed approved by the legislative body;

4 (B) No action shall be prosecuted or maintained  
5 against any county, its officials, or employees  
6 on account of actions taken by them in reviewing,  
7 approving, or disapproving the plans and  
8 specifications; and

9 (C) The final plans and specifications for the  
10 project shall be deemed approved by the  
11 legislative body if the final plans and  
12 specifications do not substantially deviate from  
13 the preliminary plans and specifications. The  
14 final plans and specifications for the project  
15 shall constitute the zoning, building,  
16 construction, and subdivision standards for that  
17 project. For purposes of sections 501-85 and  
18 502-17, the executive director of the corporation  
19 or the responsible county official may certify  
20 maps and plans of lands connected with the  
21 project as having complied with applicable laws  
22 and ordinances relating to consolidation and



1 subdivision of lands, and the maps and plans  
2 shall be accepted for registration or recordation  
3 by the land court and registrar; and

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

10 (b) For the purposes of this section, "government  
11 assistance program" means a housing program qualified by the  
12 corporation and administered or operated by the corporation or  
13 the United States or any of their political subdivisions,  
14 agencies, or instrumentalities, corporate or otherwise.

15 **§201H-I Starter homes; design standards; applicant**  
16 **eligibility; authority to incorporate starter homes into housing**  
17 **projects of the corporation.** (a) The corporation shall adopt  
18 rules in accordance with chapter 91 to establish design and  
19 construction standards for starter homes configured to expand  
20 incrementally over time. For the purposes of this section,  
21 "starter home" means a dwelling unit that is designed to meet  
22 the basic living capacity requirements of homebuyers with



1 families of limited size by eliminating unnecessary design and  
2 space amenities, but which nonetheless enables future expansion,  
3 modification, and improvement by the owner to accommodate  
4 increased occupancy over time as may be necessary. The rules  
5 shall include building, setback, minimum lot size,  
6 infrastructure, and architectural standards for the construction  
7 and development of starter homes.

8 (b) In addition to the requirements of subsection (a), the  
9 corporation shall adopt rules in accordance with chapter 91 to  
10 establish the basic requirements for families eligible to  
11 purchase starter homes under this section. The rules shall  
12 include guidelines and restrictions on occupancy standards  
13 initially permitted in a starter home, as well as the income  
14 ranges of families eligible to qualify for purchases under this  
15 section.

16 (c) The corporation may incorporate starter homes into any  
17 affordable housing project developed by the corporation under  
18 this chapter. The corporation shall determine on a project-by-  
19 project basis the number of starter home units to be included in  
20 each particular project.

21 (d) The corporation shall include in its annual report to  
22 the legislature a report on the number of starter homes



1 constructed and developed by the corporation in accordance with  
2 the authorization provided in this section.

3 **§201H-J Housing projects; construction and sponsorship.**

4 (a) The corporation, on behalf of the State or with eligible  
5 developers and contractors, shall develop real property and  
6 construct dwelling units thereon; provided that not less than  
7 ten per cent of the total number of units in single-family  
8 projects consisting of fifty units or more sponsored by the  
9 corporation shall be first offered to owner-builders or to  
10 nonprofit organizations assisting owner-builders in the  
11 construction of units thereon. Qualifications for developers  
12 and contractors shall be provided by rules adopted by the  
13 corporation in accordance with chapter 91. Any person, if  
14 qualified, may act as both the developer and the contractor.

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

19 (c) If working in partnership with an eligible developer,  
20 the corporation shall have sole control of the partnership,  
21 shall keep all books of the partnership, and shall ascertain all  
22 costs of the partnership, including the cost of services



1 performed by any other partners, and the corporation shall audit  
2 the same. The other partners shall perform services for the  
3 partnership under the direction of the corporation and shall be  
4 reimbursed for all costs relating to the project as certified by  
5 the corporation, including administrative and overhead costs.  
6 Additionally, the other partners, upon transfer of title by the  
7 corporation to the purchaser, shall be entitled to a guaranteed  
8 gross share if the actual cost of the project does not exceed  
9 the original project cost. The gross share shall not exceed  
10 fifteen per cent of the original project cost prorated to the  
11 dwelling units, less any amount subsidized by the State.  
12 Subsidies shall include unrecovered development and land costs  
13 and any other subsidized items as defined in rules adopted by  
14 the corporation pursuant to chapter 91. The percentage of the  
15 share shall be determined by the corporation by contract with  
16 the partners based upon the nature of the services rendered by  
17 them. For purposes of this subsection, "original project cost"  
18 means the original budget of a project as approved by the  
19 corporation without modification at a later date.

20 (d) The corporation may require that performance bonds be  
21 posted to the benefit of the State with surety satisfactory to  
22 the corporation guaranteeing performance by the other partners,



1 or the State may act as a self-insurer requiring security, if  
2 any, from the other partners, as the corporation shall deem  
3 necessary.

4       **§201H-K Independent development of projects.** (a) In any  
5 county, the corporation may develop or may enter into agreements  
6 to develop housing projects with an eligible developer if in the  
7 corporation's reasonable judgment a project is primarily  
8 designed for lower income housing. The agreement may provide  
9 for the housing to be placed under the control of the  
10 corporation, or to be sold by the corporation, or to be sold to  
11 the corporation as soon as the units are completed and shall  
12 contain terms, conditions, and covenants as the corporation, by  
13 rules, deems appropriate. Every agreement shall provide for the  
14 developer to furnish a performance bond in favor of the  
15 corporation, assuring the timely and complete performance of the  
16 housing project. Sureties on the bond shall be satisfactory to  
17 the corporation.

18       (b) The plans and specifications for the housing project  
19 shall:

20       (1) Provide for economically integrated housing by  
21           stipulation and design;





1           (2) Provide for the sale of all dwelling units in fee  
 2           simple or in leasehold either to the corporation or to  
 3           the purchaser and in all cases subject to all of the  
 4           provisions of sections 201H-Q, 201H-S, and 201H-T  
 5           excepting units sold at market price; and

6           (3) Encompass the use of lands adequately suited to the  
 7           size, design, and types of occupancies designated in  
 8           subsection (a), properly located for occupancy by the  
 9           group for which the project was primarily designed,  
 10          properly districted for the use intended prior to the  
 11          agreement, and appropriately zoned within an urban  
 12          land use district or appropriate in its situation and  
 13          surroundings for more intensive or denser zoning.

14          (c) The corporation may accept and approve housing  
 15 projects independently initiated by private developers that  
 16 fully comply with subsections (a) and (b). The corporation may  
 17 review the plans, specifications, districting, and zoning of the  
 18 project for the purpose of exempting the project from all  
 19 statutes, ordinances, charter provisions, and rules of any  
 20 government agency relating to zoning and construction standards  
 21 for subdivisions, development, and improvement of land and the  
 22 construction, improvement, and sale of dwelling units thereon;



1 provided that the procedures in section 201H-H(a)(1), (2), and  
2 (3) have been satisfied.

3       **§201H-L Private development of projects.** (a) The  
4 corporation may enter into contracts with any eligible bidder to  
5 provide for the construction of a housing project or projects.  
6 Each contract shall provide that the housing project or projects  
7 shall be placed under the control of the corporation as soon as  
8 the unit is available for occupancy. Each contract also shall  
9 provide that the capital stock of the mortgagor (where the  
10 mortgagor is a corporate entity) be transferred to the  
11 corporation when the housing project or projects have been  
12 completed. Each contract shall contain terms and conditions  
13 that the corporation may determine to be necessary to protect  
14 the interests of the State. Each contract shall provide for the  
15 furnishing by the contractor of a performance bond and a payment  
16 bond with sureties satisfactory to the corporation, and the  
17 furnishings of the bonds shall be deemed a sufficient compliance  
18 with the provisions of law and no additional bonds shall be  
19 required. Before the corporation shall enter into any contract  
20 as authorized by this section for the construction of a housing  
21 project or projects, it shall invite the submission of



1 competitive bids after giving public notice in the manner  
2 prescribed by law.

3 (b) Notwithstanding any other provision of law, the  
4 corporation may:

- 5 (1) Acquire the capital stock of mortgagors holding  
6 property covered by a mortgage guarantee under this  
7 chapter and established by this section; to exercise  
8 the rights as holder of the capital stock during the  
9 life of the mortgage and, upon the termination of the  
10 mortgage, to dissolve the mortgagor;
- 11 (2) Guarantee the payment of notes or other legal  
12 instruments of the mortgagors; and
- 13 (3) Make payments thereon.

14 All housing projects placed under the control of the corporation  
15 pursuant to this section shall be deemed to be housing projects  
16 under the jurisdiction of the State.

17 (c) On request by the corporation, the attorney general  
18 shall furnish to the corporation an opinion as to the  
19 sufficiency of title to any property on which a housing project  
20 is proposed for construction, or on which housing projects have  
21 been constructed, under this section. If the opinion of the  
22 attorney general is that the title to the property is good and



1 sufficient, the corporation is authorized to guarantee, or enter  
2 into a commitment to guarantee, the mortgagee against any losses  
3 that may thereafter arise from adverse claims to the title.

4 None of the proceeds of any mortgage loan hereafter insured  
5 shall be used for title search and title insurance costs;  
6 provided that, if the corporation determines in the case of any  
7 housing project that the financing of the construction of the  
8 project is impossible unless title insurance is provided, the  
9 corporation may provide for the payment of the reasonable costs  
10 necessary for obtaining title search and title insurance. Any  
11 determination by the corporation under this subsection shall be  
12 set forth in writing, together with the reasons therefor.

13 (d) The State shall be authorized to guarantee the  
14 repayment of one hundred per cent of the principal and interest  
15 of loans from commercial lenders for the purposes of this  
16 section pursuant to rules adopted by the corporation which shall  
17 conform as closely as is possible to the practices of the  
18 Federal Housing Administration in insuring loans under sections  
19 203 and 207 of the United States Housing Act of 1937, as  
20 amended; provided that at no time shall the State's liability,  
21 contingent or otherwise, on the guarantees exceed \$10,000,000.



1           **§201H-M Interim financing of projects.** (a) The  
2 corporation may provide interim construction loans to eligible  
3 developers. In addition to the rate of interest charged on  
4 interim loans, the corporation may charge loan commitment fees  
5 to be determined by rules adopted by the corporation.

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

17           **§201H-N Commercial, industrial, and other uses.** (a) In  
18 connection with the development of any dwelling units under this  
19 chapter, the corporation may also develop commercial,  
20 industrial, and other properties if it determines that the uses  
21 can be an integral part of the development and can help to  
22 preserve the lifestyles of the purchasers of dwelling units in



1 the development. The corporation may designate any portions of  
2 the development for commercial, industrial, or other use and  
3 shall have all the powers granted under this chapter with  
4 respect thereto, including the power to bypass statutes,  
5 ordinances, charter provisions, and rules of any government  
6 agency pursuant to section 201H-H. For this purpose, the  
7 corporation may use any of the funds authorized under this  
8 chapter.

9 (b) The corporation shall establish rules that shall  
10 provide the manner in which the uses of properties shall be  
11 designated, and shall provide that any commercial, industrial,  
12 or other properties so developed shall be sold or leased at cost  
13 or at economic rents or sales prices. Sale or lease shall be  
14 made at cost to owners of commercial, industrial, or other  
15 facilities displaced by the corporation. All other leases or  
16 sales shall be at economic rents or sales prices determined by  
17 the corporation, after appraisal, to be consistent with rents or  
18 sales prices in similar locations or with similar terms. The  
19 net proceeds of all such sales or leases, less costs to the  
20 corporation, shall be deposited in the dwelling unit revolving  
21 fund.



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

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



1 subject to reimbursement upon sale as provided for in section  
2 201H-Q.

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, mortgage, or other instrument under the terms of which the  
10 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 described  
3 in this section.

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 banks  
7 and other lending institutions doing business in the State at a  
8 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 dwelling units in an economically integrated housing project,  
12 except as otherwise determined by the developer of the units;  
13 provided that preference shall be given to qualified residents  
14 in the initial sale of market-priced units.

15 **§201H-P Co-mortgagor.** For purposes of qualifying for a  
16 mortgage loan to finance the purchase of a dwelling unit under  
17 this part, a "qualified resident" as defined in section 201H-B  
18 may be assisted by a co-mortgagor who is a family member as  
19 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 **§201H-Q 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;

16 (B) The cost of any improvements added by the  
17 purchaser, as defined in rules adopted by the  
18 corporation; and

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

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



1 (A) By conveyance free and clear of all mortgages and  
2 liens; or

3 (B) By conveyance subject to existing mortgages and  
4 liens.

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

17 The corporation's interest created by this  
18 paragraph shall constitute a statutory lien on the  
19 real property and shall be superior to any other  
20 mortgage or lien except for:

21 (i) Any first mortgage created for the purpose  
22 of securing the payment of a loan of funds



1                   expended solely for the purchase of the real  
2                   property by the seller;

3                   (ii) Any mortgage insured or held by a federal  
4                   housing agency; and

5                   (iii) Any mortgage or lien created for any other  
6                   purpose, provided that the corporation has  
7                   previously consented to it in writing.

8                   The amount paid by the corporation to the seller shall  
9                   be the difference, if any, between the purchase price  
10                  determined by paragraph (1) (A) to (C), and the total  
11                  of the outstanding principal balances of the mortgages  
12                  and liens assumed by the corporation;

13                  (3) A purchaser may refinance real property developed and  
14                  sold under this chapter provided that the purchaser  
15                  shall not refinance the real property within ten years  
16                  from the date of purchase for an amount in excess of  
17                  the purchase price as determined by paragraph (1) (A)  
18                  to (C);

19                  (4) After the end of the tenth year from the date of  
20                  purchase, or execution of an agreement of sale, the  
21                  purchaser may sell the real property and sell or  
22                  assign the property free from any price restrictions;



1 provided that the purchaser shall be required to pay  
2 to the corporation the sum of:

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

5 (B) Any subsidy or deferred sales price made by the  
6 corporation in the acquisition, development,  
7 construction, and sale of the real property, and  
8 any other amount expended by the corporation not  
9 counted as costs under section 201H-0 but charged  
10 to the real property by good accounting practice  
11 as determined by the corporation whose books  
12 shall be prima facie evidence of the correctness  
13 of the costs;

14 (C) Interest on the subsidy or deferred sales price,  
15 if applicable, and any other amount expended at  
16 the rate of seven per cent a year computed as to  
17 the subsidy or deferred sales price, if  
18 applicable, from the date of purchase or  
19 execution of the agreement of sale, and as to any  
20 amount expended, from the date of expenditure;  
21 provided that the computed interest shall not  
22 extend beyond thirty years from the date of



1 purchase or execution of the agreement of sale of  
2 the real property. If any proposed sale or  
3 transfer will not generate an amount sufficient  
4 to pay the corporation the sum as computed under  
5 this paragraph, the corporation shall have the  
6 first option to purchase the real property at a  
7 price that shall not exceed the sum as computed  
8 under paragraphs (1) and (2); and

9 (D) The corporation's share of appreciation in the  
10 real property as determined under rules adopted  
11 pursuant to chapter 91 when applicable; and

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

17 (b) For a period of ten years after the purchase, whether  
18 by lease, assignment of lease, deed, or agreement of sale, if  
19 the purchaser wishes to transfer title to the real property, and  
20 if the corporation does not exercise the option to purchase the  
21 real property as provided in subsection (a), then the  
22 corporation shall require the purchaser to sell the real



1 property to a "qualified resident" as defined in section 201H-B,  
2 and upon the terms that preserve the intent of this section and  
3 sections 201H-S and 201H-T, and in accordance with rules adopted  
4 by the corporation.

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

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

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

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

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

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





1           (2) Any intention of the mortgagee to foreclose the  
2           mortgage under chapter 667;  
3 provided that the mortgagee's failure to provide written notice  
4 to the corporation shall not affect the mortgage holder's rights  
5 under the mortgage. The corporation shall be a party to any  
6 foreclosure action, and shall be entitled to all proceeds  
7 remaining in excess of all customary and actual costs and  
8 expenses of transfer pursuant to default, including liens and  
9 encumbrances of record; provided that the person in default  
10 shall be entitled to an amount which shall not exceed the sum of  
11 amounts determined pursuant to subsection (a)(1)(B) and (C).

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



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

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

12 **§201H-R Exception of current owners in corporation**  
13 **projects.** The corporation may allow a person who is a current  
14 owner of a dwelling unit in a multifamily housing project  
15 sponsored by the corporation to apply for the purchase of a  
16 larger dwelling unit in a project sponsored by the corporation  
17 if the applicant's current family size exceeds the permissible  
18 family size for the applicant's current dwelling unit, as  
19 determined by prevailing county building or housing codes. The  
20 applicant shall be required to sell the applicant's current  
21 dwelling unit back to the corporation. Notwithstanding any law



1 to the contrary, any applicant, as it pertains to for-sale  
2 housing, shall be a "qualified resident" who:

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

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

5 (3) Is domiciled in the State and shall physically reside  
6 in the dwelling unit purchased under this section;

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

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

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

20 (B) Is a person whose spouse or a household member  
21 does not own a majority interest in fee simple or  
22 leasehold lands suitable for dwelling purposes,



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

8 **§201H-S Real property; restrictions on use.** (a) Real  
9 property purchased under this chapter shall be occupied by the  
10 purchaser at all times during the ten-year restriction period  
11 set forth in section 201H-Q, except in hardship circumstances  
12 where the inability to reside on the property arises out of  
13 unforeseeable job or military transfer, a temporary educational  
14 sabbatical, serious illness of the person, or in other hardship  
15 circumstances as determined by the corporation on a case-by-case  
16 basis.

17 The corporation may waive the owner-occupancy requirement  
18 for a total of not more than ten years after the purchase of the  
19 dwelling, during which time the dwelling unit may be rented or  
20 leased. Waivers may be granted only to qualified residents who  
21 have paid resident state income taxes during all years in which  
22 they occupied the dwelling, who continue to pay resident state



1 income taxes during the waiver period, and whose inability to  
2 reside on the property does not stem from a natural disaster.  
3 The ten-year owner-occupancy requirement shall be extended by  
4 one month for every month or fraction thereof that the  
5 owner-occupancy requirement is waived.

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

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

16 No qualified resident who fails to reoccupy a dwelling unit  
17 after any waiver period shall receive more than the maximum to  
18 which the person would be entitled under section 201H-Q. Any  
19 person who disagrees with the corporation's determination under  
20 this section shall be entitled to a contested case proceeding  
21 under chapter 91.



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

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

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

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

21 (f) The corporation shall be authorized to waive any of  
22 the restrictions set forth in this section in order to comply



1 with or conform to requirements set forth in federal law or  
2 regulations governing mortgage insurance or guarantee programs  
3 or requirements set forth by federally chartered secondary  
4 mortgage market participants.

5       **§201H-T Restrictions on use, sale, and transfer of real**  
6 **property; effect of amendment or repeal.** (a) Restrictions on  
7 the use, sale, and transfer of real property shall be made as  
8 uniform as possible in application to purchasers of all real  
9 property, and restrictions shall be conformed with agreement of  
10 the purchaser to reflect change or repeal made by any subsequent  
11 legislative act, ordinance, rule, or regulation. Purchasers  
12 shall be permitted at their election to sell or transfer real  
13 property subject to restrictions in effect at the time of their  
14 sale or transfer.

15       (b) The corporation, any department of the State, or any  
16 county housing agency maintaining restrictions, through  
17 contract, deed, other instrument, or by rule, shall notify  
18 purchasers of any substantial change in restrictions made by  
19 law, ordinance, rule, or regulation not more than one hundred  
20 eighty days after a change in restrictions. The notice shall  
21 clearly state the enacted or proposed new provisions, the date  
22 or dates upon which they are to be effective, and offer to each



1 purchaser of real property constructed and sold prior to the  
2 effective date an opportunity to modify the existing contract or  
3 other instrument to incorporate the most recent provisions.  
4 Public notice shall also be given at least three times in the  
5 State for state agencies and at least three times in a county  
6 for county agencies.

7 (c) For all purchasers of real property prior to June 25,  
8 1990, where the restrictions on use and transfer of property  
9 apply for a period of time, the period of time shall not be  
10 increased beyond the date calculated from the date of original  
11 purchase.

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

19 (e) This section shall apply to all real property  
20 developed, constructed, and sold pursuant to this chapter and  
21 similar programs in the State or its political subdivisions and  
22 which are sold on the condition that the purchaser accepts





1 restrictions on the use, sale, or transfer of interest in the  
2 real property purchased.

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

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

12 **§201H-U Corporation's right to repurchase or rent real**  
13 **property; authority to seek recovery.** (a) Notwithstanding any  
14 provisions to the contrary, during the period in which the  
15 restrictions in section 201H-Q are in effect, the following  
16 provisions shall apply when dwelling units developed,  
17 constructed, financed, purchased, or sold pursuant to Act 105,  
18 Session Laws of Hawaii 1970, as amended, are found to have a  
19 substantial construction defect, or when vacant lands developed,  
20 financed, purchased, or sold pursuant to Act 105, Session Laws  
21 of Hawaii 1970, as amended, are found to have a substantial soil  
22 defect:



- 1           (1) The corporation shall have the right, but not the  
2           obligation, to repurchase a dwelling unit or land that  
3           has a defect, regardless of whether or not the owner  
4           wishes to sell; provided that those repurchases shall  
5           be in accordance with the following provisions:
- 6           (A) The corporation may repurchase a dwelling unit or  
7           land if:
- 8                 (i) The dwelling unit or land is deemed unsafe  
9                 by the county building department;
- 10                (ii) The defects are irreparable; or
- 11                (iii) In the opinion of the corporation, the  
12                defect is of such magnitude that it will  
13                take longer than a year to repair;
- 14           (B) The corporation's purchase price shall be based  
15           on the formula set forth in section 201H-Q(a)(1);
- 16           (C) After repairs to the unit or land are completed,  
17           the former owner shall have the first right of  
18           refusal to repurchase the real property;
- 19           (D) The corporation shall give preference in all  
20           other projects of the corporation to all owners  
21           whose real property is repurchased by the  
22           corporation under this subsection, and the



1 corporation may waive certain eligibility  
2 requirements for these owners; and

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

8 (2) If the corporation does not opt to repurchase  
9 defective real property, the corporation shall also  
10 have the right, but not the obligation, to enter into  
11 a contract to repair a dwelling unit which has a  
12 construction defect or land which has a soil defect.  
13 During the period that the real property is being  
14 repaired, the corporation shall rent that real  
15 property from the owner for an amount not to exceed  
16 the owner's present mortgage payments; and

17 (3) If the corporation does not execute either a contract  
18 to repurchase the real property or an agreement to  
19 repair and rent the real property within ninety days  
20 after written notice is given to the corporation of a  
21 construction defect, the owner may pursue any other  
22 available legal remedies.



1 For the purposes of this section, "substantial construction  
2 defect" includes but is not necessarily limited to: structural  
3 defects such as shifting foundations and bearing walls;  
4 structural deficiencies due to the use of defective or  
5 undersized materials; and defects affecting the health and  
6 safety of occupants. "Substantial soil defect" means shifting,  
7 sliding, or sinking ground of such degree as to affect the  
8 dwelling unit on the land or the health and safety of the  
9 occupants of the land.

10 (b) If moneys are expended by the corporation pursuant to  
11 subsection (a)(1) and (2), the corporation shall have the  
12 authority to take necessary legal action against the developer,  
13 co-developer, general contractor, and their subcontractors,  
14 consultants, and other parties notwithstanding any provisions to  
15 the contrary in chapter 657.

16 (c) If real property developed, constructed, financed,  
17 purchased, or sold pursuant to Act 105, Session Laws of Hawaii  
18 1970, as amended, is found to have a substantial construction or  
19 soil defect, the corporation shall have the right, but not the  
20 obligation, to file or cause to be filed a legal action on  
21 behalf of or by, the owner or lessee of the real property for  
22 the recovery of damages or for injunctive relief against the



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

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

12 (e) The corporation shall adopt rules pursuant to chapter  
13 91 necessary for the purposes of this section.

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

19 (g) If any subsection, sentence, clause, or phrase of this  
20 section, or its application to any person or transaction or  
21 other circumstances, is for any reason held to be  
22 unconstitutional or invalid, the remaining subsections,



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

10 **§201H-V Nonprofit organizations and government agencies.**

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



1 not limited to rules relating to the eligibility and  
2 qualifications of nonprofit organizations and government  
3 agencies; the eligibility and qualifications of clients of  
4 nonprofit organizations and government agencies to whom housing  
5 opportunities may be made available; and restrictions on the  
6 use, sale, or transfer of, and authorizing repurchase of,  
7 dwelling units sold, leased, or rented pursuant to this  
8 subsection.

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

14       (b) In connection with the development of any residential  
15 units under this chapter, the corporation may also make  
16 provisions for the development of appropriate community  
17 facilities. The corporation may:

- 18       (1) Sell, lease, or rent vacant land or land with site  
19             improvements to nonprofit organizations or government  
20             agencies to develop community facilities; or  
21       (2) Develop, on behalf of the State or with an eligible  
22             developer, the community facilities and then sell,







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

4 "PART . FINANCING PROGRAMS

5 A. General Provisions

6 §201H-Y Bonds; authorization. (a) The corporation, with  
7 the approval of the governor, may issue from time to time bonds  
8 (including refunding bonds to pay, retire, or provide for the  
9 retirement of bonds previously issued by the corporation) in  
10 amounts not exceeding the total amount of bonds authorized to be  
11 issued by the legislature for any of its corporate purposes.  
12 Bonds may also be issued in connection with any program whose  
13 primary purpose is to provide housing for active or retired  
14 United States military personnel, their families, and other  
15 persons authorized by any branch of the United States military  
16 to reside in the housing; provided that the aggregate principal  
17 amount of all outstanding bonds issued by the corporation for  
18 military housing projects shall total no more than  
19 \$2,000,000,000.

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 corporation, and not in the name of the State. The final  
3 maturity date of the revenue bonds may be any date not exceeding  
4 sixty years from the date of issuance.

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

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

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

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

17 (4) Receipts derived from any payment for "eligible  
18 loans", "eligible improvement loans", or "eligible  
19 project loans", as the terms are defined in subpart B,  
20 or any other agreement or agreements entered into for  
21 a "housing loan program", as the term is defined in  
22 subpart B or D, or any other loan program administered



1 by the corporation and financed from the proceeds of  
2 bonds;

3 (5) Receipts derived from loans to mortgage lenders or  
4 from the payment on account of principal of or  
5 interest on loans purchased from mortgage lenders, as  
6 provided in subpart B which loans to mortgage lenders  
7 or loans purchased are financed from the proceeds of  
8 bonds;

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

12 (7) Proceeds derived from any insurance;

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

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

15 The term "income and revenues" includes income and revenues  
16 derived from the sale of land or from both land and improvements  
17 thereon serviced from infrastructure financed from the proceeds  
18 of bonds as permitted by this subpart. The provisions of this  
19 subsection are in addition and supplemental to part III of  
20 chapter 39.

21 (e) Any of the bonds may be additionally secured by a  
22 pledge of any revenues or a mortgage of any housing project,



1 other property of the corporation, the pledge or assignment of  
2 any loans or other agreements, or any note or other undertaking,  
3 obligation, or property held by or on behalf of the corporation  
4 to secure loans made from the proceeds of bonds for any "housing  
5 loan program", as the term is defined in subpart B or D, or any  
6 other loan program administered by the corporation and financed  
7 from the proceeds of bonds.

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



1 with the bureau of conveyances with respect to any pledge made  
2 to secure revenue bonds issued under this part.

3 (g) Any housing project or projects authorized by, and  
4 undertaken pursuant to, this chapter shall constitute an  
5 "undertaking" within the meaning of that term as defined and  
6 used in part III, chapter 39. Any loan program authorized by,  
7 and undertaken pursuant to, this chapter, including without  
8 limitation "housing loan programs" defined in and authorized by  
9 subparts B and D, shall constitute a "loan program" within the  
10 meaning of that term as defined and used in part III, chapter  
11 39. The corporation shall constitute a "department" and the  
12 board shall constitute a "governing body" within the meaning of  
13 those terms as defined and used in part III, chapter 39.

14 (h) Neither the directors of the corporation nor any  
15 person executing the bonds shall be liable personally on the  
16 bonds by reason of the issuance thereof.

17 **§201H-Z Issuance of bonds for the development of**  
18 **infrastructure.** Without limiting section 201H-Y, the  
19 corporation, pursuant to and in accordance with this subpart, is  
20 hereby authorized to issue bonds for the purpose of financing  
21 the development of infrastructure on land owned by the  
22 corporation.



1           **§201H-AA Issuance of bonds for the preservation of**  
2 **low-income housing projects.** The corporation, pursuant to and  
3 in accordance with this subpart, may issue bonds to purchase  
4 low-income housing projects financed by the United States  
5 Department of Housing and Urban Development in order to preserve  
6 these projects. Upon the payment of all interest and principal  
7 stemming from the issuance of these bonds, the corporation may  
8 transfer title to these projects to qualified nonprofit  
9 organizations. Nothing in this section shall be construed to:

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

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

20           As used in this section, "qualified nonprofit organization"  
21 includes community-based nonprofit organizations and resident  
22 councils.



1           **§201H-BB Bonds; interest rate, price, and sale.** (a) The  
2 bonds shall bear interest at rates payable at times that the  
3 corporation, with the approval of the governor, may determine  
4 except for deeply discounted bonds that are subject to  
5 redemption or retirement at their accreted value; provided that  
6 the discounted value of the bonds shall not exceed ten per cent  
7 of any issue; and provided further that no bonds may be issued  
8 without the approval of the director of finance and the  
9 governor. Notwithstanding any other law to the contrary, the  
10 corporation, subject to the approval of the director of finance  
11 and the governor, may issue bonds pursuant to section 201H-Z, in  
12 which the discounted value of the bonds exceeds ten per cent of  
13 the issue.

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



1 bonds for a period determined by the corporation, or the  
2 estimated expenditure of borrowed funds for any loan program for  
3 which the bonds are issued.

4       **§201H-CC Trustee; designation, duties.** (a) The  
5 corporation may designate a trustee for each issue of bonds  
6 secured under the same trust indenture; provided that the  
7 trustee shall be approved by the director of finance.

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

12       (c) The trustee shall also be authorized by the  
13 corporation to hold and administer any housing project bond  
14 special funds and housing loan program revenue bond special  
15 funds established pursuant to section 201H-HH. The trustee may  
16 receive and receipt for, hold, and administer the revenues  
17 derived by the corporation from any housing project or projects  
18 or loan program for which the bonds are issued or the projects  
19 or loan programs pledged to the payment of the bonds. The  
20 trustee shall apply the revenues to the payment of the cost of  
21 administering, operating, and maintaining the housing project or  
22 projects or loan program; to pay the principal of and the





1 interest on the bonds; to the establishment of reserves; and to  
2 other purposes as may be authorized in the proceedings providing  
3 for the issuance of the bonds.

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

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

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

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

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



1           **§201H-DD 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 corporation for the purposes of this part.

5           (b) A trust indenture may allow the corporation to pledge  
6 and assign to the trustee agreements related to the housing  
7 project or projects or loan program and the rights of the  
8 corporation thereunder, including the right to receive revenues  
9 thereunder 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 housing project or  
19 system of housing projects or the loan program, and  
20 the use and application of the earnings from  
21 investments; 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 corporation to obtain or permit,  
10          by grant, interest subsidy, or otherwise, the participation of  
11          the federal government in the housing projects or loan programs  
12          or in the financing of the costs of administering, operating, or  
13          maintaining the housing projects or loan programs.

14          **§201H-EE Investment of reserves, etc.** The corporation 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 government agencies shall be applicable to the  
2 corporation unless the legislature shall specifically so state.

3 **§201H-FF Security for funds deposited by the corporation.**

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

6 (1) 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) An undertaking with sureties as are approved by the  
10 corporation faithfully to keep and pay over upon the  
11 order of the corporation any deposits and agreed  
12 interest thereon, and all banks and trust companies  
13 are authorized to give any such security for those  
14 deposits.

15 **§201H-GG Arbitrage provisions, interest rate.** (a) Any  
16 other provision of law to the contrary notwithstanding, neither  
17 the corporation nor the director of finance shall make loans or  
18 purchase mortgages with the proceeds of general obligation bonds  
19 of the State or from a revolving fund established or maintained  
20 from the proceeds of bonds, at a rate of interest or upon terms  
21 and conditions that would cause any general obligation bond of  
22 the State or any bond to be an "arbitrage bond" within the



1 meaning of that term as defined in the Internal Revenue Code of  
2 1986, as amended, and the regulations of the Internal Revenue  
3 Service promulgated pursuant thereto.

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

17 (c) The director of finance shall approve those rates so  
18 as to produce up to, but not in excess of, the maximum yield to  
19 the State or the corporation permitted under the Internal  
20 Revenue Code of 1986, as amended, and the regulations of the  
21 Internal Revenue Service promulgated pursuant thereto, on the  
22 assumption that the general obligation bonds of the State, the



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

8 **§201H-HH Housing finance revolving fund; bond special**

9 **funds.** (a) There is created a housing finance revolving fund  
10 to be administered by the corporation. Notwithstanding sections  
11 36-21 and 201H-EEEE, the proceeds in the fund shall be used for  
12 long-term and other special financings of the corporation and  
13 for the necessary expenses in administering this part.

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

18 (c) A separate special fund shall be established for each  
19 housing project or system of housing projects or loan program  
20 financed from the proceeds of bonds secured under the same trust  
21 indenture. Each fund shall be designated "housing project bond  
22 special fund" or "housing loan program revenue bond special



1 fund", as appropriate, and shall bear any additional designation  
2 as the corporation deems appropriate to properly identify the  
3 fund.

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

13 **§201H-II Kikala-Keokea housing revolving fund;**  
14 **established.** (a) There is established in the state treasury  
15 the Kikala-Keokea housing revolving fund to provide low interest  
16 loans for home construction for Kikala-Keokea leaseholders who  
17 have been denied loans from traditional financial institutions.  
18 The revolving fund shall be administered by the corporation.

19 (b) The rate of interest on loans executed pursuant to  
20 this section shall not exceed three per cent per year and  
21 interest earnings on loans made pursuant to this section may be  
22 used for administrative and other expenses necessary for



1 administering the loan program. Guidelines shall be established  
2 by the corporation with respect to loan terms and loan  
3 qualification criteria. Moneys appropriated for the purposes of  
4 this section shall be deposited into the Kikala-Keokea housing  
5 revolving fund; provided that upon fulfillment of the purposes  
6 of this section, all unencumbered moneys shall lapse into the  
7 state general fund.

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

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

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





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

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

4 **§201H-LL Definitions.** The following words or terms as  
5 used in this subpart shall have the following meanings unless a  
6 different meaning clearly appears from the context:

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

- 9 (1) Is a citizen of the United States or a resident alien;  
10 (2) Is a bona fide resident of the State;  
11 (3) Is at least eighteen years of age;  
12 (4) Does not personally, or whose spouse does not if the  
13 person is married, own any interest in a principal  
14 residence within or without the State and who has not  
15 owned a principal residence within the three years  
16 immediately prior to the application for an eligible  
17 loan under this subpart, except this requirement shall  
18 not apply to any eligible loan for a targeted area  
19 residence as defined in the Mortgage Subsidy Bond Tax  
20 Act of 1980, Public Law 96-499, which residence is to  
21 replace a housing unit that has been declared  
22 structurally unsalvageable by a governmental board or



1 agency having the power to make the declaration; and  
2 provided further that this requirement shall not apply  
3 to up to ten per cent of eligible loans of a bond  
4 issue made to single parent household borrowers. No  
5 loans, however, shall be made if they adversely affect  
6 the tax-exempt status of the bonds issued. For the  
7 purpose of this section, "single parent household"  
8 means a household headed by a single person who has  
9 legal custody of one or more dependent children;

10 (5) Has never before obtained a loan under this part; and

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

13 "Eligible improvement" means alterations, repairs, or  
14 improvements to an existing dwelling unit that substantially  
15 protect or improve the basic livability of the unit.

16 "Eligible improvement loan" means a loan to finance an  
17 eligible improvement to the owner of the dwelling unit, which  
18 may be a condominium unit, where the eligible improvement is to  
19 be made; provided that the owner meets the requirements of an  
20 eligible borrower, except that the requirements of paragraph (4)  
21 of the definition of "eligible borrower" shall not apply, the  
22 unit to be financed is located in the State, the unit will be



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

4 "Eligible loan" means a loan to an eligible borrower for  
5 the permanent financing of a dwelling unit, including a  
6 condominium unit; provided that the property financed is located  
7 in the State, will be occupied as the principal place of  
8 residence by the eligible borrower, and meets other requirements  
9 as established by rules adopted by the corporation.

10 "Eligible project loan" means an interim or permanent loan,  
11 which may be federally insured or guaranteed, made to a  
12 qualified sponsor for the financing of a rental housing project,  
13 and which meets other requirements as established by rules  
14 adopted by the corporation.

15 "Housing loan programs" includes all or any part of the  
16 loans to lenders program, the purchase of existing loans  
17 program, the advance commitments program, and the loan funding  
18 programs authorized under this subpart.

19 "Qualified sponsor" means any person or entity determined  
20 by the corporation:



- 1           (1) To be qualified by experience, financial
- 2           responsibility, and support to construct a housing
- 3           project of the type and magnitude described;
- 4           (2) To have submitted plans for a housing project
- 5           adequately meeting the objectives of this chapter, the
- 6           maintenance of aesthetic values in the locale of the
- 7           project, and the requirements of all applicable
- 8           environmental statutes and rules; and
- 9           (3) To meet other qualifications as established by rules
- 10          adopted by the corporation pursuant to chapter 91.

11           **§201H-MM Owner-occupancy requirement.** (a) An eligible  
12 borrower shall utilize the dwelling unit purchased under this  
13 subpart as the eligible borrower's permanent and primary  
14 residence.

15           (b) From time to time, the corporation may submit a  
16 verification of owner-occupancy form to the eligible borrower.  
17 Failure to respond to this verification in a timely manner may  
18 result in an immediate escalation of the interest rate or  
19 acceleration of the eligible loan.

20           (c) For eligible borrowers in the process of selling or  
21 transferring title to their property, the corporation may grant  
22 a waiver of subsection (a) for a period not to exceed three



1 years and for reasons set forth in section 201H-S on a case-by-  
2 case basis.

3 **§201H-NN Eligible borrowers.** (a) The corporation shall  
4 establish the qualifications of the eligible borrower, and may  
5 consider the following:

- 6 (1) The proportion of income spent for shelter;
- 7 (2) Size of the family;
- 8 (3) Cost and condition of housing available to the total  
9 housing market; and
- 10 (4) Ability of the person to compete successfully in the  
11 normal housing market and to pay the amounts on which  
12 private enterprise is providing loans for safe,  
13 decent, and sanitary housing in the State.

14 (b) The family income of an eligible borrower shall not  
15 exceed the income requirements of section 143(f) of the Internal  
16 Revenue Code of 1986, as amended.

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

- 19 (1) The dwelling unit for which the eligible improvement  
20 loan is to be made and the property on which the  
21 dwelling unit is situated shall not be included in the  
22 calculation of the eligible borrower's assets; and



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

4           (d) For the purpose of determining the qualification of an  
5 eligible borrower for an eligible loan for a targeted area  
6 residence:

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

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

14          **§201H-00 Eligible loans.** (a) The corporation shall  
15 establish requirements for property financed by an eligible  
16 loan, and may consider the location, age, condition, and other  
17 characteristics of the property.

18          (b) The corporation shall establish restrictions on the  
19 terms, maturities, interest rates, collateral, and other  
20 requirements for eligible loans.

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



1           **§201H-PP Eligible project loans.** (a) The corporation  
2 shall establish requirements for rental housing projects to be  
3 financed by an eligible project loan, and may consider the  
4 location, age, condition, and other characteristics of the  
5 project.

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

9           (c) The corporation shall establish restrictions on the  
10 prepayment of eligible project loans and on the transfer of  
11 ownership of the projects securing eligible project loans.

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

20           (e) The corporation shall enter into an agreement with the  
21 owner of a rental housing project to be financed with an  
22 eligible project loan which shall provide that in the event that



1 the eligible project loan is at any time prepaid for the purpose  
2 of converting the rental units of such project to ownership  
3 units, all tenants at the time of the proposed conversion shall  
4 have the first option to purchase their units.

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

7 **§201H-QQ Eligible improvement loans.** (a) The corporation  
8 shall establish requirements for property financed by an  
9 eligible improvement loan, and may consider the location, age,  
10 condition, value, and other characteristics of the property.

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

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

16 **§201H-RR Housing loan programs; procedures and**

17 **requirements.** (a) The corporation shall establish procedures  
18 for:

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

21 (2) The purchase of existing loans by auction, invitation  
22 of tenders, or negotiation;





1 (3) The making of advance commitments to purchase and the  
2 purchasing of eligible loans, eligible improvement  
3 loans, or eligible project loans to be made by  
4 mortgage lenders by auction, invitation of tenders, or  
5 negotiation; and

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

8 (b) The corporation shall establish standards and  
9 requirements for:

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

11 (2) The allocation of funds to purchase existing loans  
12 from mortgage lenders;

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

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

21 (c) The standards and requirements for the allocation of  
22 funds to mortgage lenders shall be adopted by the corporation



1 and shall be designed to include the maximum number of qualified  
2 mortgage lenders as participants in the housing loan programs.

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

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

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

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



1 thereof from which the fees, premiums, and charges are derived  
2 as determined by the corporation.

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

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

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

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

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

22       (1) Bear a date or dates;



- 1 (2) Mature at a time or times;
- 2 (3) Be evidenced by a note, bond, or other certificate of
- 3 indebtedness;
- 4 (4) Be subject to prepayment; and
- 5 (5) Contain other provisions consistent with this part.

6 (d) Subject to any agreement with the holders of its

7 bonds, the corporation may consent to any modification to the

8 rate of interest, time and payment of any installment of

9 principal or interest, security, or any other term of any loan

10 to a mortgage lender or any bond, note, contract, or agreement

11 of any kind to which the corporation is a party.

12 **§201H-XX Loans to lenders program; collateral security.**

13 (a) Loans made to mortgage lenders shall be additionally

14 secured by a pledge of a lien upon collateral security in an

15 amount as the corporation deems necessary to assure the payment

16 of the principal of and interest on the loans as they become

17 due.

18 (b) The corporation shall determine the nature and type of

19 collateral security required.

20 (c) A statement designating the collateral security

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

22 corporation's interest in the pledged collateral may be filed



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

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

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

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



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

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

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

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

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



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

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

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

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

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

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



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

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

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

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

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

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

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

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





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

3 **C. Rental Assistance Program**

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

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



1 It is the purpose of this subpart to:  
2 (1) Assist owners in maintaining rentals at levels  
3 affordable by families and individuals of low and  
4 moderate income by providing owners with rental  
5 assistance payments which, together with rental  
6 payments received from tenants of low and moderate  
7 income, will provide owners with limited but  
8 acceptable rates of return on their investments in  
9 rental housing accommodations. Assisting owners by  
10 entering into contracts with them to provide for  
11 rental assistance payments is a valid public purpose  
12 and in the public interest; and

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

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



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

11 Notwithstanding any provision to the contrary, "eligible

12 project" may also include a rental housing project that is

13 financed by the corporation pursuant to subpart A.

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

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

16 as determined by the United States Department of Housing and

17 Urban Development.

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

19 "Regulatory agreement" means an agreement between the

20 corporation and the owner relating to an eligible project that

21 includes provisions relating to rents, charges, profits, return

22 on owner's equity, development costs, and methods of operation.



1 "Rental assistance contract" means an agreement between an  
2 owner and the corporation providing for periodic rental  
3 assistance payment for units in an eligible project.

4 **§201H-III Rental assistance revolving fund.** (a) There is  
5 created a rental assistance revolving fund to be administered by  
6 the corporation.

7 (b) The rental assistance revolving fund may include sums  
8 made available from any government program or grant, from  
9 private grants or contributions, from the proceeds of any bond  
10 issue, or from appropriations to the fund. The aggregate  
11 principal in the fund shall be invested by the corporation in a  
12 manner that will maximize the rate of return on investment of  
13 the fund; provided that any investment made shall be consistent  
14 with section 201H-EE but need not comply with section 36-21.

15 (c) The corporation may use, as needed, the aggregate  
16 principal sum and the accumulated earnings in the rental  
17 assistance revolving fund to make payments under rental  
18 assistance contracts or to subsidize tenants' rents in eligible  
19 projects developed under this part; provided that the  
20 corporation shall use up to \$25,000,000 plus any bond proceeds  
21 to provide interim construction financing to:



1 (1) Qualified sponsors who are private nonprofit or for-  
2 profit entities; or

3 (2) The corporation, for the development of affordable  
4 rental housing;

5 provided further that the corporation, in allotting interim  
6 construction financing moneys pursuant to this subpart, shall  
7 give preference to rental housing projects developed by  
8 qualified sponsors who are private nonprofit or for-profit  
9 entities.

10 **§201H-JJJ Rental assistance contracts.** (a) The  
11 corporation may enter into a rental assistance contract and a  
12 regulatory agreement with the owner of an eligible project, when  
13 the owner of an eligible project is other than the corporation.

14 (b) Prior to the execution of a rental assistance  
15 contract, the corporation may execute an agreement to enter into  
16 a rental assistance contract with an owner. The agreement shall  
17 provide for the execution of a rental assistance contract upon  
18 satisfaction of the terms set forth in the agreement and  
19 otherwise established by the corporation. Each rental  
20 assistance contract heretofore entered into by the corporation  
21 that provided that rental assistance payments shall be made  
22 solely from the earnings on the investment of the rental



1 assistance revolving fund shall hereafter, without modification  
2 of the contracts, be payable from the aggregate principal sum  
3 and the accumulated earnings in the rental assistance revolving  
4 fund.

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

19 (d) Each rental assistance contract shall set forth a  
20 maximum annual rental assistance payment amount. The  
21 corporation shall establish procedures for determining the



1 maximum annual rental assistance payment amount and may consider  
2 the following:

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

15 **§201H-KKK Rental assistance program.** (a) Prior to the  
16 execution of a rental assistance contract and annually  
17 thereafter, the owner shall submit a proposed rental schedule to  
18 the corporation for approval. The schedule shall list every  
19 rental unit in the project and shall designate which units are  
20 to be maintained for eligible tenants.



1 (b) The corporation shall establish procedures for  
2 evaluating the rental schedules submitted pursuant to this  
3 section, and may consider the following:

- 4 (1) The size of and number of bedrooms in the units  
5 comprising the eligible project;
- 6 (2) The location of the project and its type (whether  
7 high-rise, mid-rise, or low-rise);
- 8 (3) The percentage of units being maintained for eligible  
9 tenants; and
- 10 (4) The rentals prevalent in the open market for  
11 comparable units.

12 (c) Annually, following the approval of the rental  
13 schedule submitted pursuant to subsection (a), the corporation  
14 shall determine the amount of rental assistance payments payable  
15 to the owner for the forthcoming year; provided that the amount  
16 shall not exceed the maximum annual rental assistance payment  
17 amount determined in accordance with section 201H-JJJ. The  
18 amount determined pursuant to this subsection shall take into  
19 account the estimated amount to be derived by the owner from  
20 rentals to be charged for the forthcoming year and the limited  
21 rate of return on equity permitted in accordance with section  
22 201H-JJJ(d)(6).





- 1 (d) The corporation shall establish standards and  
2 requirements for:
- 3 (1) The awarding of rental assistance contracts and the  
4 allocation of annual rental assistance payments;
- 5 (2) The form of lease to be utilized by the owner in  
6 renting units in an eligible project;
- 7 (3) The marketing and tenant selection and admission  
8 processes to be employed by the owner with respect to  
9 an eligible project; and
- 10 (4) The maintenance and operation of eligible projects.
- 11 (e) The corporation shall establish procedures for:
- 12 (1) The annual review of rental schedules for eligible  
13 projects;
- 14 (2) The periodic review of the income of tenants renting  
15 units in eligible projects; and
- 16 (3) The periodic inspection of eligible projects to  
17 monitor the owners' compliance with the terms and  
18 conditions of their rental assistance contracts.
- 19 (f) When an eligible project is not owned by the  
20 corporation, the corporation shall be entitled to share in the  
21 appreciation in value of units maintained for eligible tenants  
22 within an eligible project realized at the time of refinancing



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

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

- 11 (1) The funds derived by the county as a result of  
12 appreciation in value of the units are used for  
13 housing projects wherein:
- 14 (A) At least sixty per cent of the project is  
15 affordable to families earning one hundred per  
16 cent or below of the applicable area median  
17 income; and
- 18 (B) At least half of the foregoing sixty per cent is  
19 affordable to families earning eighty per cent or  
20 below of the applicable area median income; and
- 21 (2) The project from which the appreciation in value is  
22 derived remains as affordable as it was prior to the



1           refinancing or prepayment of the eligible project  
2           loan.

3           **§201H-LLL Benefits of program not exclusive.** Nothing in  
4 this subpart shall be construed to prohibit, with respect to an  
5 eligible project, the operation of the rental assistance program  
6 in conjunction with other state or federal programs including  
7 the state rent supplements provided for in part VIII of chapter  
8 .

9           **§201H-MMM Additional powers.** The powers conferred upon  
10 the corporation by this subpart shall be in addition and  
11 supplemental to the powers conferred by any other law, and  
12 nothing in this subpart shall be construed as limiting any  
13 powers, rights, privileges, or immunities so conferred.

14                   **D. Taxable Mortgage Securities Programs**

15           **§201H-NNN Definitions.** Whenever used in this subpart,  
16 unless the context otherwise requires:

17           "Eligible borrower" means:

18           (1) Any person or family, without regard to race, creed,  
19           national origin, or sex, who:

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

22                   (B) Is a bona fide resident of the State;



- 1 (C) Is at least eighteen years of age;
- 2 (D) Does not personally, or whose spouse does not if
- 3 the person is married, own a majority interest in
- 4 any residential property in the State; and
- 5 (E) Meets other qualifications as established by
- 6 rules adopted by the corporation; or
- 7 (2) A qualified sponsor of an affordable housing project
- 8 who meets the qualification requirements as
- 9 established by rules adopted by the corporation.

10 "Eligible loan" or "loan" means:

- 11 (1) A loan to an eligible borrower for the purchase of a
- 12 dwelling unit, including a condominium unit; provided
- 13 that the property financed is located in the State,
- 14 will be occupied as the principal place of residence
- 15 by the eligible borrower, and meets other requirements
- 16 as established by rules adopted by the corporation; or
- 17 (2) An interim or permanent loan, which may be federally
- 18 insured or guaranteed, made to a qualified sponsor for
- 19 the financing of an affordable housing project, and
- 20 which meets other requirements as established by rules
- 21 adopted by the corporation.

1 "Housing loan programs" include all or any part of the loan  
2 programs authorized in section 201H-000.

3 **§201H-000 Housing loan programs; authorization.** (a) The  
4 corporation may establish under this subpart one or more  
5 eligible loan programs.

6 (b) The corporation may invest in, make, purchase, take  
7 assignments of, or otherwise acquire or make commitments to  
8 invest in, make, purchase, take assignments of, or otherwise  
9 acquire any eligible loans or any partial interest or  
10 participation therein held by or on behalf of the corporation.

11 (c) The corporation may sell, assign, or otherwise dispose  
12 of or enter into commitments to sell, assign, or otherwise  
13 dispose of any eligible loans or any partial interest or  
14 participation therein held by or on behalf of the corporation.

15 (d) The corporation may acquire any obligation under  
16 conditions which require the seller of the obligation to use the  
17 proceeds of the sale for the purpose of financing eligible  
18 loans.

19 **§201H-PPP Housing loan programs; procedures and**  
20 **requirements.** (a) The corporation may establish procedures and  
21 requirements for:

1 (1) The purchase of loans from mortgage lenders by  
2 auction, invitation of tender, advance commitment, or  
3 other negotiation;

4 (2) The making of loans through mortgage lenders to  
5 eligible borrowers or qualified sponsors;

6 (3) The allocation to mortgage lenders of money made  
7 available under this subpart; and

8 (4) The participation by mortgage lenders as originators  
9 and processors of loans on behalf of the corporation  
10 under this subpart.

11 (b) The corporation may adopt rules under chapter 91  
12 necessary or convenient for the operation of the housing loan  
13 programs established under this subpart.

14 **§201H-000 Housing loan programs; general powers.** (a) The  
15 corporation may make, enter into, and enforce all contracts or  
16 agreements which are necessary, convenient, or desirable for the  
17 purpose of the performance of its powers under this subpart.

18 (b) The corporation may establish, revise, charge, and  
19 collect fees, premiums, and charges as necessary, reasonable, or  
20 convenient in connection with its housing loan programs  
21 established under this subpart. The fees, premiums, and charges



1 shall be deposited into such funds as are determined by the  
2 corporation.

3 (c) The corporation may contract for the servicing and  
4 custody of any loans or other obligations acquired under this  
5 subpart.

6 (d) The corporation may procure insurance against any  
7 default of its loans from insurers in amounts deemed necessary  
8 or desirable.

9 (e) Subject to any agreements with the holders of its  
10 bonds, the corporation may:

- 11 (1) Renegotiate, refinance, or foreclose any loan in  
12 default;
- 13 (2) Commence any action to protect or enforce any right  
14 conferred upon it by any law, or as provided in any  
15 mortgage, insurance policy, contract, or other  
16 agreement; and
- 17 (3) Bid for and purchase the property secured by the loan  
18 at any foreclosure or other sale; or acquire, or take  
19 possession of the property secured by the loan and may  
20 operate, manage, lease, dispose of, or otherwise deal  
21 with the property securing the loan.



1           **§201H-RRR Additional powers.** The powers conferred upon  
2 the corporation by this subpart shall be in addition and  
3 supplemental to the powers conferred by any other law, and  
4 nothing in this subpart shall be construed as limiting any  
5 powers, rights, privileges, or immunities so conferred.

6                           **E. State Mortgage Guarantee Program**

7           **§201H-SSS State mortgage guarantee.** (a) The corporation  
8 may guarantee:

- 9           (1) Up to the top twenty-five per cent of the principal  
10 balance of real property mortgage loans for the  
11 purchase of qualified single-family or multifamily  
12 dwelling units;
- 13           (2) Up to one hundred per cent of the principal balance of  
14 real property mortgage loans of qualified single-  
15 family housing under section 213 of the Hawaiian Homes  
16 Commission Act, 1920, as amended; or
- 17           (3) Up to one hundred per cent of the principal balance of  
18 real property mortgage loans of single-family or  
19 multifamily housing developed under self-help or shell  
20 housing programs;
- 21 plus the interest due thereon, made to qualified borrowers by  
22 qualified private lenders; provided that at no time shall the





1 corporation's liability, contingent or otherwise, on these  
2 guarantees exceed \$10,000,000.

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

10 For the purposes of this section, the term "shell housing  
11 program" means development of housing which is habitable but  
12 unfinished and can be completed or expanded; provided that one  
13 hundred per cent of the participating homeowners are qualified  
14 by income for assistance under this subpart and that the program  
15 is carried out under the sponsorship of a public, nonprofit, or  
16 private organization.

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



1 and trust funds whose business includes the making of loans in  
2 the State.

3 (c) Loans guaranteed under this section shall be in  
4 accordance with rules adopted by the corporation.

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

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

8 (2) Qualified under the rules adopted by the corporation;

9 and

10 (3) Willing to comply with the rules as may be adopted by  
11 the corporation.

12 The corporation may secure the services of a private lender to  
13 process all applications and determine the qualification of  
14 borrowers under this subpart.

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

21 (f) In return for the corporation's guarantee, the private  
22 lender shall remit out of monthly payments collected an



1 insurance fee as established by the corporation. The funds  
2 remitted shall be deposited to the credit of the state general  
3 fund.

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

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



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

3 (1) Expend no portion of the qualified borrower's loan for  
4 purposes other than those sanctioned by the  
5 corporation;

6 (2) Not sell or otherwise dispose of the mortgaged  
7 property except upon the prior written consent of the  
8 corporation and except upon any conditions that may be  
9 prescribed in writing by the private lender;

10 (3) Undertake to pay when due all taxes, liens, judgments,  
11 or assessments that may be lawfully assessed against  
12 the property mortgaged, together with costs and  
13 expenses of any foreclosure of the mortgage;

14 (4) Keep insured to the satisfaction of the private lender  
15 all improvements and other insurable property covered  
16 by the mortgage. Insurance shall be made payable to  
17 the mortgagee as its interest may appear at the time  
18 of the loss. At the option of the private lender,  
19 subject to the rules and standards of the corporation,  
20 sums so received may be used to pay for reconstruction  
21 of the improvements destroyed, or for decreasing the  
22 amount of the indebtedness;



1 (5) Keep the improvements in good repair; and

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

5 All of the conditions in paragraphs (1) through (6) shall be  
6 held and construed to be provisions of any mortgage executed by  
7 virtue of this section regardless of whether or not the  
8 conditions are expressly incorporated in the mortgage document.

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

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



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

5 **§201H-TTT Mortgage guarantee agreements.** (a) To induce  
6 appropriate officials of any agency or instrumentality of the  
7 United States to commit to insure and to insure mortgages under  
8 the provisions of the United States Housing Act of 1937, as  
9 amended, the corporation may enter into guarantee agreements  
10 with those officials whenever:

11 (1) The purchaser-mortgagor in question is ineligible for  
12 mortgage insurance purposes under the United States  
13 Housing Act of 1937, as amended, because of credit  
14 standing, debt obligation, or income characteristics;

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

20 (3) The corporation finds that the purchaser-mortgagor  
21 would be a satisfactory credit risk with ability to  
22 repay the mortgage loan if the purchaser-mortgagor



1           were to receive budget, debt management, and related  
2           counseling.

3           (b) Guarantee agreements under subsection (a) may obligate  
4 the corporation to:

5           (1) Provide or cause to be provided the counseling under  
6           subsection (a) (3); and

7           (2) Indemnify an agency or instrumentality of the United  
8           States for a period not to exceed five years for any  
9           loss sustained by the agency or instrumentality by  
10          reason of insurance of a mortgage.

11          (c) The total of guarantees made pursuant to this section  
12 and guarantees made pursuant to section 201H-SSS shall not  
13 exceed \$10,000,000.

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



1                   **F. Downpayment Loan Program**

2           **§201H-VVV Downpayment loans.** (a) The corporation may  
3 make direct downpayment loans to eligible borrowers who qualify  
4 for loans under section 201H-WWW. The downpayment loan to any  
5 one borrower shall not exceed thirty per cent of the purchase  
6 price of the residential property or \$15,000, whichever is less.  
7 The interest rate on the loans may range from zero per cent to  
8 eight per cent, depending on the buyer's income.

9           (b) The repayment of every downpayment loan shall be  
10 secured by a duly recorded second mortgage executed by the  
11 borrower to the State on the residential property purchased with  
12 the downpayment loan.

13           (c) The principal of the downpayment loan, together with  
14 accrued interest, shall be due and payable upon the sale,  
15 transfer, or refinancing of the property, or shall be repaid by  
16 the borrower in installments as determined by the corporation;  
17 provided that the corporation may provide a period in which  
18 payments may be waived. The period over which the principal and  
19 interest shall be paid need not coincide with the period over  
20 which the loan from the mortgage lender for the balance of the  
21 purchase price must be repaid. The borrower may repay the whole





1 or any part of the unpaid balance of the downpayment loan, plus  
2 accrued interest, at any time without penalty.

3 (d) The corporation may secure the services of the  
4 mortgage lender who loans to the borrower the balance of the  
5 purchase price of the residential property or the services of  
6 any other mortgage lender doing business in the State to  
7 collect, on behalf of the State, the principal and interest of  
8 the downpayment loan and otherwise to service the downpayment  
9 loan, for a servicing fee not in excess of the prevailing loan  
10 servicing fees.

11 (e) The corporation shall adopt rules pursuant to chapter  
12 91 to carry out the purposes of this subpart.

13 **§201H-WWW Qualifications for downpayment loans.** (a) No  
14 person shall be qualified for a downpayment loan unless the  
15 person:

- 16 (1) Is a citizen of the United States or a resident alien;
- 17 (2) Is at least eighteen years of age;
- 18 (3) Is a bona fide resident of the State;
- 19 (4) Will physically reside in the residential property to  
20 be purchased for the term of the loan;
- 21 (5) Is accepted by a mortgage lender as a person to whom  
22 it is willing to lend money for the purchase of the



1 residential property provided the required downpayment  
2 is made; and

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

5 (b) No person who owns in fee simple or in leasehold any  
6 other residential property within the State shall be eligible to  
7 become a borrower under this section. A person shall be deemed  
8 to own a residential property if the person, the person's  
9 spouse, or both (unless separated and living apart under a  
10 decree of a court of competent jurisdiction) own a majority  
11 interest in a residential property.

12 **§201H-XXX Restrictions on borrower.** Every loan made under  
13 this subpart shall be subject to the following conditions:

14 (1) The borrower shall expend no portion of the borrower's  
15 downpayment loan for purposes other than to make a  
16 downpayment for the purchase of a residential  
17 property;

18 (2) The residential property purchased with the  
19 downpayment loan and mortgaged to the State to secure  
20 the repayment of the loan shall not be sold or  
21 assigned without the prior approval in writing of the  
22 corporation and the first mortgage lender;



- 1           (3) The borrower shall pay when due all taxes, liens,  
2           judgments, or assessments that may be lawfully levied  
3           against the residential property and all costs and  
4           expenses of any foreclosure of the mortgage made to  
5           the State;
- 6           (4) The borrower shall maintain fire and casualty  
7           insurance in amounts equal to the replacement value of  
8           all improvements and insurable portions of the  
9           residential property with an insurance company  
10          authorized to do business in the State. All proceeds  
11          of that insurance shall be made payable to the first  
12          mortgage lender and the corporation as their  
13          respective interests may appear at the time of any  
14          loss or damage. Subject to the rules of the  
15          corporation, in the event of any loss or damage to the  
16          improvements or property covered by the insurance, the  
17          proceeds receivable by the State shall be applied  
18          toward the reconstruction of the improvements or  
19          property destroyed or damaged, unless otherwise  
20          determined by the corporation on behalf of the State;  
21          and



1           (5) The borrower shall maintain the improvements in good  
2           repair.

3           All of the conditions in paragraphs (1) through (5) shall  
4 be a part of any downpayment mortgage executed under this  
5 subpart, regardless of whether or not they are expressly  
6 incorporated in the mortgage document.

7           **§201H-YYY Default.** If the borrower defaults in the  
8 payment of any installment of principal or interest of the  
9 downpayment loan, the corporation or mortgage lender shall take  
10 all necessary action to collect the delinquent amounts and may  
11 take all actions generally allowed holders of mortgages,  
12 including the power to foreclose. Upon any foreclosure of the  
13 second mortgage, the corporation or mortgage lender on behalf of  
14 the corporation, may purchase the interest of the borrower in  
15 and to the residential property, take possession thereof and  
16 assume all of the obligations of the borrower under the first  
17 mortgage held by the private lender and any other liens having  
18 priority over the second mortgage that may then exist. On the  
19 acquisition of the borrower's interest, the corporation, at its  
20 option, may pay in full the unpaid balance of the borrower's  
21 obligation secured by the first mortgage and other prior liens;  
22 repair, renovate, modernize, or improve the residential



1 property; and, with or without clearing the property of all  
2 prior mortgages and liens, sell, lease, or rent the property or  
3 use or dispose of the same in any manner authorized by law.

4 **§201H-ZZZ Additional powers.** The powers conferred upon  
5 the corporation by this subpart shall be in addition and  
6 supplemental to the powers conferred by any other law, and  
7 nothing in this subpart shall be construed as limiting any  
8 powers, rights, privileges, or immunities so conferred.

9 **G. Homebuyers' Club Program**

10 **§201H-AAAA Homebuyers' club program.** (a) The corporation  
11 may establish a homebuyers' club program for participants who  
12 are desirous of purchasing a home and who have adequate incomes  
13 but who lack sufficient funds for the downpayment and closing  
14 costs. The primary focus of this program is to facilitate the  
15 purchase of homes by providing participants with strategies to  
16 save money, to resolve credit problems, and to educate  
17 participants on how to shop for and purchase a home.

18 (b) In establishing such a program, the corporation shall  
19 adopt rules pursuant to chapter 91 relating to establishing a  
20 savings program for participants based upon individual analyses  
21 of income and family expenses. The rules may also provide for  
22 integration of the homebuyers' club program with other



1 governmental programs including but not limited to individual  
2 housing accounts under section 235-5.5, the state mortgage  
3 guarantee program under subpart E, the downpayment loan program  
4 established under subpart F, and the rent-to-own program  
5 established under subpart H.

6 (c) The corporation may secure the services of another  
7 public or private entity to carry out the purposes of this  
8 section.

9 **§201H-BBBB Additional powers.** The powers conferred upon  
10 the corporation by this subpart shall be in addition and  
11 supplemental to the powers conferred by any other law, and  
12 nothing in this subpart shall be construed as limiting any  
13 powers, rights, privileges, or immunities so conferred.

14 **H. Rent-to-Own Program**

15 **§201H-CCCC Rent-to-own program.** (a) The corporation may  
16 establish a rent-to-own program under which dwelling units that  
17 are for sale may be rented to program participants. Under this  
18 program, the corporation shall credit a portion of the rent  
19 received toward the purchase of the unit.

20 (b) The sales price shall be established at the beginning  
21 of the rental term and shall remain fixed for the first five  
22 years after the rental agreement is executed. During this



1 period, the participant shall have the option of purchasing the  
2 unit at the designated sales price. If the participant does not  
3 elect to purchase the unit within the five-year period, the  
4 renter shall forfeit the right to continue living in the unit  
5 and the unit shall be made available to another purchaser or  
6 renter.

7 (c) The corporation shall have the right to reestablish  
8 the sales price upon expiration of the option period or upon  
9 resale of the unit.

10 **§201H-DDDD Additional powers.** The powers conferred upon  
11 the corporation by this subpart shall be in addition and  
12 supplemental to the powers conferred by any other law, and  
13 nothing in this subpart shall be construed as limiting any  
14 powers, rights, privileges, or immunities so conferred.

15 **I. Dwelling Unit Revolving Fund**

16 **§201H-EEEE Dwelling unit revolving fund.** There is created  
17 a dwelling unit revolving fund. The funds appropriated for the  
18 purpose of the dwelling unit revolving fund and all moneys  
19 received or collected by the corporation for the purpose of the  
20 revolving fund shall be deposited in the revolving fund. The  
21 proceeds in the revolving fund shall be used to reimburse the  
22 general fund to pay the interest on general obligation bonds



1 issued for the purposes of the revolving fund, for the necessary  
2 expenses in administering part II, and for carrying out the  
3 purposes of part II, including but not limited to the expansion  
4 of community facilities constructed in conjunction with housing  
5 projects, permanent primary or secondary financing, and  
6 supplementing building costs, federal guarantees required for  
7 operational losses, and all things required by any federal  
8 agency in the construction and receipt of federal funds or  
9 low-income housing tax credits for housing projects.

10       **§201H-FFFF Additional powers.** The powers conferred upon  
11 the corporation by this subpart shall be in addition and  
12 supplemental to the powers conferred by any other law, and  
13 nothing in this subpart shall be construed as limiting any  
14 powers, rights, privileges, or immunities so conferred.

15                   **J. Rental Housing Trust Fund**

16       **§201H-GGGG Definitions.** As used in this subpart, unless  
17 a different meaning is clearly required by the context:

18       "Develop" or "development" means the planning, financing,  
19 or acquisition of real and personal property; demolition of  
20 existing structures; clearance of real property; construction,  
21 reconstruction, alteration, or repairing of approaches, streets,  
22 sidewalks, utilities, and services, or other site improvements;





1 construction, reconstruction, repair, remodeling, extension,  
2 equipment, or furnishing of buildings or other structures; or  
3 any combination of the foregoing, of any housing project. It  
4 also includes any undertakings necessary therefor, and the  
5 acquisition of any housing, in whole or in part.

6 "Fund" means the rental housing trust fund established in  
7 this subpart.

8 **§201H-HHHH Rental housing trust fund.** (a) There is hereby  
9 established a rental housing trust fund to be administered by  
10 the corporation.

11 (b) An amount from the fund, to be set by the corporation  
12 and authorized by the legislature, may be used for  
13 administrative expenses incurred by the corporation in  
14 administering the fund; provided that fund moneys may not be  
15 used to finance day-to-day administrative expenses of projects  
16 allotted fund moneys.

17 (c) The following may be deposited into the fund:  
18 appropriations made by the legislature, private contributions,  
19 repayment of loans, interest, other returns, and moneys from  
20 other sources.

21 (d) The fund shall be used to provide loans or grants for  
22 the development, pre-development, construction, acquisition,



1 preservation, and substantial rehabilitation of rental housing  
2 units. Permitted uses of the fund may include but are not  
3 limited to planning, design, land acquisition, costs of options,  
4 agreements of sale, downpayments, equity financing, capacity  
5 building of nonprofit housing developers, or other housing  
6 development services or activities as provided in rules adopted  
7 by the corporation pursuant to chapter 91. The rules may  
8 provide for a means of recapturing loans or grants made from the  
9 fund if a rental housing project financed under the fund is  
10 refinanced or sold at a later date. The rules may also provide  
11 that moneys from the fund shall be leveraged with other  
12 financial resources to the extent possible.

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

16 (1) Projects or units in projects that are allocated  
17 low-income housing credits pursuant to the state  
18 housing credit ceiling under section 42(h) of the  
19 Internal Revenue Code of 1986, as amended, or projects  
20 or units in projects that are funded by programs of  
21 the United States Department of Housing and Urban



1           Development and United States Department of  
2           Agriculture Rural Development wherein:  
3           (A)   At least fifty per cent of the available units  
4                are for persons and families with incomes at or  
5                below eighty per cent of the median family income  
6                of which at least five per cent of the available  
7                units are for persons and families with incomes  
8                at or below thirty per cent of the median family  
9                income; and  
10           (B)   The remaining units are for persons and families  
11                with incomes at or below one hundred per cent of  
12                the median family income;  
13           provided that the corporation may establish rules to  
14           ensure full occupancy of fund projects; and  
15           (2)   Mixed-income rental projects or units in a  
16                mixed-income rental project wherein all of the  
17                available units are for persons and families with  
18                incomes at or below one hundred forty per cent of the  
19                median family income.  
20           (f)   The corporation shall submit an annual report to the  
21           legislature no later than twenty days prior to the convening of  
22           each regular session describing the projects funded and, with



1 respect to rental housing projects targeted for persons and  
2 families with incomes at or below thirty per cent of the median  
3 family income, its efforts to develop those rental housing  
4 projects, a description of proposals submitted for this target  
5 group and action taken on the proposals, and any barriers to  
6 developing housing units for this target group.

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

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

19 (i) For the period commencing July 1, 2005, through  
20 June 30, 2007, the fund may be used to provide grants for rental  
21 units set aside for persons and families with incomes at or  
22 below thirty per cent of the median family income in any project



1 financed in whole or in part by the fund in proportion of those  
 2 units to the total number of units in the project. At the  
 3 conclusion of the period described in this subsection, the  
 4 corporation shall report to the legislature on the number and  
 5 use of grants provided and whether the grants were an effective  
 6 use of the funds for purposes of developing rental housing for  
 7 families at or below thirty per cent of the median family  
 8 income.

9       **§201H-IIII Eligible applicants for funds.** Eligible  
 10 applicants for funds shall include nonprofit and for-profit  
 11 organizations, limited liability companies, partnerships, and  
 12 government agencies, who are qualified in accordance with rules  
 13 adopted by the corporation pursuant to chapter 91.

14       **§201H-JJJJ Eligible projects.** (a) Activities eligible  
 15 for assistance from the fund shall include but not be limited  
 16 to:

- 17       (1) New construction, rehabilitation, or preservation of
- 18             low-income rental housing units that meet the criteria
- 19             for eligibility described in subsection (c);
- 20       (2) The leveraging of moneys with the use of fund assets;
- 21       (3) Pre-development activity grants or loans to nonprofit
- 22             organizations; and



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

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

5 (1) Multifamily units;

6 (2) Attached single-family units;

7 (3) Apartments;

8 (4) Townhouses;

9 (5) Housing units above commercial or industrial space;

10 (6) Single room occupancy units;

11 (7) Accessory apartment units;

12 (8) Employee housing;

13 (9) United States Department of Housing and Urban  
14 Development mixed finance development of public  
15 housing units; and

16 (10) Other types of units meeting the criteria for  
17 eligibility set forth in subsection (c).

18 (c) The corporation shall establish an application process  
19 for fund allocation that gives preference to projects meeting  
20 the following criteria that are listed in descending order of  
21 priority:

22 (1) Serve the original target group;



1 (2) Provide at least five per cent of the total number of  
2 units for persons and families with incomes at or  
3 below thirty per cent of the median family income;

4 (3) Provide the maximum number of units for persons or  
5 families with incomes at or below eighty per cent of  
6 the median family income;

7 (4) Are committed to serving the target group over a  
8 longer period of time;

9 (5) Increase the integration of income levels of the  
10 immediate community area;

11 (6) Meet the geographic needs of the target group of the  
12 proposed rental housing project, such as proximity to  
13 employment centers and services; and

14 (7) Have favorable past performance in developing, owning,  
15 managing, or maintaining affordable rental housing.

16 The corporation may include other criteria as it deems  
17 necessary to carry out the purposes of this subpart.

18 If the corporation, after applying the process described in  
19 this subsection, finds a nonprofit project equally ranked with a  
20 for-profit or government project, the corporation shall give  
21 preference to the nonprofit project in allotting fund moneys.





1 Nothing in sections 37-31 to 37-41 shall require the proceeds of  
2 the revolving funds identified in subparts I and J of part III,  
3 or sections 201H-HH, 201H-II, 201H-III, or 516-44 to be  
4 reappropriated annually.

5 **§201H-MMMM Additional powers.** The powers conferred upon  
6 the corporation by this subpart shall be in addition and  
7 supplemental to the powers conferred by any other law, and  
8 nothing in this part shall be construed as limiting any powers,  
9 rights, privileges, or immunities so conferred."

10 PART V

11 SECTION 6. Section 201H-1, Hawaii Revised Statutes, is  
12 amended to read as follows:

13 "[+]§201H-1[+] **Definitions.** The following terms, wherever  
14 used or referred to in this chapter, shall have the following  
15 respective meanings, unless a different meaning clearly appears  
16 from the context:

17 [~~"Administration" means the Hawaii housing finance and~~  
18 ~~development administration.]~~

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

21 "Bonds" means any bonds, interim certificates, notes,  
22 debentures, participation certificates, pass-through



1 certificates, mortgage-backed obligations, or other evidences of  
2 indebtedness of the [~~administration~~] corporation issued pursuant  
3 to this chapter.

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

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

14 "Corporation" means the Hawaii housing finance and  
15 development corporation.

16 "Dwelling", "dwelling unit", or "unit" means any structure  
17 or room[~~r~~] for sale, lease, or rent, that provides shelter.

18 [~~"Elder" or "elderly" means a person who is a resident of~~  
19 ~~the State and has attained the age of sixty-two years.~~

20 [~~"Elder or elderly households" means households in which at~~  
21 ~~least one member is at least sixty-two years of age, the spouse~~  
22 ~~or partner of that member has attained the age of majority, and~~



1 ~~the remaining members have attained the age of fifty-five years~~  
2 ~~at the time of application to a public housing project. A live-~~  
3 ~~in aide shall cease to be a resident therein upon the recovery~~  
4 ~~of, or removal from the project of, the elder.~~

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

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

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

18 "Federal government" includes the United States and any  
19 agency or instrumentality, corporate or otherwise, of the United  
20 States.



1 "Government" or "government agency" includes the State and  
2 the United States and any political subdivision, agency, or  
3 instrumentality, corporate or otherwise, of either of them.

4 "Household member" means a person who:

- 5 (1) Is a co-applicant; or
- 6 (2) Will reside in the dwelling unit purchased or leased  
7 from the corporation.

8 "Housing project" or "project" [~~includes~~]:

- 9 (1) Includes all real and personal property, buildings and  
10 improvements, commercial spaces, lands for farming and  
11 gardening, and community facilities acquired or  
12 constructed or to be acquired or constructed, and all  
13 tangible or intangible assets held or used in  
14 connection with the housing project~~[ ]~~; and
- 15 (2) May [~~The term "housing project" or "project" may~~] also  
16 be applied to the planning of the buildings and  
17 improvements, the acquisition of property by purchase,  
18 lease, or otherwise, the demolition of existing  
19 structures, the construction, reconstruction,  
20 alteration, and repair of the improvements, and all  
21 other work in connection therewith.



1 "Land" or "property" includes vacant land or land with site  
2 improvements, whether partially or entirely finished in  
3 accordance with governmental subdivision standards, or with  
4 complete dwellings.

5 [~~"Live-in aide" means a person who:~~

6 ~~(1) Is eighteen years of age or older;~~

7 ~~(2) Is living in the unit solely to assist the elder or  
8 elderly person in daily living activities, including~~

9 ~~bathing, meal preparation and delivery, medicinal  
10 care, transportation, and physical activities;~~

11 ~~(3) Is not legally obligated to support the elder or  
12 elderly person; and~~

13 ~~(4) Is verified by the administration as meeting these  
14 requirements.]~~

15 "Mortgage holder" includes the United States Department of  
16 Housing and Urban Development, Federal Housing Administration,  
17 the United States Department of Agriculture, or other federal or  
18 state agency engaged in housing activity, [~~Administrator of]~~  
19 United States Department of Veterans Affairs, Federal National  
20 Mortgage Association, Government National Mortgage Association,  
21 Federal Home Loan Mortgage Corporation, private mortgage lender,



1 private mortgage insurer, and their successors, grantees, and  
2 assigns.

3 "Mortgage lender" means any bank, trust company, savings  
4 bank, national banking association, savings and loan  
5 association, building and loan association, mortgage banker,  
6 credit union, insurance company, or any other financial  
7 institution, or a holding company for any of the foregoing,  
8 that:

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



1 "Nonprofit organization" means a [~~corporation,~~] corporate  
2 entity, association, or other duly chartered entity that is  
3 registered with the State and has received a written  
4 determination from the Internal Revenue Service that it is  
5 exempt under either section 501(c)(3), section 501(c)(4), or so  
6 much of section 501(c)(2) as applied to title holding  
7 [~~corporations~~] entities that turn over their income to  
8 organizations that are exempt under either section 501(c)(3) or  
9 501(c)(4), of the Internal Revenue Code of 1986, as amended.

10 "Obligee of the [~~administration~~] corporation" or "obligee"  
11 includes any bondholder, trustee or trustees for any  
12 bondholders, any lessor demising property to the  
13 [~~administration~~] corporation used in connection with a housing  
14 project, or any assignee or assignees of the lessor's interest  
15 or any part thereof, and the United States, when it is a party  
16 to any contract with the [~~administration.~~] corporation.

17 "Real property" includes lands, land under water,  
18 structures, and any and all easements, franchises, and  
19 incorporeal hereditaments and every estate and right therein,  
20 legal and equitable, including terms for years and liens by way  
21 of judgment, mortgage, or otherwise.



1 "Trustee" means a national or state bank or trust company  
2 located within or outside the State that enters into a trust  
3 indenture.

4 "Trust indenture" means an agreement by and between the  
5 ~~[administration]~~ corporation and the trustee, which sets forth  
6 the duties of the trustee with respect to the bonds, the  
7 security therefor, and other provisions as deemed necessary or  
8 convenient by the corporation to secure the bonds."

9 SECTION 7. Section 201H-2, Hawaii Revised Statutes, is  
10 amended to read as follows:

11 "~~[+]§201H-2[+]~~ **Hawaii housing finance and development**  
12 ~~[administration,]~~ corporation; establishment, staff. (a) There  
13 is established the Hawaii housing finance and development  
14 ~~[administration]~~ corporation to be placed within the department  
15 of business, economic development, and tourism for  
16 administrative purposes only. The ~~[administration]~~ corporation  
17 shall be a public body and a body corporate and politic.

18 (b) The ~~[administration]~~ corporation shall employ, exempt  
19 from chapter 76 and section 26-35(a)(4), an executive director  
20 and an executive assistant. The executive director shall be  
21 paid a salary not to exceed eighty-five per cent of the salary  
22 of the director of human resources development. The executive





1 assistant shall be paid a salary not to exceed ninety per cent  
2 of the executive director's salary. The [~~administration~~]  
3 corporation may employ, subject to chapter 76, technical experts  
4 and officers, agents, and employees, permanent and temporary, as  
5 required. The [~~administration~~] corporation may also employ  
6 officers, agents, and employees, prescribe their duties and  
7 qualifications, and fix their salaries, not subject to  
8 chapter 76, when in the determination of the [~~administration,~~]  
9 corporation, the services to be performed are unique and  
10 essential to the execution of the functions of the  
11 [~~administration.~~] corporation. The [~~administration~~] corporation  
12 may call upon the attorney general for legal services as it may  
13 require. The [~~administration~~] corporation may delegate to one  
14 or more of its agents or employees its powers and duties as it  
15 deems proper."

16 SECTION 8. Section 201H-3, Hawaii Revised Statutes, is  
17 amended to read as follows:

18 "[~~+~~]**\$201H-3**[~~+~~] **Board; establishment, functions, duties.**

19 (a) There is created a board of directors of the Hawaii housing  
20 finance and development [~~administration~~] corporation consisting  
21 of nine members, of whom six shall be public members appointed  
22 by the governor as provided in section 26-34. At least four of



1 the public members shall have knowledge and expertise in public  
2 or private [~~finance~~] financing and development of affordable  
3 housing. Public members shall be appointed from each of the  
4 counties of Honolulu, Hawaii, Maui, and Kauai. At least one  
5 public member shall represent community advocates for low-income  
6 housing, affiliated with private nonprofit organizations that  
7 serve the residents of low-income housing. The public members  
8 of the board shall serve four-year staggered terms; provided  
9 that the initial appointments shall be as follows:

- 10 (1) Two members to be appointed for four years;  
11 (2) Two members to be appointed for three years; and  
12 (3) Two members to be appointed for two years.

13 The director of business, economic development, and tourism and  
14 the director of finance, or their designated representatives, and  
15 a representative of the governor's office, shall be [~~an~~] ex  
16 officio voting [~~member.~~] members. The [~~administration~~]  
17 corporation shall be headed by the board.

18 (b) The board of directors shall select a chairperson and  
19 vice chairperson from among its members; provided that the  
20 chairperson shall be a public member. The director of business,  
21 economic development, and tourism, director of finance, and the



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

3 (c) Five members shall constitute a quorum, whose  
4 affirmative vote shall be necessary for all actions by the  
5 ~~[administration.]~~ corporation. The members shall receive no  
6 compensation for services, but shall be entitled to necessary  
7 expenses, including travel expenses, incurred in the performance  
8 of their duties."

9 SECTION 9. Section 201H-7, Hawaii Revised Statutes, is  
10 amended to read as follows:

11 "~~[†]~~**\$201H-7**~~[†]~~ **Housing research.** (a) The  
12 ~~[administration]~~ corporation may study the plans of any  
13 government ~~[in relation to the problem of]~~ regarding the  
14 clearing, replanning, or ~~[reconstructing]~~ reconstruction of an  
15 area ~~[in which]~~ where unsafe or unsanitary ~~[public]~~ dwelling or  
16 ~~[public]~~ housing conditions exist.

17 (b) The ~~[administration]~~ corporation may purchase  
18 materials for the development of land and the construction of  
19 dwelling units in the manner it concludes to be most conducive  
20 to lower costs, including purchase from other states or from  
21 foreign countries for drop shipment in the State or on cost-plus



1 contracts for materials with persons or firms doing business in  
2 the State, or otherwise.

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

- 7 (1) Sociocultural investigation of housing and community  
8 utilization, preferences, or needs of residents within  
9 the housing need classification of the housing  
10 functional plan;
- 11 (2) Development of technology for the application of  
12 innovative building systems or materials, to provide  
13 energy or resource conservation or cost savings in the  
14 construction or operation of a housing project;
- 15 (3) Investigation of the applicability of locally-produced  
16 building materials and systems to dwelling unit  
17 construction;
- 18 (4) Investigation of new forms of project construction,  
19 maintenance, operation, financing, or ownership,  
20 involving tenants, homeowners, financing agencies, and  
21 others; or



1 (5) Other necessary or appropriate research that may lower  
2 the long-term costs of housing, conserve resources, or  
3 create communities best suited to the needs of  
4 residents.

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

10 SECTION 10. Section 201H-12, Hawaii Revised Statutes, is  
11 amended to read as follows:

12 "[~~+~~]**§201H-12**[~~+~~] **Development of property.** (a) The  
13 [~~administration,~~] corporation, in its own behalf or on behalf of  
14 any federal, state, or county agency, may:

- 15 (1) Clear, improve, and rehabilitate property;
- 16 (2) Plan, develop, construct, and finance housing  
17 projects; and
- 18 (3) In cooperation with the department of education and  
19 department of accounting and general services, plan  
20 educational facilities and related infrastructure as a  
21 necessary and integral part of its [~~public~~] housing  
22 projects, using all its innovative powers toward



1 achieving that end expeditiously and economically;  
2 provided that the educational facilities comply with  
3 the department of education's educational  
4 specifications, timelines, and siting requirements.

5 (b) The [~~administration~~] corporation may develop public  
6 land in an agricultural district subject to the prior approval  
7 of the land use commission, when developing lands greater than  
8 fifteen acres in size, and public land in a conservation  
9 district subject to the prior approval of the board of land and  
10 natural resources. The [~~administration~~] corporation shall not  
11 develop state monuments [~~or~~], historical sites, or parks. When  
12 the [~~administration~~] corporation proposes to develop public  
13 land, it shall file with the department of land and natural  
14 resources a petition setting forth [~~such~~] the purpose[-] for the  
15 development. The petition shall be conclusive proof that the  
16 intended use is a public use superior to that which the land has  
17 been appropriated.

18 (c) The [~~administration~~] corporation may develop or assist  
19 in the development of federal lands with the approval of  
20 appropriate federal authorities.

21 (d) The [~~administration~~] corporation shall not develop any  
22 public land where the development may endanger the receipt of



1 any federal grant, impair the eligibility of any [~~public body~~]  
2 government agency for a federal grant, prevent the participation  
3 of the federal government in any government program, or impair  
4 any covenant between the government and the holder of any bond  
5 issued by the government.

6 (e) The [~~administration~~] corporation may contract or  
7 sponsor with any county, housing authority, or person, subject  
8 to the availability of funds, an experimental or demonstration  
9 housing project designed to meet the [~~needs:—of~~] needs of  
10 elders; the disabled; displaced or homeless persons; low- and  
11 moderate-income persons; teachers or other government employees;  
12 or university and college students and faculty."

13 SECTION 11. Section 201H-14, Hawaii Revised Statutes, is  
14 amended to read as follows:

15 "[+]§201H-14[+] **Contracts with the federal government.**

16 (a) The [~~administration~~] corporation may:

- 17 (1) Borrow money or accept grants from the federal  
18 government for or in aid of any housing project that  
19 the [~~administration~~] corporation is authorized to  
20 undertake;
- 21 (2) Take over any land acquired by the federal government  
22 for the construction or operation of a housing project



1 with the approval of the federal government or at the  
2 request of the federal government;

3 (3) Procure insurance or guarantees from the federal  
4 government ~~[of]~~ for the payment of any debts or parts  
5 thereof secured by mortgages made or held by the  
6 ~~[administration]~~ corporation on any property included  
7 in any housing project; ~~[and]~~

8 (4) Comply with any conditions required by the federal  
9 government in any contract for financial  
10 assistance~~[.];~~ and

11 (5) Execute contracts with the federal government.

12 (b) It is the purpose and intent of this ~~[chapter]~~ part  
13 to authorize the ~~[administration]~~ corporation to do any and all  
14 things necessary to secure the financial aid and the cooperation  
15 of the federal government in the undertaking, construction,  
16 maintenance, and operation of any housing project that the  
17 ~~[administration]~~ corporation is empowered to undertake."

18 PART VI

19 SECTION 12. The purpose of this part is to:

20 (1) Make technical and conforming amendments to ensure  
21 that references to chapter throughout the Hawaii



1 Revised Statutes are amended to reflect the "Hawaii  
2 public housing authority";

3 (2) Make technical and conforming amendments to ensure  
4 that references to chapter 201H throughout the Hawaii  
5 Revised Statutes are amended to reflect the "Hawaii  
6 housing finance and development corporation";

7 (3) Transfer appropriate housing functions to the Hawaii  
8 public housing authority; and

9 (4) Amend Act 196, Session Laws of Hawaii 2005, to  
10 transfer appropriate housing functions to the Hawaii  
11 housing finance and development corporation.

12 SECTION 13. Section 53-1, Hawaii Revised Statutes, is  
13 amended by amending the definition of "housing and community  
14 development corporation of Hawaii", "corporation", "government",  
15 "federal government", and "real property" to read as follows:

16 "~~["Housing and community development corporation of~~  
17 ~~Hawaii"],~~ "Hawaii housing finance and development corporation",  
18 "corporation", "government", "federal government", and "real  
19 property" have the respective meanings set forth for these terms  
20 in chapter [~~201G.~~] 201H."

21 SECTION 14. The legislative reference bureau shall prepare  
22 proposed legislation that substitutes references made to



1 "chapter 201G" or any specific section or part of chapter 201G,  
2 as the case may be, in sections 10-13.6, 26-14.6, 29-15.5, 46-  
3 1.5, 46-4, 46-15.1, 46-15.2, 53-1, 53-17, 104-2, 171-18.5, 171-  
4 19.5, 201H-10, 205-4, 206-1, 237-23, 237-29, 247-7, 321-15.6,  
5 346-152, 467-2, 480-11, 514A-14.5, 514A-108, 514B-99.5, 516-1,  
6 516-31, 516-104, and 521-7, Hawaii Revised Statutes, with the  
7 corresponding chapter, part, or section number of the new law  
8 created and codified under this Act, as appropriate.

9 The legislative reference bureau shall submit the proposed  
10 legislation to the legislature not later than twenty days prior  
11 to the convening of the 2007 regular session.

12 SECTION 15. Act 196, Session Laws of Hawaii 2005, is  
13 amended by amending sections 20, 21, 22, 23, 24, and 25 by  
14 substituting the words "Hawaii housing finance and development  
15 corporation", or like term, wherever the words "Hawaii housing  
16 finance and development administration", or like term, appears,  
17 as the context requires.

18 SECTION 16. Act 196, Session Laws of Hawaii 2005, is  
19 amended by amending section 26 to read as follows:

20 "SECTION 26. (a) All references to the "housing and  
21 community development corporation of Hawaii", or "corporation"  
22 or similar terms as the case may be in [~~chapter 201G, and~~]



1 sections 27-11, 53-6, 76-16, 209-16(b), 290-1(b), 290-8, and  
2 521-7, Hawaii Revised Statutes, shall be amended to "Hawaii  
3 public housing [~~administration~~,] authority",  
4 [~~"administration~~,] authority", or similar terms, as the case  
5 may be, as the context requires.

6 (b) All references to the "housing and community  
7 development corporation of Hawaii", or "corporation", or similar  
8 terms as the case may be in chapter 516, and sections [~~10-2~~,]  
9 10-13.6, 36-24, 46-15.1, 53-17, 53-22(e), 111-8, 111-9, 171-2,  
10 171-18.5, 171-50.2, 206E-15, 209-16(a), 209-17, 237-29, 247-3,  
11 [~~290-1(e)~~,] 519-2(b), and 519-3(b), Hawaii Revised Statutes,  
12 shall be amended to [~~"Hawaii housing finance and development  
13 administration", "administration",] "Hawaii housing finance and  
14 development corporation", "corporation", or similar terms, as  
15 the case may be, as the context requires."~~

16 SECTION 17. Act 196, Session Laws of Hawaii 2005, is  
17 amended by amending section 41 to read as follows:

18 "SECTION 41. This Act shall take effect on July 1, 2005;  
19 provided that:

20 (1) Sections 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, and  
21 30 shall take effect on July 1, 2006;



1           (2) Section 37 shall take effect upon the date specified  
 2           by the governor pursuant to the notice provided under  
 3           section 36 of this Act if, prior to July 1, 2007, the  
 4           United States Department of Housing and Urban  
 5           Development declares the housing and community  
 6           development corporation of Hawaii to be in substantial  
 7           default of the Memorandum of [~~Understanding~~] Agreement  
 8           dated September 30, 2004; and

9           (3) Sections 36 and 37 shall be repealed on [~~July 1, 2007,~~  
 10          ~~and~~] July 1, 2007.

11          [~~(4) Section 5 shall be repealed on June 30, 2010, and~~  
 12          ~~section 201G-432, Hawaii Revised Statutes, shall be~~  
 13          ~~reenacted in the form in which it read on the day~~  
 14          ~~prior to the effective date of this Act.]"~~

15          SECTION 18. Act 204, Session Laws of Hawaii 2005, is  
 16          amended by amending section 2 to read as follows:

17          "SECTION 2. The department of education shall meet with  
 18          the [~~housing and community development corporation of Hawaii~~]  
 19          Hawaii public housing authority to discuss the transfer of  
 20          management of the teacher housing program to the department of  
 21          education. The department of education shall prepare a report  
 22          detailing the feasibility of the transfer and the department of



1 education's capacity to assume the [~~corporation's~~] authority's  
2 responsibilities.

3 The department of education shall submit its findings to  
4 the legislature no later than twenty days prior to the convening  
5 of the regular session of 2007."

6 SECTION 19. Act 204, Session Laws of Hawaii 2005, is  
7 amended by amending section 4 to read as follows:

8 "SECTION 4. All rights, powers, functions, and duties with  
9 respect to the administration of teachers' housing [~~is~~] are  
10 transferred from the [~~housing and community development~~  
11 ~~corporation of Hawaii~~] Hawaii public housing authority to the  
12 department of education.

13 All rules, policies, procedures, guidelines, and other  
14 material adopted or developed by the [~~corporation~~] authority  
15 with respect to teachers' housing shall remain in full force and  
16 effect until amended or repealed by the department of education.  
17 In the interim, every reference to the [~~corporation~~] authority  
18 or chair of the board of directors of the [~~corporation~~]  
19 authority in those rules, policies, procedures, guidelines, and  
20 other material is amended to refer to the department of  
21 education, or the superintendent, or the chair of the board of  
22 education, as the case may be.



1 All deeds, leases, contracts, loans, agreements, permits,  
2 or other documents executed or entered into by or on behalf of  
3 the [~~corporation~~] authority pursuant to the Hawaii Revised  
4 Statutes that are reenacted or made applicable to the department  
5 of education by this Act shall remain in full force and effect.  
6 Effective July 1, 2008, every reference to the [~~housing and~~  
7 ~~community development corporation of Hawaii~~] Hawaii public  
8 housing authority or the chair of the board of directors of the  
9 [~~corporation~~] authority, with respect to teachers' housing,  
10 shall be construed as a reference to the department of  
11 education, or the superintendent, or the chair of the board of  
12 education, as the case may be.

13 All appropriations, records, equipment, machines, files,  
14 supplies, contracts, books, papers, documents, maps, and other  
15 personal property made, used, acquired, or held by the  
16 [~~corporation~~] authority, with respect to teachers' housing that  
17 relate to the functions transferred to the department of  
18 education, shall be transferred with the functions to which they  
19 relate."

20 SECTION 20. All rights, powers, functions, and duties of  
21 the housing and community development corporation of Hawaii  
22 under part II of chapter 201G, Hawaii Revised Statutes, relating



1 to public housing, except for subpart F, and in subparts D and M  
2 of part III of chapter 201G, Hawaii Revised Statutes, relating  
3 to housing tenants, and in part IV of chapter 201G, Hawaii  
4 Revised Statutes, relating to homeless assistance, are  
5 transferred to the Hawaii public housing authority.

6 SECTION 21. All officers and employees whose functions are  
7 transferred by this Act shall be transferred with their  
8 functions and shall continue to perform their regular duties  
9 upon their transfer, subject to the state personnel laws and  
10 this Act.

11 No officer or employee of the State having tenure shall  
12 suffer any loss of salary, seniority, prior service credit,  
13 vacation, sick leave, or other employee benefit or privilege as  
14 a consequence of this Act, and such officer or employee may be  
15 transferred or appointed to a civil service position without the  
16 necessity of examination; provided that the officer or employee  
17 possesses the minimum qualifications for the position to which  
18 transferred or appointed; and provided that subsequent changes  
19 in status may be made pursuant to applicable civil service and  
20 compensation laws.

21 An officer or employee of the State who does not have  
22 tenure and who may be transferred or appointed to a civil



1 service position as a consequence of this Act shall become a  
 2 civil service employee without the loss of salary, seniority,  
 3 prior service credit, vacation, sick leave, or other employee  
 4 benefits or privileges and without the necessity of examination;  
 5 provided that such officer or employee possesses the minimum  
 6 qualifications for the position to which transferred or  
 7 appointed.

8 If an office or position held by an officer or employee  
 9 having tenure is abolished, the officer or employee shall not  
 10 thereby be separated from public employment, but shall remain in  
 11 the employment of the State with the same pay and classification  
 12 and shall be transferred to some other office or position for  
 13 which the officer or employee is eligible under the personnel  
 14 laws of the State as determined by the head of the department or  
 15 the governor.

16 SECTION 22. All appropriations, records, equipment,  
 17 machines, files, supplies, contracts, books, papers, documents,  
 18 maps, and other personal property heretofore made, used,  
 19 acquired, or held by the housing and community development  
 20 corporation of Hawaii relating to the functions transferred to  
 21 the Hawaii public housing authority shall be transferred with  
 22 the functions to which they relate.





1 SECTION 23. All rules, policies, procedures, guidelines,  
2 and other material adopted or developed by the housing and  
3 community development corporation of Hawaii to implement  
4 provisions of the Hawaii Revised Statutes that are made  
5 applicable to the Hawaii public housing authority by this Act,  
6 shall remain in full force and effect until amended or repealed  
7 by the Hawaii public housing authority, pursuant to chapter 91,  
8 Hawaii Revised Statutes.

9 In the interim, every reference to the housing and  
10 community development corporation of Hawaii or the executive  
11 director of the housing and community development corporation of  
12 Hawaii in those rules, policies, procedures, guidelines, and  
13 other material is amended to refer to the Hawaii public housing  
14 authority or the executive director of the Hawaii public housing  
15 authority, as appropriate.

16 SECTION 24. All rental agreements made by the housing and  
17 community development corporation of Hawaii prior to July 1,  
18 2006 that are made applicable to the Hawaii public housing  
19 authority by this Act shall remain in full force and effect  
20 until the completion of their lease terms.



1 PART VII

2 SECTION 25. There is appropriated out of the general  
3 revenues of the State of Hawaii the sum of \$1, or so much  
4 thereof as may be necessary for fiscal year 2006-2007, to be  
5 expended to purchase a computer network, printers, and faxes for  
6 the Hawaii housing finance and development corporation.

7 The sum appropriated shall be expended by the Hawaii  
8 housing finance and development corporation for the purposes of  
9 this Act.

10 SECTION 26. There is appropriated out of the general  
11 revenues of the State of Hawaii the sum of \$1, or so much  
12 thereof as may be necessary for fiscal year 2006-2007, as  
13 follows:

- 14 (1) One full-time equivalent (1.00 FTE) executive director  
15 position;
- 16 (2) One full-time equivalent (1.00 FTE) executive  
17 assistant position;
- 18 (3) One full-time equivalent (1.00 FTE) secretary II  
19 position;
- 20 (4) One full-time equivalent (1.00 FTE) clerk III  
21 position;



1 (5) One full-time equivalent (1.00 FTE) account clerk V  
2 position; and

3 (6) One full-time equivalent (1.00 FTE) secretary III  
4 position.

5 The sum appropriated shall be expended by the Hawaii  
6 housing finance and development corporation for the purposes of  
7 this Act.

8 PART VIII

9 SECTION 27. There is appropriated out of the general  
10 revenues of the State of Hawaii the sum of \$1, or so much  
11 thereof as may be necessary for fiscal year 2006-2007, as  
12 follows:

13 (1) One full-time equivalent (1.00 FTE) clerk typist II  
14 position;

15 (2) One full-time equivalent (1.00 FTE) account clerk III  
16 position; and

17 (3) One full-time equivalent (1.00 FTE) clerk typist III  
18 position.

19 The sum appropriated shall be expended by the Hawaii public  
20 housing authority for the purposes of this Act.

21 SECTION 28. The director of finance is authorized to issue  
22 general obligation bonds in the sum of \$1, or so much thereof as



1 may be necessary, and the same sum, or so much thereof as may be  
2 necessary, is appropriated for fiscal year 2006-2007 for the  
3 purpose of renovations to the Hawaii public housing authority's  
4 School street office.

5 The sum appropriated shall be expended by the Hawaii public  
6 housing authority for the purposes of this Act.

7 PART IX

8 SECTION 29. Chapter 201G, Hawaii Revised Statutes, is  
9 repealed.

10 SECTION 30. Act 227, Session Laws of Hawaii 2002, is  
11 repealed.

12 SECTION 31. If any part of this Act is found to be in  
13 conflict with federal requirements that are a prescribed  
14 condition for the allocation of federal funds to the State, the  
15 conflicting part of this Act is inoperative solely to the extent  
16 of the conflict and with respect to the agencies directly  
17 affected, and this finding does not affect the operation of the  
18 remainder of this Act in its application to the agencies  
19 concerned. The rules under this Act shall meet federal  
20 requirements that are a necessary condition to the receipt of  
21 federal funds by the State.



1 SECTION 32. If any provision of this Act, or the  
2 application thereof to any person or circumstance is held  
3 invalid, the invalidity does not affect other provisions or  
4 applications of the Act, which can be given effect without the  
5 invalid provision or application, and to this end the provisions  
6 of this Act are severable.

7 SECTION 33. In codifying the new sections added by  
8 sections 3 through 5 of this Act, the revisor of statutes shall  
9 substitute appropriate section numbers for the letters used in  
10 designating the new sections in this Act.

11 SECTION 34. Statutory material to be repealed is bracketed  
12 and stricken. New statutory material is underscored.

13 SECTION 35. This Act shall take effect on July 1, 2050;  
14 provided that subpart B of part IV relating to housing for  
15 teachers in section 2 of this Act shall be repealed on July 1,  
16 2008.



HB 2966, SD2

**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. (SD2)

