
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.



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PART I

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

"CHAPTER

HAWAII PUBLIC HOUSING AUTHORITY

PART I. GENERAL POWERS

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

"Authority" means the Hawaii public housing authority.

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

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

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

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

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 the age of majority, and the remaining
14 members have attained the age of fifty-five years at the time of
15 application to the project. A live-in aide shall cease to be a
16 resident therein upon the recovery of, or removal from the
17 project of, the elder.

18 "Elder or elderly housing" means:

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

21 (2) Housing provided under any state or federal program
22 that the Secretary of the United States Department of



1 Housing and Urban Development determines is
2 specifically designed and operated to assist elder or
3 elderly persons, or if the Secretary makes a
4 determination, the project may also be occupied by
5 persons with disabilities who have reached the age of
6 majority.

7 "Executive director" means the executive director of the
8 Hawaii public housing authority.

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

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

15 "Household member" means a person who:

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

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



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

2 (1) Is eighteen years of age or older;

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

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

9 (4) Is verified by the authority as meeting these
10 requirements.

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

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



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

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

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

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

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

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

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

18 "Trustee" means a national or state bank or trust company
19 located within or outside the State which enters into a trust
20 indenture.

21 "Trust indenture" means an agreement by and between the
22 authority and the trustee, which sets forth the duties of the



1 or more of its agents or employees the powers and duties as it
2 deems proper.

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

4 There is created a board consisting of nine members, of whom
5 seven shall be public members appointed by the governor as
6 provided in section 26-34. Public members shall be appointed
7 from each of the counties of Honolulu, Hawaii, Maui, and Kauai.
8 At least one public member shall be a person who is directly
9 assisted by the authority under the federal low-rent public
10 housing or federal section 8 tenant-based housing assistance
11 payments program while serving on the board. The public members
12 of the board shall serve four-year staggered terms; provided
13 that the initial appointments shall be as follows: three
14 members to be appointed for four years; two members to be
15 appointed for three years; and two members to be appointed for
16 two years. The director of human services, or a designated
17 representative, and a representative of the governor's office,
18 shall be ex officio voting members. The authority shall be
19 headed by the board.

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



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

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

4 (1) Sue and be sued;

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

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

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

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

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



1 and represent residents of federal public housing projects and
2 recipients of section 8 tenant-based assistance administered by
3 the authority.

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

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

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

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



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

2 (3) Authorized members of the assisted household.

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

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

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

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



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

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

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

14 **§ -9 Cooperative agreements with other governmental**
15 **agencies.** (a) The authority may:

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

21 (2) Arrange or enter into agreements with any government
22 for the acquisition by the government of property,



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

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

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

19 (b) For the purpose of aiding and cooperating in the
20 planning, construction, and operation of public housing projects
21 located within their respective territorial boundaries, the



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

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

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

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

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

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

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

21 (3) Enter into agreements with the authority with respect
22 to the exercise of their powers relating to the



1 repair, closing, or demolition of unsafe, unsanitary,
2 or unfit dwellings;

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

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

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

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

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

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

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

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



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

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

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

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



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

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

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

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



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

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

9 Notwithstanding any provision to the contrary, whenever the bids
10 submitted for any development or rehabilitation project
11 authorized pursuant to this chapter exceed the amount of funds
12 available for that project, the authority, with the approval of
13 the governor, may disregard the bids and enter into an agreement
14 to carry out the project, or undertake the project or
15 participate in the project under the agreement; provided that
16 the total cost of the agreement and the authority's
17 participation, if any, shall not exceed the amount of funds
18 available for the project; provided further that if the
19 agreement is with a nonbidder, the scope of the project under
20 agreement shall remain the same as that for which bids were
21 originally requested.



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

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

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

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

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

18 § **-15 Eminent domain, exchange or use of public**
19 **property.** The authority may acquire any real property,
20 including fixtures and improvements, or interest therein,
21 through voluntary negotiation; through exchange of land in
22 accordance with section 171-50, provided that the public land to



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

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



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

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

5 (1) Borrow money or accept grants from the federal
6 government for or in aid of any public housing project
7 that the authority is authorized to undertake;

8 (2) Take over any land acquired by the federal government
9 for the construction or operation of a public housing
10 project;

11 (3) Take over, lease, or manage any public housing project
12 constructed or owned by the federal government, and to
13 these ends, enter into contracts, mortgages, leases,
14 or other agreements as the federal government may
15 require including agreements that the federal
16 government shall have the right to supervise and
17 approve the construction, maintenance, and operation
18 of the public housing project;

19 (4) Procure insurance or guarantees from the federal
20 government of the payment of any debts or parts
21 thereof secured by mortgages made or held by the

1 authority on any property included in any public
2 housing project;

3 (5) Agree to any conditions attached to federal financial
4 assistance relating to the determination of prevailing
5 salaries or wages or payment of not less than
6 prevailing salaries or wages or compliance with labor
7 standards, in the development or administration of
8 projects, and include in any construction contract let
9 in connection with a project, stipulations requiring
10 that the contractor and any subcontractors comply with
11 requirements as to minimum salaries or wages and
12 maximum hours of labor;

13 (6) Comply with any conditions required by the federal
14 government in any contract for financial assistance;
15 and

16 (7) Execute contracts with the federal government.

17 (b) In any contract for annual contributions with the
18 federal government, the authority may obligate itself to convey
19 to the federal government possession of or title to the project
20 to which the contract relates, if a substantial default, as
21 defined by contract, occurs. Notwithstanding any other law to



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

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

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

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



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

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

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

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

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



1 the members thereof to account as if it and they were
2 the trustees of an express trust.

3 § -19 **Subordination of mortgage to agreement with**
4 **government.** The authority may agree in any mortgage made by it
5 that the mortgage shall be subordinate to a contract for the
6 supervision by a government of the operation and maintenance of
7 the mortgaged property and the construction of improvements
8 thereon. In that event, any purchaser or purchasers at a sale
9 of the property of the authority pursuant to a foreclosure of
10 the mortgage or any other remedy in connection therewith shall
11 obtain title subject to the contract.

12 § -20 **Duty to make reports.** Except as otherwise
13 provided by law, the authority shall be responsible for the
14 following reports:

- 15 (1) The authority shall file at least once a year with the
16 governor a report of its activities for the preceding
17 fiscal year;
- 18 (2) The authority shall report to the state comptroller on
19 moneys deposited in depositories other than the state
20 treasury under section 40-81, and rules adopted
21 thereunder;



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

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

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

12 § **-21 Bonds; authorization.** (a) The authority, with
13 the approval of the governor, may issue from time to time bonds
14 (including refunding bonds to pay, retire, or provide for the
15 retirement of bonds previously issued by the authority) in
16 amounts not exceeding the total amount of bonds authorized to be
17 issued by the legislature for any of its corporate purposes.

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

20 (c) The bonds shall be issued in the name of the
21 authority, and not in the name of the State. The final maturity



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

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

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

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

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

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

17 (5) Any combination of the above.

18 (e) Any pledge made by the authority shall create a
19 perfected security interest in the revenues, moneys, or property
20 so pledged and thereafter received by the authority from and
21 after the time that a financing statement with respect to the
22 revenues, moneys, or property so pledged and thereafter received



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

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

19 (g) Neither the members of the authority nor any person
20 executing the bonds shall be liable personally on the bonds by
21 reason of the issuance thereof.



1 § -22 **Bonds; interest rate, price, and sale.** (a) The
2 bonds shall bear interest at rates payable at times that the
3 authority, 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 authority may, subject to the approval of the director of
11 finance and the governor, issue bonds pursuant to
12 section -21, in which the discounted value of the bonds
13 exceeds ten per cent of the issue.

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



1 and rating agency fees; and interest on the bonds for a period
2 determined by the authority.

3 § -23 **Trustee; designation, duties.** (a) The authority
4 may designate a trustee for each issue of bonds secured under
5 the same trust indenture; provided that the trustee shall be
6 approved by the director of finance.

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

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



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

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

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

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

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

20 § -24 **Trust indenture.** (a) A trust indenture may
21 contain covenants and provisions authorized by part III of

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

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

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

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

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

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



1 agreement or any note or other undertaking,
2 obligation, or property securing the payment of the
3 bonds and the use and application of the moneys
4 derived therefrom.

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

11 § **-25 Investment of reserves, etc.** The authority may
12 invest any funds held in reserves or sinking funds or any funds
13 not required for immediate disbursement, including the proceeds
14 of bonds, in property or securities in which the director of
15 finance may legally invest, as provided in section 36-21, except
16 that funds held outside the state treasury may be invested for
17 terms not to exceed thirty-five years. No provisions with
18 respect to the acquisition, operation, or disposition of
19 property by other public bodies shall be applicable to the
20 authority unless the legislature shall specifically so state.

1 § -26 **Security for funds deposited by the authority.**

2 The authority may by resolution provide that all moneys
3 deposited by it shall be secured:

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

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

13 § -27 **Arbitrage provisions; interest rate.** (a) Any
14 other provision of law to the contrary notwithstanding, neither
15 the authority nor the director of finance shall make loans or
16 purchase mortgages with the proceeds of general obligation bonds
17 of the State or from a revolving fund established or maintained
18 from the proceeds of bonds, at a rate of interest or upon terms
19 and conditions which would cause any general obligation bond of
20 the State or any bond to be an "arbitrage bond" within the
21 meaning of that term as defined in the Internal Revenue Code of

1 1986, as amended, and the regulations of the Internal Revenue
2 Service promulgated pursuant thereto.

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

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



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

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

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

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

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

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

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

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

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

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



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

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

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

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

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



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

8 § **-32 Delinquent accounts.** (a) Notwithstanding section
9 40-82, the authority, with the approval of the attorney general,
10 may delete from its accounts receivable records delinquent
11 accounts for vacated units within federal low rent public
12 housing projects that have been delinquent for at least ninety
13 days.

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

16 (c) Before the authority seeks eviction of a tenant due to
17 delinquency in payment of rent, the authority shall comply with
18 the procedures set forth in section -92(b) before proceeding
19 with the eviction hearing.

20 § **-33 Investigatory powers.** (a) The authority may:



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



1 which are dangerous to the public health, morals,
2 safety, or welfare.

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

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

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

17 **A. State Low Income Housing; Administration**

18 **§ -41 Definitions.** The following terms, wherever used
19 or referred to in this subpart, shall have the following
20 respective meanings, unless a different meaning clearly appears
21 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" includes Filipino World
9 War II veterans who served honorably in an active duty status
10 under the command of the United States Armed Forces in the Far
11 East (USAFFE), or within the Philippine Army, the Philippine
12 Scouts, or recognized guerilla units. The Filipino World War II
13 veterans must have: served at any time between September 1,
14 1939, and December 31, 1946; been born in the Philippines; and
15 resided in the Philippines prior to the military service.

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



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

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

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

16 **§ -44 Administration of state low income housing**

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

20 (b) State low income housing projects shall be subject to
21 chapter 521, Hawaii Revised Statutes.



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

6 § -45 **State low income housing revolving fund.** The
7 director of finance shall establish a revolving fund to be known
8 as "the state low income housing revolving fund."
9 Notwithstanding any law to the contrary, moneys received by the
10 authority under or pursuant to this subpart, including refunds,
11 reimbursements, rentals, fees, and charges received from
12 tenants, shall be deposited in the state low income housing
13 revolving fund. Except as otherwise provided in this chapter,
14 the state low income housing revolving fund may be expended by
15 the authority for any and all of the purposes of this subpart,
16 including, without prejudice to the generality of the foregoing,
17 the expenses of management, operation, and maintenance of state
18 low income housing, including but not limited to the cost of
19 insurance, a proportionate share of the administrative expenses
20 of the authority, and the cost of repairs, equipment, and
21 improvement; the acquisition, clearance, and improvement of
22 property; the construction and reconstruction of building sites;



1 the construction, reconstruction, repair, remodeling, extension,
 2 equipment, and furnishing of any state low income housing
 3 project; the development and administration of any state low
 4 income housing project; the payment of rentals; and
 5 administration and other expenses.

6 § -46 Investigatory powers. (a) The authority may:

- 7 (1) Investigate living, dwelling, and housing conditions
 8 and the means and methods of improving those
 9 conditions;
- 10 (2) Enter upon any building or property in order to
 11 conduct investigations or to make surveys or
 12 soundings;
- 13 (3) Conduct examinations and investigations, hear
 14 testimony and take proof under oath at public or
 15 private hearings on any matter material for its
 16 information;
- 17 (4) Issue subpoenas requiring the attendance of witnesses
 18 or the production of books and papers, and order the
 19 examination of witnesses who are unable to attend
 20 before the authority, are excused from attendance, or
 21 by leave of courts as provided by chapter 624, are out
 22 of the State; and



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

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

16 **§ -47 Housing, government aid, political subdivisions.**

17 Any political subdivision may appropriate money for the purposes
18 of meeting any local participation in housing costs or expenses
19 required in order to obtain assistance from the federal
20 government in the development and administration of state low
21 income housing projects and programs under this subpart, or of



1 providing funds for use by the authority in developing and
2 administering state low income housing projects.

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

8 **B. State Low Income Housing; Liens**

9 § -51 **Definitions.** The following terms wherever used or
10 referred to in this subpart shall have the following respective
11 meanings, unless a different meaning clearly appears from the
12 context:

13 "State low income housing project" means and includes any
14 state low income housing project or projects owned, managed,
15 administered, or operated by the authority.

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

20 § -52 **Lien on personalty for rent, etc.** The authority
21 shall have a statutory lien on all personal property, not exempt
22 from execution, belonging to, or in the lawful possession of,

1 every tenant while the personal property is in or upon any state
2 low income housing project, for the amount of its proper charges
3 against the tenant for rent of a room, dwelling accommodation,
4 living quarters, or space in the state low income housing
5 project, or for utilities, facilities, or services in the state
6 low income housing project. The lien shall commence with the
7 tenancy or occupancy of the tenant and continue for one year
8 after the charge or charges are due and owing to the authority.
9 Whenever any tenant fails or refuses to pay the charge or
10 charges after the same are so due and owing, the authority shall
11 have the right and power, acting by its authorized agents or
12 representatives, without process of law and without any
13 liability for the taking, seizure, and retention of the personal
14 property, to take and seize any of the personal property
15 belonging to, or in the lawful possession of, the tenant which
16 is found in or upon the public housing project, and to hold and
17 retain the same, as security for the payment of the charge or
18 charges, until the amount of the charge or charges is paid and
19 discharged. If the charge or charges, so due and owing, are not
20 paid and discharged within thirty days after the taking and
21 seizure, the authority may sell the personal property in the
22 manner provided in section -53.



1 § **-53 Foreclosure of lien, notice, etc.** The lien of the
2 authority upon personal property which has been taken and
3 retained by it as provided in section -52 may be foreclosed
4 by the authority by selling the same at public auction:

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

14 (2) After first giving public notice of the foreclosure
15 and sale at least two times in the county in which the
16 personal property is located. Each notice shall
17 contain a brief description of the personal property;
18 the name of the tenant, if known; the name of the
19 owner of the personal property, if known; the amount
20 of the charge or charges; and the time and place of
21 the sale. Notices of several foreclosures and sales
22 may be combined in one notice; and whenever so



1 combined and given, the expenses of notice and sale
2 shall be a statutory lien upon the property described
3 in the notice in a ratable proportion according to the
4 amount received for each lot of property so noticed
5 for sale.

6 If the tenant fails to pay to the authority within ten days
7 after the mailing of the notice of foreclosure the charge or
8 charges, the authority may sell the property at public auction
9 at the time and place stated in the notice, or at a time or
10 times or place or places to which the sale may be postponed or
11 adjourned at the time and place stated in the notices, and may
12 apply the proceeds thereof to the payment of the charge or
13 charges and the expenses of notice and sale. The balance, if
14 any remaining, shall be paid over to the tenant who formerly
15 owned, or was in possession of, the property. If the balance is
16 not claimed by the tenant within thirty days after the sale,
17 then the balance shall be paid over to the director of finance
18 and it shall be kept by the director in a special deposit for a
19 period not to exceed six months. If claimed by the tenant
20 during that period it is paid over to the tenant. If no claim
21 shall be made during the period, the sum shall become a
22 government realization and be paid into the general fund.



1 § **-54 Sheriff or police to assist.** The authority, in
2 taking, seizing, holding, retaining, or selling any personal
3 property pursuant to sections -52 and -53, may require the
4 assistance of the sheriff or any authorized police officer of
5 any county. Any sheriff or officer, when required shall so
6 assist the authority.

7 § **-55 Existing contracts not impaired.** Sections -52
8 and -53 shall not be construed as to impair or affect the
9 obligation of any contract existing on or before May 9, 1949.

10 § **-56 Lien on abandoned personalty, sale, etc.** Whenever
11 the authority has in its possession for four months after the
12 termination of any residence or occupancy herein mentioned any
13 personal property that has been left in or about any state low
14 income housing project by any person who formerly resided in, or
15 occupied a room, dwelling accommodation, living quarters, or
16 space in the state low income housing project, the authority may
17 sell the same at public auction and apply the proceeds thereof
18 to the payment of its charges for storage of the personal
19 property, and for public notice and sale, and to the payment of
20 other amounts, if any, then due and owing to it from the former
21 resident or occupant for rent or for any utility or service.
22 Before any sale is made, the authority shall first give public



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

15 § -57 **Disposition of surplus proceeds.** After the sale
16 the authority shall apply the proceeds as provided in section
17 -56. The balance, if any remaining, shall be paid over to
18 the former resident or occupant. If the balance is not claimed
19 by the former resident or occupant within thirty days after the
20 sale thereof, then the balance shall be paid over to the
21 director of finance and shall be kept by the director in a
22 special deposit for a period not to exceed six months. If

1 claimed by the former resident or occupant during that period it
2 shall be paid to the former resident or occupant. If no claim
3 is made during the period, the sum shall become a government
4 realization and shall be paid into the general fund.

5 **§ -58 Lien attaches to personalty in possession.**

6 Sections -56 and -57 shall also apply to any personal
7 property which, before May 2, 1949, was left in or about any
8 public housing project, and was taken into the possession of the
9 authority, as herein set forth and provided.

10 **§ -59 Priority of housing lien.** The statutory liens
11 provided for in this subpart shall be preferred and have
12 priority over all other liens or claims and over all attachments
13 or other process.

14 **§ -60 Rights, powers, supplemental.** The rights
15 conferred upon the authority by this subpart shall be in
16 addition and supplemental to the rights or powers conferred upon
17 the authority by any other law.

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

19 **A. Housing for Elders**

20 **§ -71 Resident selection; dwelling accommodations;**
21 **rentals.** In the administration of elder or elderly housing, the



1 authority shall observe the following with regard to resident
2 selection, dwelling accommodations, and rentals:

3 (1) Except as hereinafter provided, it shall accept elder
4 or elderly households as residents in the housing
5 projects;

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

18 (3) It may rent or lease to an elder a dwelling
19 accommodation consisting of any number of rooms as the
20 authority deems necessary or advisable to provide safe
21 and sanitary accommodations to the proposed resident
22 or residents without overcrowding;

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

13 (5) Elder or elderly housing shall be subject to chapter
14 521, Hawaii Revised Statutes.

15 § -72 **Housing for elders revolving fund.** There is
16 created a housing for elders revolving fund to be administered
17 by the authority. Notwithstanding any law to the contrary,
18 moneys received or collected by the authority pursuant to this
19 subpart shall be deposited into the revolving fund. Revenues
20 from the fund may be used to pay the expenses of management,
21 operation, and maintenance of housing, including but not limited
22 to the cost of insurance, a proportionate share of the



1 administrative expenses of the authority, and the costs of
2 repairs, equipment, and improvements.

3 **§ -73 Additional powers.** The powers conferred upon the
4 authority by this subpart shall be in addition and supplemental
5 to the powers conferred upon it by any other law, and nothing
6 herein shall be construed as limiting any powers, rights,
7 privileges, or immunities so conferred upon it.

8 **B. Housing for Teachers**

9 **§ -81 Purpose.** The purpose of this subpart is to create
10 a special fund for the accounting and control of receipts and
11 disbursements in connection with the authority's functions of
12 planning, construction, repair, maintenance, and operation of
13 housing for teachers employed and assigned by the department of
14 education. Teacher housing shall be provided only if the
15 community does not have adequate housing for teachers at
16 reasonable cost.

17 **§ -82 Establishment of revolving fund.** The director of
18 finance shall set up out of any moneys heretofore or hereafter
19 appropriated for the purposes of teacher housing, a revolving
20 fund to be known as the teachers' housing revolving fund. All
21 unexpended balances of appropriations, allocations, allotments,
22 special revolving funds or other funds heretofore created and



1 made available for the purposes of developing or administering
2 teachers' housing projects shall be transferred to the teachers'
3 housing revolving fund. Notwithstanding any law to the
4 contrary, all moneys, including refunds, reimbursements, and
5 rentals for housing from teacher tenants shall be deposited in
6 the revolving fund.

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

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

17 § -83 **Annual statements.** The authority shall annually
18 forward to the director of human services and the director of
19 finance a full, detailed description and financial statement of
20 the planning, construction, repair, maintenance, and operation
21 of teacher housing.



1 § **-84 Rules.** The authority may adopt rules pursuant to
2 chapter 91 necessary or desirable for the purpose of this part.

3 § **-85 Annual review; disposal of units.** The authority,
4 in consultation with the department of education, shall annually
5 review the status of and necessity for subsidized teacher
6 housing throughout the State and upon determination that any
7 particular housing unit is no longer necessary shall have all
8 necessary power and shall proceed to dispose of such unit by
9 sale, demolition, or otherwise. Any net proceeds from the
10 disposal of each such unit shall be paid to the governmental
11 entity vested with fee title to the unit at the time of
12 disposition and any deficit incurred in the disposal shall be
13 paid by the State.

14 § **-86 Additional powers.** The powers conferred upon the
15 authority by this subpart shall be in addition and supplemental
16 to the powers conferred upon it by any other law, and nothing
17 herein shall be construed as limiting any powers, rights,
18 privileges, or immunities so conferred upon it.

19 PART V. PUBLIC HOUSING; EVICTIONS

20 § **-91 Definitions.** As used in this part:



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

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

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

11 § -92 **Termination and eviction.** (a) Except as
12 otherwise provided, the authority may terminate any lease,
13 rental agreement, permit, or license covering the use and
14 occupation of any dwelling unit or other premises located within
15 a public housing project and evict from any premises any tenant,
16 licensee, or other occupant for any of the following reasons:

- 17 (1) Failure to pay rent when due;
18 (2) Violation of any of the provisions of a lease rental
19 agreement, permit, or license;
20 (3) Violation of any of the rules of the authority;
21 (4) Failure to maintain the dwelling unit in a clean,
22 sanitary, and habitable condition; or



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

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

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

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

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

17 (4) Provide the tenant with a sample letter for demanding
18 a grievance hearing;

19 (5) Set forth the location, date, and time, which shall be
20 no earlier than fourteen days from the date of the
21 written notice, at which the tenant may meet with the



1 authority or its agent to discuss the delinquency in
2 rent; and

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

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

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

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

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

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



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

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

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

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

16 (f) If the tenant meets with the authority as provided for
17 in subsection (c), the authority shall decide, based upon the
18 facts discussed at the meeting, what action is appropriate to
19 address the tenant's case. The authority shall notify the
20 tenant of such decision in writing. If the authority decides to
21 proceed with an action to terminate the tenancy, the authority
22 shall further inform the tenant in the same written notice that:



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

3 (2) If the tenant fails to request a grievance hearing
4 within thirty days, the authority has the right to proceed with
5 the eviction hearing pursuant to section -93.

6 § -93 Hearings. (a) Where the authority proposes to
7 terminate a lease, rental agreement, permit, or license, and
8 evict a tenant, licensee, or other occupant under section -92,
9 a hearing shall be held to determine whether cause exists for
10 the action. The authority shall give written notice to the
11 person concerned specifying the reason for which the eviction is
12 proposed and fixing the date and place of hearing. The written
13 notice shall further inform the tenant, licensee, or other
14 occupant of the right to inspect and copy the tenant file at the
15 tenant's expense before the hearing is held. The notice shall
16 be given at least five days before the date set for the hearing.
17 At the hearing, before final action is taken, the person
18 concerned shall be entitled to be heard in person or through
19 counsel, and shall be accorded a full and fair hearing in
20 accordance with the requirements of a contested case hearing
21 provided for under sections 91-9 and 91-10 to 91-13. This full

1 and fair hearing shall be deemed to be a contested case hearing
2 before the agency that is required pursuant to chapter 91.

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

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

21 § -94 **Eviction.** (a) If it is proven to the
22 satisfaction of the eviction board that there is cause to



1 terminate a lease, rental agreement, permit, or license and
2 evict the tenant, licensee, or other occupant, the authority
3 shall provide the tenant with a written notice of the
4 authority's decision to terminate the lease. The notice shall
5 inform the tenant that a writ of possession may be issued by the
6 authority within ten days. The notice shall also inform the
7 tenant of whether the grounds for eviction are considered
8 curable, and if so, what the tenant must do to remedy the
9 grounds, by when it must be done, and what the tenant must do to
10 document for the authority that the grounds have been remedied.

11 (b) When the grounds for termination of the lease may be
12 cured by the occupant, licensee, or other occupant, the tenant
13 shall have ten days from receipt of the notice provided for in
14 subsection (a) to cure such grounds. If the grounds are cured
15 within the ten-day period, no writ of possession may be issued.
16 If the condition is not cured within the ten-day period, the
17 authority may issue a writ of possession forthwith.

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



1 chronic or consistent delinquency, or repeated violations of the
2 terms of the rental agreement.

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

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

20 § -95 **Ex parte motion.** If a tenant or licensee cannot
21 be served with an order of eviction or writ of possession, and
22 the facts shall appear by affidavit to the authority, service to



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

6 **§ -96 Judicial review.** (a) Any person aggrieved by a
7 final decision and order by the authority or by a preliminary
8 ruling of the nature that deferral of review pending entry of a
9 subsequent final decision would deprive the appellant of
10 adequate relief is entitled to judicial review thereof under
11 this subpart.

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



1 (c) The proceedings for review shall not stay enforcement
2 of the decisions of the authority; but the authority or the
3 reviewing court may order a stay upon such terms as it deems
4 proper.

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

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



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

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

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



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

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

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

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

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

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



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



1 § **-103 Construction of additional powers.** Sections
2 -101 and -102 shall not be construed as abrogating,
3 limiting, or modifying parts II, III, or IV, including
4 amendments thereto.

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

21 § **-105 Garbage, trash disposal.** Every county that
22 maintains or operates any garbage or trash collection and



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

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

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



1 § **-107 Powers, etc., supplemental.** The powers conferred
2 upon the authority by sections -101 to -105 shall be in
3 addition and supplemental to the powers conferred by any other
4 law, and nothing in the sections shall be construed as limiting
5 any other powers, rights, privileges, or immunities of the
6 authority.

7 § **-108 Regulation of traffic within public housing**
8 **projects in city and county of Honolulu.** Any law to the
9 contrary notwithstanding, the city council of the city and
10 county of Honolulu may regulate traffic within the various
11 public housing projects of the authority in the city and county
12 of Honolulu by ordinance.

13 § **-109 Regulation of traffic within public housing**
14 **projects in other counties.** Any law to the contrary
15 notwithstanding, the county councils of the counties of Hawaii,
16 Maui, and Kauai may regulate traffic within the various public
17 housing projects of the authority within their respective
18 counties by ordinance as provided by law.

19 § **-110 Regulations, effective when.** No ordinance or
20 laws enacted by the council of any county regulating traffic
21 within the public housing projects of the authority within the
22 county shall be valid or effective unless prior thereto, the



1 authority has entered into a written contract with the county
2 absolving the county from any and all responsibility or
3 liability for the construction, maintenance, and repair of any
4 streets, lanes, alleys, or highways or street markers, traffic
5 signs, or signal devices within the projects of the authority.

6 § -111 **Additional powers.** The powers conferred upon the
7 authority by this part shall be in addition and supplemental to
8 the powers conferred upon it by any other law, and nothing
9 herein shall be construed as limiting any powers, rights,
10 privileges, or immunities so conferred upon it.

11 **PART VII. HOMELESS ASSISTANCE**

12 **A. General Provisions**

13 § -121 **Additional definitions.** As used in this part:

14 "Donor" means any individual, partnership, corporation,
15 joint-stock company, unincorporated organization, foundation,
16 estate, trust, or any other person or firm that donates money,
17 real property, goods, or services to a homeless facility, or any
18 other program for the homeless authorized by this part,
19 including board members, trustees, officers, partners,
20 principals, stockholders, members, managers, employees,
21 contractors, agents of these entities, or any person who was
22 involved with the donation.



1 "Emergency shelter" means a homeless facility designed to
2 provide temporary shelter and appropriate and available services
3 to homeless families or individuals for up to six weeks.

4 "Homeless" means:

5 (1) An individual or family who lacks a fixed, regular,
6 and adequate nighttime residence; and

7 (2) An individual or family who has a primary nighttime
8 residence that is:

9 (A) A supervised publicly or privately operated
10 shelter designed to provide temporary living
11 accommodations;

12 (B) An institution that provides temporary residence
13 for individuals intended to be institutionalized;
14 or

15 (C) A public or private place not designed for or
16 ordinarily used as sleeping accommodations for
17 human beings.

18 This term does not include any individual imprisoned or
19 otherwise detained under an act of Congress or a state law.

20 "Homeless facility" means a development designed to provide
21 shelter for homeless families or individuals pursuant to this



1 part, or to facilitate any other homeless program authorized by
2 this part, and may include emergency or transitional shelters.

3 "Homeless shelter stipend" means a payment to a provider
4 agency or to the authority on behalf of a homeless family or
5 individual to assist with the costs of operating a homeless
6 facility and providing appropriate services.

7 "Provider agency" means an organization, including its
8 board and officers and any employees, contractors, or agents,
9 contracted by the authority to provide labor and services to any
10 homeless facility, or any other program for the homeless
11 authorized by this part, that is:

12 (1) A profit organization incorporated under the laws of
13 the State or a nonprofit organization determined by
14 the Internal Revenue Service to be exempt from the
15 federal income tax; or

16 (2) A nonprofit organization, with a governing board whose
17 members have no material conflict of interest and
18 serve without compensation with bylaws or policies
19 that describe the manner in which business is
20 conducted and policies that relate to nepotism and
21 management of potential conflict of interest
22 situations.



1 In addition, the organization shall be qualified by the
2 authority to operate and manage a homeless facility, or any
3 other program for the homeless authorized by this part, pursuant
4 to standards and criteria established by duly adopted rules for
5 eligibility.

6 "Transitional shelter" means a homeless facility designed
7 to provide temporary shelter and appropriate and available
8 services to homeless families or individuals for up to twenty-
9 four months, pursuant to rule.

10 § -122 **Duties.** (a) In addition to any other power or
11 duty prescribed by law, the authority shall administer and
12 operate homeless facilities and any other program for the
13 homeless authorized by this part; establish programs for the
14 homeless; and take any other actions necessary to effectuate the
15 purposes of this part.

16 (b) The authority shall adopt rules pursuant to chapter 91
17 for the purposes of this part; provided that these rules or any
18 rules relating directly to homelessness authorized by any
19 statute, shall be exempt from the requirements of chapter 91,
20 and shall take effect immediately upon filing with the office of
21 the lieutenant governor.



1 § -123 **Exception to liability for donors.** (a) Any
2 donor who gives money to a provider agency, to a homeless
3 facility, to or through the authority, or for any other program
4 for the homeless authorized by this part, shall not be liable
5 for any civil damages resulting from the donation.

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

17 (c) Any donor who in good faith and without remuneration
18 or expectation of remuneration provides services or materials
19 used to build and construct a facility for the homeless, or who
20 renovates, repairs, or maintains an existing or acquired
21 facility for the homeless, or who provides shelter to homeless
22 persons, shall not be liable for any civil damages resulting



1 from the donor's acts or omissions, except for damages resulting
2 from the donor's gross negligence relating to the donation.

3 (d) The authority shall be responsible for inspecting,
4 reviewing, analyzing, qualifying, and determining that the land,
5 structures, materials, or services donated to the authority for
6 use by the authority in facilities for the homeless are
7 reasonably safe for public use.

8 § -124 **Contract or conveyance to the authority.**

9 Notwithstanding any other law to the contrary, the board of land
10 and natural resources or other state agency holding such lands
11 and improvements, for purposes of this part, may contract or
12 otherwise convey at a nominal consideration, by direct
13 negotiation and without recourse to public auction, the land and
14 improvements, or the management, operation, and administrative
15 responsibility over the land and improvements, to the authority
16 or its designee. The land and improvements shall be used by the
17 authority or its designee for homeless facilities, or for any
18 other program for the homeless authorized by this part.

19 § -125 **Program administration.** To the extent that
20 appropriations are made available, the authority may contract
21 with a provider agency to administer homeless facilities, or any
22 other program for the homeless created by this part. The



1 selection of provider agencies to administer homeless
2 facilities, or any other program for the homeless authorized by
3 this part, shall not be subject to chapters 42F, 102, 103, and
4 103F. The selection of provider agencies shall be subject to
5 qualifying standards and criteria established by rule.

6 **§ -126 Time limits.** To the extent that appropriations
7 are made available, a provider agency shall provide shelter or
8 any other program assistance authorized by this part to eligible
9 homeless families and homeless individuals not later than two
10 days, or such time as is set by rule which shall not be later
11 than seven days, after they apply and qualify for the shelter or
12 other program assistance, pursuant to rule. Such time limits
13 may be waived at the discretion of the authority for a maximum
14 period of fourteen days for the purpose of implementing repairs
15 to the subject shelter, which repairs the authority deems major
16 or extensive.

17 **§ -127 Determination of eligibility and need.** (a) The
18 provider agency operating and managing a homeless facility, or
19 any other program for the homeless authorized by this part, or
20 the authority operating and managing its own homeless facility,
21 shall be responsible for determining if an applicant is eligible
22 for shelter or other services at the homeless facility or



1 through any other program for the homeless, pursuant to
2 standards and criteria established by rule.

3 (b) The provider agency or the authority operating and
4 managing its own homeless facility shall determine the degree of
5 need for each homeless family or individual and in its
6 determination shall consider the resources available and the
7 number of potential eligible applicants in the area served by
8 the homeless facility or other program for the homeless
9 authorized by this part.

10 (c) The authority may establish by rule standards and
11 criteria for eligibility, need, and priority for each program;
12 provided that the authority may establish by rule exceptions to
13 these eligibility requirements based on special circumstances.

14 § -128 Abuse of assistance. (a) The provider agency
15 operating and managing a homeless facility, or any other program
16 for the homeless authorized by this part, or the authority
17 operating and managing its own homeless facility, shall be
18 responsible for determining if a participant is no longer
19 eligible for shelter or other services at the homeless facility
20 or through any other program for the homeless, pursuant to
21 standards and criteria established by rule.

1 (b) Pursuant to rule and the right of due process, the
2 authority or its designee, or provider agencies together with
3 the authority, may act to bar homeless families or individuals
4 from participating further in any homeless facility, may issue a
5 writ of possession, and take such other actions as provided by
6 rule.

7 The enforcement of a writ of possession shall be effected
8 either by an officer appointed by the authority, who shall have
9 all of the powers of a police officer for all action in
10 connection with the enforcement of the writ, or any other law
11 enforcement officer of the State or any county, whose duty it
12 shall be to enforce the writ. The person enforcing the writ
13 shall remove all persons from the premises and put the authority
14 or its designee, or the provider agency designated by the
15 authority, in full possession thereof.

16 Upon eviction, the household goods and personal effects of
17 the person against whom the writ is entered, and those of any
18 persons using the premises incident to the person's holding, may
19 be removed from the premises immediately and sold or otherwise
20 disposed of by the authority or its designee, or the provider
21 agency. If the action is taken, the authority or its designee,



1 or the provider agency, shall have a lien on the property so
2 removed for the expenses incurred by it in moving the property.

3 (c) Any person who enters or remains unlawfully in or upon
4 the premises or living quarters of any homeless facility, or any
5 other program for the homeless authorized by this part, after
6 reasonable warning or request to leave by that provider agency's
7 authorities, the authority or its designee, or a police officer,
8 shall be guilty of a misdemeanor; provided that the offense in
9 this subsection shall be in addition to any other applicable
10 offense in the Hawaii Penal Code. A warning or request shall
11 only be issued if the person has engaged in unlawful conduct or
12 has violated house rules and regulations; provided that the
13 warning or request for violation of house rules and regulations
14 shall be issued only if that provider agency, or the authority
15 or its designee, has filed a copy of its current house rules and
16 regulations governing tenancy or participation at the shelter,
17 facility, or program, and any changes thereto, with the director
18 of commerce and consumer affairs. The house rules and
19 regulations shall be reasonable and a copy shall be provided to
20 each tenant or participant. The warning or request shall
21 supersede any invitation by a tenant or participant at the

1 shelter, facility, or program to that person to visit the
2 premises or living quarters.

3 **§ -129 Exemptions.** (a) Any compensation received by a
4 provider agency for services rendered to homeless families or
5 individuals, or in operating or managing a homeless facility
6 authorized by this part, is exempt from taxes under chapter 237.

7 (b) Any county mayor may exempt, by executive order,
8 donors and homeless provider agencies from real property taxes,
9 water and sewer development fees, rates collected for water
10 supplied to consumers and for use of sewers, and any other
11 county taxes, charges, or fees; provided that any county may
12 enact ordinances to regulate the exemptions granted by this
13 subsection.

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

19 **§ -130 Emergency/transitional shelter volunteers**
20 **exempted.** (a) For the purposes of this section,
21 "emergency/transitional shelter volunteer" means an individual
22 who:



- 1 (1) Is a tenant at an emergency or transitional shelter
2 administered pursuant to this part;
- 3 (2) Is not an employee of the provider agency operating or
4 managing the shelter;
- 5 (3) Is under the direction of the provider agency
6 operating or managing the shelter and not the
7 authority or the State; and
- 8 (4) Provides up to eighty hours of volunteer labor or
9 services per month to the provider agency operating or
10 managing the shelter, notwithstanding payment of
11 stipends or credits for such labor and services.
- 12 (b) Provider agencies may accept labor and services from
13 emergency/transitional shelter volunteers.
- 14 (c) In addition to any exemptions granted to nonpaid
15 labor, emergency/transitional shelter volunteers who acknowledge
16 in writing that they are emergency/transitional shelter
17 volunteers, shall not be construed to be in the employ of the
18 provider agency operating or managing the shelter. The
19 volunteers' labor and services provided to the provider agency
20 operating or managing the shelter shall not be construed to
21 constitute employment, and the volunteers shall not be construed



1 to be employees of the provider agency operating or managing the
2 shelter, under any labor law.

3 **§ -131 Annual performance audits.** (a) The authority
4 shall require any provider agency that dispensed shelter or
5 assistance for any homeless facility or any other program for
6 the homeless authorized by this part to submit to the authority
7 a financial audit and report on an annual basis conducted by a
8 certified public accounting firm. This audit and report shall
9 contain information specific to the funds received under state
10 homeless programs contracts. The audit shall include
11 recommendations to address any problems found.

12 (b) Continuing contracts with provider agencies to
13 participate in any program for the homeless authorized by this
14 part shall require that the provider agency address the
15 recommendations made by the auditing agency, subject to
16 exceptions as set by the authority.

17 (c) Failure to carry out the recommendations made by the
18 auditing agency may be grounds for the authority to bar a
19 provider agency from further contracts for programs authorized
20 by this part until the barred provider has addressed all
21 deficiencies.



1 § **-132 Provider agency and donor cooperation are not in**
2 **restraint of trade.** No provider agency or any other agency, or
3 donor or donors, or method or act thereof that complies with
4 this part, shall be deemed a conspiracy or combination in
5 restraint of trade or an illegal monopoly, or an attempt to
6 lessen competition or fix prices arbitrarily, or the creation of
7 a combination or pool, or to accomplish any improper or illegal
8 purpose. Any cooperation or agreement established pursuant to
9 rule shall not be considered as illegal, in restraint of trade,
10 or as part of a conspiracy or combination to accomplish an
11 illegal purpose or act.

12 § **-133 Construction of part.** If there is any conflict
13 between this part and any other law, this part shall control.

14 § **-134 Homeless shelter stipends.** (a) The stipend
15 limits per shelter unit of zero bedrooms shall be adjusted by
16 the authority each first day of July pursuant to standards
17 established by rule which may consider changes in the cost of
18 operating homeless facilities, the fair market rents, the
19 consumer price index, or other relevant factors. A "shelter
20 unit of zero bedrooms" means a living unit which is a studio
21 unit or a single-room occupancy unit. The homeless shelter
22 stipend at transitional shelters for larger shelter unit sizes



1 shall be related to the difference in unit size, pursuant to
2 standards established by rule.

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

14 (c) In making homeless shelter stipend payments to a
15 provider agency the authority may establish minimal services to
16 be provided by the provider agency to homeless families or
17 individuals at the agency's shelter. The authority may also
18 direct provider agencies to establish and manage a savings
19 account program as described in subsection (d). Additionally,
20 the authority may direct provider agencies to subcontract for
21 outreach services from other private agencies specializing in
22 programs for the unsheltered homeless.



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

9 § -135 **Additional powers.** The powers conferred upon the
10 authority by this part shall be in addition and supplemental to
11 the powers conferred upon it by any other law, and nothing in
12 this part shall be construed as limiting any powers, rights,
13 privileges, or immunities conferred upon the authority.

14 **B. Hale Kokua Program**

15 § -141 **Findings and purpose.** The legislature finds that
16 the issue of homelessness should be regarded as one of the
17 State's most significant social problems. The severity of the
18 problem is visible in every area of the State, and evidence that
19 the problem is escalating is becoming more and more apparent.
20 The problem of homelessness impacts everyone, and the burden of
21 rectifying this problem should be approached comprehensively and
22 as a collective responsibility.



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

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

17 The Hale Kokua program will assist homeless families and
18 individuals who are willing to engage in self-improvement
19 programs and regular employment with an alternative to living in
20 homeless shelters where homeless families as well as the special
21 needs homeless are indiscriminately grouped together.



1 Developing the employment skills of participating tenants is an
2 integral component of the program.

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

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

20 § -142 **Definitions.** As used in this subpart, unless the
21 context clearly requires otherwise:



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

6 § -143 **Hale Kokua program; established.** There is
7 established, within the Hawaii public housing authority, a
8 homeless assistance program known as the Hale Kokua program, to
9 provide incentives and assistance to private homeowners
10 throughout the State who set aside existing dwelling units, or
11 construct or renovate dwelling units, for rental for a period of
12 five years by families or individuals classified as employed but
13 homeless. The Hawaii public housing authority shall administer
14 the Hale Kokua program and adopt the standards and framework
15 necessary to implement the program statewide after the initial
16 phase of the program.

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

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



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

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

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

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

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

20 (4) Developing appropriate procedures to address potential
21 liabilities of the State; and adopting the procedures
22 to place qualified homeless tenants with property



1 owners participating in the program. Participating
2 property owners shall interview and make final tenant
3 selection from lists of prospective tenants compiled
4 by the administrator or the contracted agency;

5 (5) Establishing the procedures and requirements for the
6 disbursement of building improvement grants and rental
7 subsidies and the amounts thereof to property owners
8 participating in the program;

9 (6) Working with the counties to develop and propose
10 uniform incentives to encourage and facilitate the
11 participation of property owners, including real
12 property tax waivers or reductions, and exemptions in
13 zoning or building code requirements which shall be
14 conditioned on participation in the program and which
15 shall lapse when program participation ends;

16 (7) Monitoring the financial status and progress of
17 homeless tenants and cooperating with other agencies
18 in establishing and coordinating job training, and
19 other programs to help tenants to progress toward
20 self- sufficiency;

21 (8) Promoting and assisting in the development of
22 employer-employee relationships between homeless



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

19 **-145 Homeowner participation; limitation; payments and**
20 **assistance.** (a) The administrator shall limit the
21 participation of not more than ten property owners within each
22 census tract at any given period in time, without regard to the



1 existence or operation of shelters and other facilities to aid
2 the homeless in the tract. The authority or contracted agency
3 shall notify prospective participants registered on the waiting
4 list in each census tract of the opportunity to participate in
5 the program as these opportunities may arise in each tract.

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

- 10 (1) The payment of a state grant to offset the cost of
11 renovating, building any adjoining addition, or
12 constructing any separate structure upon the premises
13 of the owner's property in preparation for its use as
14 a homeless assistance unit under the program;
- 15 (2) The payment of a monthly state rent subsidy to
16 supplement the monthly rental payments made by the
17 homeless tenant;
- 18 (3) Real property tax rate waivers or reductions proposed
19 by the administrator and approved by the council of
20 the county in which the property is located;
- 21 (4) Zoning and building code exemptions applicable to the
22 construction of adjoining or separate dwelling units



1 on the owner's property, provided that the county, by
2 ordinance, may establish minimum development and
3 construction standards for these units and procedures
4 for approval thereto; and

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

8 **§ -146 Early withdrawal from program; recovery of grant.**

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

18 (b) The county government whose jurisdiction includes the
19 site shall determine the disposition of the additional unit
20 constructed with the grant.



1 § **-147 Availability of funding.** All rental subsidies,
2 grants, and payments allocated by the Hale Kokua program under
3 this subpart shall be subject to the availability of funds.

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

5 § **-151 Rent supplements.** The authority is authorized to
6 make, and contract to make, annual payments to a "housing owner"
7 on behalf of a "qualified tenant," as those terms are defined in
8 this part, in such amounts and under such circumstances as are
9 prescribed in or pursuant to this part. No payment on behalf of
10 a qualified tenant shall exceed a segregated amount of \$160 a
11 month.

12 § **-152 Housing owner defined.** As used in this part, the
13 term "housing owner" means:

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



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

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

10 (3) The authority.

11 § -153 **Qualified tenant defined.** As used in this part,
12 the term "qualified tenant" means any single person or family,
13 pursuant to criteria and procedures established by the
14 authority, that has been determined to have an income not
15 exceeding the very low income limit as determined by the
16 authority pursuant to rules adopted by the authority; provided
17 that the qualified tenant's primary place of residence shall be
18 in the State of Hawaii or that the qualified tenant intends to
19 make the State of Hawaii the qualified tenant's primary place of
20 residence. The terms "qualified tenant" and "tenant" include a
21 member of a cooperative who satisfies the foregoing requirements
22 and who, upon resale of the member's membership to the



1 cooperative, will not be reimbursed for more than fifty per cent
2 of any equity increment accumulated through payments under this
3 part. With respect to members of a cooperative, the terms
4 "rental" and "rental charges" mean the charges under the
5 occupancy agreements between the members and the cooperative.
6 The term "qualified tenant" shall not include any person
7 receiving money payments for public assistance from the
8 department of human services; provided that the term "public
9 assistance" shall exclude aid provided through the federal
10 Supplemental Security Income Program.

11 **§ -154 Relationship of annual payment to rental and**
12 **income.** The amount of the annual payment with respect to any
13 dwelling unit shall not exceed the amount by which the fair
14 market rental for that unit exceeds thirty per cent of the
15 tenant's income as determined by the authority pursuant to
16 procedures and regulations established by it.

17 **§ -155 Determination of eligibility of occupants and**
18 **rental charges.** (a) For purposes of carrying out this part,
19 the authority shall establish criteria and procedures for
20 determining the eligibility of occupants and rental charges,
21 including criteria and procedures with respect to periodic
22 review of tenant incomes and periodic adjustment of rental



1 charges. The authority shall issue, upon the request of a
2 housing owner, certificates as to the income of the single
3 persons and families applying for admission to, or residing in,
4 dwellings of that owner.

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

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

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

21 § -157 **Additional powers.** The powers conferred upon the
22 authority by this part shall be in addition and supplemental to



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

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

5 § -161 **State sales housing.** Notwithstanding any law to
6 the contrary, but subject to any resolution of issuance under
7 part I, the authority may permit any member of a tenant family
8 of a public housing project, or any individual meeting the
9 income standards under section 221(d)(3) of the National Housing
10 Act, to enter into a contract for the acquisition of a dwelling
11 unit and lot or the acquisition of a dwelling unit and the lease
12 of its lot, the lease to conform to chapter 171 with the
13 exception that the lease shall not require bid, auction, or
14 negotiation, in any public housing project, state low income
15 housing project, or elderly housing project which is suitable
16 for sale and for occupancy by such purchaser or a member or
17 members of the purchaser's family, upon the following terms:

18 (1) The purchaser shall pay at least:

19 (A) A pro rata share cost of any services furnished
20 the purchaser by the authority, including but not
21 limited to administration, maintenance, repairs,



- 1 utilities, insurance, provision of reserves, and
2 other expenses;
- 3 (B) Taxes on the purchaser's dwelling unit; and
- 4 (C) Monthly payments of interest and principal
5 sufficient to amortize a sales price, equal to
6 the greater of the unamortized debt or the
7 appraised value (at the time such purchase
8 contract is entered into) of the dwelling unit,
9 in not more than forty years;
- 10 (2) The interest rate shall be fixed at not less than the
11 average interest cost of loans outstanding on the
12 project, except that in the case of a project on which
13 bonds are not outstanding the interest rate shall be
14 fixed at not less than the going rate applicable to
15 that project;
- 16 (3) The principal payments shall be not less than one-half
17 of one per cent a year of the sales price during the
18 first five years after purchase, one per cent a year
19 during the next five years, one and one-half per cent
20 a year during the third five years, and thereafter not
21 less than the principal payments resulting from a



1 level debt service of interest and principal over the
2 balance of the payment period; and

3 (4) If at any time:

4 (A) A purchaser fails to carry out the purchaser's
5 contract with the authority and if no member of
6 the purchaser's family who resides in the
7 dwelling assumes such contract; or

8 (B) The purchaser or a member of the purchaser's
9 family who assumes the contract does not reside
10 in the dwelling, the authority shall have an
11 option to acquire the purchaser's interest under
12 the contract upon payment to the purchaser or the
13 purchaser's estate of an amount equal to the
14 purchaser's aggregate principal payments plus the
15 value to the authority of any improvements made
16 by the purchaser, less an amount equal to two and
17 one-half per cent of the sales price.

18 § -162 **Additional powers.** The powers conferred upon the
19 authority by this part shall be in addition and supplemental to
20 the powers conferred upon it by any other law, and nothing
21 herein shall be construed as limiting any powers, rights,
22 privileges, or immunities so conferred upon it."



1 PART II

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

5 "PART . HOUSING DEVELOPMENT PROGRAMS

6 §201H-A Criteria. In administering this chapter and other
7 laws of the State applicable to the supplying of housing or the
8 assistance in obtaining housing, the corporation shall give
9 preference to those applicants most in need of assistance in
10 obtaining housing, in light of the amount of moneys available
11 for the various programs. In doing so, the corporation shall
12 take into consideration the applicant's household income and
13 number of dependents; the age of the applicant; the physical
14 disabilities of the applicant or those living with the
15 applicant; whether or not the present housing of the applicant
16 is below standard; whether or not the applicant's need for
17 housing has arisen by reason of displacement of the applicant by
18 governmental actions; and other factors as it may deem
19 pertinent.

20 §201H-B Definitions. The following terms, wherever used
21 or referred to in this part, shall have the following respective



1 meanings unless a different meaning clearly appears from the
2 context:

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

13 "Eligible bidder" means a person, partnership, firm, or
14 corporation determined by the corporation:

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

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

19 "Eligible developer" means any person, partnership,
20 cooperative including limited-equity housing cooperatives as
21 defined in chapter 421H, firm, nonprofit or profit corporation,
22 or public agency determined by the corporation:



1 (1) To be qualified by experience and financial
2 responsibility and support to construct housing of the
3 type described and of the magnitude encompassed by the
4 given project;

5 (2) To have submitted plans for a project adequately
6 meeting the objectives of this chapter, the
7 maintenance of aesthetic values in the locale of the
8 project, and the requirements of all applicable
9 environmental statutes and rules; and

10 (3) To meet all other requisites the corporation deems to
11 be just and reasonable, and all requirements
12 stipulated in this chapter.

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

16 "Qualified resident" means a person who:

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

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

19 (3) Is domiciled in the State and shall physically reside
20 in the dwelling unit purchased or rented under this
21 chapter;



1 (4) In the case of the purchase of real property in fee
2 simple or leasehold, has a gross income sufficient to
3 qualify for the loan to finance the purchase; or in
4 the case of a rental, demonstrates an ability to pay
5 rent as determined by the corporation and meets any
6 additional criteria established by the corporation for
7 the respective rental housing development for which
8 the applicant is applying; and

9 (5) Meets the following qualifications:

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

18 (B) Is a person whose spouse or household member does
19 not own a majority interest in fee simple or
20 leasehold lands suitable for dwelling purposes or
21 more than a majority interest in lands under any
22 trust agreement or other fiduciary arrangement in



1 which another person holds the legal title to the
2 land, except when husband and wife are living
3 apart under a decree of separation from bed and
4 board issued by the family court pursuant to
5 section 580-71;

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

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

18 **§201H-C Powers and duties, generally.** (a) The
19 corporation may develop fee simple or leasehold property,
20 construct dwelling units thereon, including condominiums,
21 planned units, and cluster developments, and sell, lease, or
22 rent or cause to be leased or rented, at the lowest possible



1 price to qualified residents, nonprofit organizations, or
2 government agencies, with an eligible developer or in its own
3 behalf, either:

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

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

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

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



1 determine preferences by lot in the event that it receives more
2 qualified applications than it has units available.

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

16 Upon the adoption of such rules they shall have the force
17 and effect of law and shall supersede, for all projects in which
18 the State through the corporation shall participate, all other
19 inconsistent laws, ordinances, and rules relating to the use,
20 zoning, planning, and development of land, and the construction
21 of dwelling units thereon; provided that any rules, before
22 becoming effective, shall be presented to the legislative body



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

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

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

- 20 (1) Land acquisition;
- 21 (2) The development and improvement of land;
- 22 (3) The construction of dwelling units;



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

19 **§201H-D Additional powers; development.** Notwithstanding
20 and without compliance with section 103-7 but with the approval
21 of the governor, the corporation may enter into and carry out
22 agreements and undertake projects or participate in projects



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

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

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



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



1 (b) All claims for exemption under this section shall be
2 filed with and certified by the corporation and forwarded to the
3 department of taxation. Any claim for exemption that is filed
4 and approved, shall not be considered a subsidy for the purpose
5 of this part.

6 (c) For the purposes of this section:

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

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



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

5 **§201H-G Exemption from tax on income and obligations.**

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

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



- 1 (1) The corporation finds the project is consistent with
2 the purpose and intent of this chapter, and meets
3 minimum requirements of health and safety;
- 4 (2) The development of the proposed project does not
5 contravene any safety standards, tariffs, or rates and
6 fees approved by the public utilities commission for
7 public utilities or the various boards of water supply
8 authorized under chapter 54; and
- 9 (3) The legislative body of the county in which the
10 project is to be situated shall have approved the
11 project.
- 12 (A) The legislative body shall approve or disapprove
13 the project by resolution within forty-five days
14 after the corporation has submitted the
15 preliminary plans and specifications for the
16 project to the legislative body. If on the
17 forty-sixth day a project is not disapproved, it
18 shall be deemed approved by the legislative body;
- 19 (B) No action shall be prosecuted or maintained
20 against any county, its officials, or employees
21 on account of actions taken by them in reviewing,



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



1 corporation has submitted a petition to the commission
 2 as provided in section 205-4. If on the forty-sixth
 3 day the petition is not disapproved, it shall be
 4 deemed approved by the commission.

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

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



1 infrastructure, and architectural standards for the construction
2 and development of starter homes.

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

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

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

20 **§201H-J Dwelling unit project, construction and**
21 **sponsorship of.** (a) The corporation, on behalf of the State or
22 with eligible developers and contractors, shall develop real



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

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

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



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

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

21 **§201H-K Independent development of projects.** (a) In any
22 county, the corporation may develop or may enter into agreements



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

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

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



1 subsection (a), properly located for occupancy by the
2 groups for which the project was primarily designed
3 under this section, properly districted for the use
4 intended prior to this application, and appropriately
5 zoned within an urban land use district, or
6 appropriate in its situation and surroundings for more
7 intensive or denser zoning.

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

19 **§201H-L Private development of projects.** (a) The
20 corporation may enter into contracts with any eligible bidder to
21 provide for the construction of a housing project or projects.
22 Each contract shall provide that the housing project or projects



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

18 (b) Notwithstanding any other provision of law, the
19 corporation is authorized to acquire the capital stock of
20 mortgagors holding property covered by a mortgage guaranty under
21 this chapter and established by this section, and to exercise
22 the rights as holder of the capital stock during the life of the



1 mortgage and, upon the termination of the mortgage, to dissolve
2 the corporation; to guarantee the payment of notes or other
3 legal instruments of such mortgagors; and to make payments
4 thereon. All housing projects placed under the control of the
5 corporation pursuant to this section shall be deemed to be
6 housing projects under the jurisdiction of the State.

7 (c) On request by the corporation, the attorney general
8 shall furnish to the corporation, an opinion as to the
9 sufficiency of title to any property on which it is proposed to
10 construct housing projects, or on which housing projects have
11 been constructed, under this section. If the opinion of the
12 attorney general is that the title to the property is good and
13 sufficient, the corporation is authorized to guarantee, or enter
14 into a commitment to guarantee, the mortgagee, against any
15 losses that may thereafter arise from the adverse claims to
16 title. None of the proceeds of any mortgage loan hereafter
17 insured shall be used for title search and title insurance
18 costs; provided that if the corporation determines in the case
19 of any housing project, that the financing of the construction
20 of the project is impossible unless title insurance is provided,
21 the corporation may provide for the payment of the reasonable
22 costs necessary for obtaining title search and title insurance.



1 Any determination by the corporation under the foregoing proviso
2 shall be set forth in writing, together with the reasons
3 thereto.

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

13 **§201H-M Interim financing of projects.** (a) The
14 corporation may provide interim construction loans to eligible
15 developers. In addition to the rate of interest charged on
16 interim loans, the corporation may charge loan commitment fees,
17 to be determined by rules adopted by the corporation.

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



1 indebtedness and such other conditions consistent with the
2 production and marketing of dwelling units at the lowest
3 possible prices. The corporation may also set the conditions of
4 a loan in a building and loan agreement between the borrower and
5 the corporation in order to secure the loan and the performance
6 of the borrower to complete the project.

7 **§201H-N Commercial, industrial and other uses.** (a) In
8 connection with the development of any residential units under
9 this chapter the corporation may also develop commercial,
10 industrial, and other properties if it determines that the uses
11 can be an integral part of the development and can help to
12 preserve the lifestyles of the purchasers of residences in the
13 development. The corporation may designate any portions of the
14 developments as for commercial, industrial, or other use and
15 shall have all the powers granted under this chapter with
16 respect thereto including the power to bypass statutes,
17 ordinances, charter provisions and rules of any governmental
18 agency pursuant to section 201H-H. For this purpose the
19 corporation may use any of the funds authorized under this
20 chapter.

21 (b) The corporation shall establish rules which shall
22 provide the manner of designation of the uses and shall provide



1 that any commercial, industrial, or other properties so
2 developed shall be sold or leased at cost or at economic rents
3 or sales prices. Sale or lease shall be made at cost to owners
4 of commercial, industrial, or other facilities displaced by the
5 corporation. All other leases or sales shall be at economic
6 rents or sales prices determined by the corporation, after
7 appraisal, to be consistent with rents or sales prices in
8 similar locations or terms. The net proceeds of all such sales
9 or leases, less costs to the corporation, shall be deposited in
10 the dwelling unit revolving fund. The rules may also provide
11 that during the first twenty years after its purchase, any
12 commercial, industrial, or other property so developed and sold
13 or leased may be resold or assigned only to the corporation at
14 the original purchase price plus the cost of any improvements
15 made by the purchaser together with simple interest on all of
16 the purchaser's equity in the property at the rate of seven per
17 cent a year. Rules may also provide that ownership of the
18 commercial, industrial, or other property cannot be separated
19 from ownership of the residential property in connection with
20 which it was sold or leased.

21 **§201H-0 Sale, mortgage, agreement of sale, other**
22 **instruments.** (a) The corporation shall sell completed dwelling



1 units or dwelling units that are substantially completed and
2 habitable, developed and constructed hereunder, to qualified
3 residents in fee simple, or shall cause them to be leased or
4 rented to qualified residents, at a price or rental based on
5 costs as determined by the corporation. The gross share to the
6 other partners or contract payments and any amounts subsidized
7 by the State, including but not limited to the land, need not be
8 counted as cost so as to increase the price. Such may be borne
9 by the State, under rules subject to reimbursement upon sale as
10 provided for in section 201H-Q.

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

20 (c) Every mortgage, agreement of sale, other instrument to
21 secure the indebtedness, or instrument of indebtedness executed
22 by the corporation may contain other provisions as are usually



1 found in such instruments and shall provide that the purchaser
2 may repay the whole or any part of the unpaid balance of the
3 purchase price plus accrued interest at any time without
4 prepayment penalty.

5 (d) If the purchaser defaults on the payment of any loan,
6 the corporation shall take all necessary action to collect the
7 delinquent principal and interest on the loan and may take all
8 actions allowed to holders of obligations, including the power
9 to repossess, lease, rent, repair, renovate, modernize, and sell
10 the property foreclosed, subject to the restrictions hereinafter
11 described.

12 (e) The mortgages, agreements of sale, and other
13 instruments of indebtedness, at the direction of the
14 corporation, may be assigned to and serviced by commercial banks
15 and other lending institutions doing business in the State at a
16 fee of not more than one-half of one per cent of the amount
17 loaned to the purchaser.

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



1 **§201H-P Co-mortgagor.** For purposes of qualifying for a
2 mortgage loan to finance the purchase of a dwelling unit under
3 this part, a "qualified resident" as defined in section 201H-B
4 may be assisted by a co-mortgagor who is a family member as
5 defined by the corporation, who may own other lands in fee
6 simple or leasehold suitable for dwelling purposes, whose
7 interest in the dwelling unit to be purchased is limited to no
8 more than one per cent, and who certifies that the co-mortgagor
9 does not intend to reside in the dwelling unit. The income and
10 assets of the co-mortgagor shall not be counted in determining
11 the eligibility of the "qualified resident" under this chapter.

12 **§201H-Q Real property; restrictions on transfer; waiver of**
13 **restrictions.** (a) The following restrictions shall apply to
14 the transfer of real property developed and sold under this
15 chapter, whether in fee simple or leasehold:

16 (1) For a period of ten years after the purchase, whether
17 by lease, assignment of lease, deed, or agreement of
18 sale, if the purchaser wishes to transfer title to the
19 real property, the corporation shall have the first
20 option to purchase the real property at a price that
21 shall not exceed the sum of:



- 1 (A) The original cost to the purchaser, as defined in
2 rules adopted by the corporation;
- 3 (B) The cost of any improvements added by the
4 purchaser, as defined in rules adopted by the
5 corporation; and
- 6 (C) Simple interest on the original cost and capital
7 improvements to the purchaser at the rate of one
8 per cent a year.

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

- 10 (A) By conveyance free and clear of all mortgages and
11 liens; or
- 12 (B) By conveyance subject to existing mortgages and
13 liens.

14 If the real property is conveyed in the manner
15 provided in subparagraph (A), it shall be conveyed to
16 the corporation only after all mortgages and liens are
17 released. If the real property is conveyed in the
18 manner provided in subparagraph (B), the corporation
19 shall acquire the property subject to any first
20 mortgage created for the purpose of securing the
21 payment of a loan of funds expended solely for the
22 purchase of the real property by the seller; and any



1 mortgage or lien created for any other purpose
2 provided that the corporation has previously consented
3 to it in writing.

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

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

12 (ii) Any mortgage insured or held by a federal
13 housing agency; and

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

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

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

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

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

15 (B) Any subsidy or deferred sales price made by the
16 corporation in the acquisition, development,
17 construction, and sale of the real property, and
18 any other amount expended by the corporation not
19 counted as cost under section 201H-0 but charged
20 to the real property by good accounting practice
21 as determined by the corporation whose books



1 shall be prima facie evidence of the correctness
2 of the costs;

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



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

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

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

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

21 (1) The purchaser wishes to transfer title to the real
22 property by devise or through the laws of descent to a



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

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

20 (e) The restrictions prescribed in this section and
21 sections 201H-S to 201H-U shall be automatically extinguished
22 and shall not attach in subsequent transfers of title when a



1 mortgage holder or other party becomes the owner of the real
2 property pursuant to a mortgage foreclosure, foreclosure under
3 power of sale, or a conveyance in lieu of foreclosure after a
4 foreclosure action is commenced; or when a mortgage is assigned
5 to a federal housing agency. Any law to the contrary
6 notwithstanding, a mortgagee under a mortgage covering real
7 property or leasehold interest encumbered by the first option to
8 purchase in favor of the corporation, prior to commencing
9 mortgage foreclosure proceedings, shall notify the corporation
10 in writing of:

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

13 (2) Any intention of the mortgagee to foreclose the
14 mortgage under chapter 667;

15 provided that the mortgagee's failure to provide written notice
16 to the corporation shall not affect the holder's rights under
17 the mortgage. The corporation shall be a party to any
18 foreclosure action, and shall be entitled to all proceeds
19 remaining in excess of all customary and actual costs and
20 expenses of transfer pursuant to default, including liens and
21 encumbrances of record; provided that the person in default



1 shall be entitled to an amount which shall not exceed the sum of
2 amounts determined pursuant to subsection (a)(1)(B) and (C).

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

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

18 (h) The corporation is authorized to waive any of the
19 restrictions set forth in this section in order to comply with
20 or conform to requirements set forth in federal laws or
21 regulations governing mortgage insurance or guarantee programs



1 or requirements set forth by federally chartered secondary
2 mortgage market participants.

3 **§201H-R Exception of current owners in corporation**

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

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



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

3 (A) Is a person who either oneself or together with
4 the person's spouse or a household member, does
5 not own a majority interest in fee simple or
6 leasehold lands suitable for dwelling purposes,
7 or a majority interest in lands under any trust
8 agreement or other fiduciary arrangement in which
9 another person holds the legal title to the land;
10 and

11 (B) Is a person whose spouse or a household member
12 does not own a majority interest in fee simple or
13 leasehold lands suitable for dwelling purposes,
14 or a majority interest in lands under any trust
15 agreement or other fiduciary arrangement in which
16 another person holds the legal title to the land,
17 except when husband and wife are living apart
18 under a decree of separation from bed and board
19 issued by the family court pursuant to section
20 580-71.

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



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

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

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



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

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

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

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



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

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

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

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



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

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

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



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

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

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

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

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



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

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

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

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

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



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

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

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

14 For the purposes of this subsection, "substantial
15 construction defect" includes but is not necessarily limited to:
16 structural defects such as shifting foundations and bearing
17 walls; structural deficiencies due to the use of defective or
18 undersized materials; and defects affecting the health and
19 safety of occupants; and "substantial soil defect" means
20 shifting, sliding, or sinking ground of such degree as to affect
21 the dwelling unit on the land or the health and safety of the
22 occupants of the land.



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

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



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

4 (e) The corporation shall adopt rules pursuant to chapter
5 91 necessary for the purposes of this section.

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

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



1 **§201H-V Nonprofit organizations; government agencies.** (a)

2 The corporation may retain dwelling units in a project to the
3 extent it determines necessary and appropriate, for sale, lease,
4 or rental to nonprofit organizations and government agencies.

5 The dwelling units shall be used by the nonprofit organizations
6 and government agencies to provide housing opportunities and
7 related support services to special needs individuals or
8 families. These purposes include but are not limited to the use
9 of dwelling units for group homes and congregate living
10 facilities and for government employees in special situations.

11 The corporation, in consultation with other appropriate
12 government agencies, shall adopt rules pursuant to chapter 91
13 necessary to implement this subsection, including but not
14 limited to rules relating to the eligibility and qualifications
15 of nonprofit organizations and government agencies, rules
16 relating to the eligibility and qualifications of clients of
17 nonprofit organizations and government agencies to whom housing
18 opportunities may be made available, and rules restricting the
19 use, sale, or transfer of, and authorizing repurchase of,
20 dwelling units sold, leased, or rented pursuant to this
21 subsection. The corporation, to the extent appropriate, shall
22 have the same powers with respect to nonprofit organizations and



1 government agencies purchasing, leasing, or renting dwelling
2 units as the corporation has with respect to qualified residents
3 purchasing, leasing, or renting dwelling units.

4 (b) In connection with the development of any residential
5 units under this chapter, the corporation may also make
6 provisions for the development of appropriate community
7 facilities. The corporation may:

8 (1) Sell, lease, or rent vacant land or land with site
9 improvements to nonprofit organizations or government
10 agencies to develop community facilities; or

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

16 The corporation shall adopt rules pursuant to chapter 91
17 necessary to implement this subsection.

18 **§201H-W Rate of wages for laborers and mechanics.** The
19 corporation shall require an eligible bidder or eligible
20 developer of a housing project developed under this part to
21 comply with the requirements of section 104-2 for those laborers
22 and mechanics hired to work on that housing project; provided



1 that this section shall not apply to a housing project developed
2 under this chapter if the entire cost of the project is less
3 than \$500,000 and the eligible bidder or eligible developer is a
4 private nonprofit corporation.

5 **201H-X Additional powers.** The powers conferred upon the
6 corporation by this part shall be in addition and supplemental
7 to the powers conferred upon it by any other law, and nothing
8 herein shall be construed as limiting any powers, rights,
9 privileges, or immunities so conferred upon it."

10 PART III

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

14 **"PART . FINANCING PROGRAMS**

15 **A. General Provisions**

16 **§201H-Y Bonds; authorization.** (a) The corporation, with
17 the approval of the governor, may issue from time to time bonds
18 (including refunding bonds to pay, retire, or provide for the
19 retirement of bonds previously issued by the corporation) in
20 amounts not exceeding the total amount of bonds authorized to be
21 issued by the legislature for any of its corporate purposes;
22 provided however, that bonds may be issued in connection with



1 any program whose primary purpose is to provide housing for
2 active or retired United States military personnel, their
3 families, and other persons authorized by any branch of the
4 United States military to reside in such housing; provided
5 further that the aggregate principal amount of all outstanding
6 bonds issued by the corporation for such military housing
7 projects shall total no more than \$2,000,000,000.

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

10 (c) The bonds shall be issued in the name of the
11 corporation, and not in the name of the State. The final
12 maturity date of the revenue bonds may be any date not exceeding
13 sixty years from the date of issuance.

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

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

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



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



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

2 (9) Any combination of the above.

3 The terms "income and revenues" shall be deemed to include
4 income and revenues derived from the sale of land or from both
5 land and improvements thereon serviced from infrastructure
6 financed from the proceeds of bonds as permitted by this
7 subpart. The provisions of this subsection are in addition and
8 supplemental to part III of chapter 39.

9 (e) Any of the bonds may be additionally secured by a
10 pledge of any revenues or a mortgage of any housing project,
11 other property of the corporation, the pledge or assignment of
12 any loans or other agreements, or any note or other undertaking,
13 obligation, or property held by or on behalf of the corporation
14 to secure loans made from the proceeds of bonds for any housing
15 loan program, as such term is defined in subpart B or D of this
16 part, or any other loan program administered by the corporation
17 and financed from the proceeds of bonds.

18 (f) Any pledge made by the corporation shall create a
19 perfected security interest in the revenues, moneys, or property
20 so pledged and thereafter received by the corporation from and
21 after the time that a financing statement with respect to the
22 revenues, moneys, or property so pledged and thereafter received



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

12 (g) Any housing project or projects authorized by, and
13 undertaken pursuant to, this chapter shall constitute an
14 "undertaking" within the meaning of that term as defined and
15 used in part III, chapter 39; any loan program authorized by,
16 and undertaken pursuant to, this chapter, including without
17 limitation housing loan programs defined in and authorized by
18 subparts B and D of this part, shall constitute a "loan program"
19 within the meaning of that term as defined and used in part III,
20 chapter 39; and the corporation shall constitute a "department"
21 and the board shall constitute a "governing body" within the



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

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

6 **§201H-Z Issuance of bonds for the development of**
7 **infrastructure.** Without limiting section 201H-Y, the
8 corporation, pursuant to and in accordance with this subpart, is
9 hereby authorized to issue bonds for the purpose of financing
10 the development of infrastructure on land owned by the
11 corporation.

12 **§201H-AA Issuance of bonds for the preservation of**
13 **low-income housing projects.** The corporation, pursuant to and
14 in accordance with this subpart, may issue bonds to purchase
15 low-income housing projects financed by the United States
16 Department of Housing and Urban Development in order to preserve
17 these projects. Upon the payment of all interest and principal
18 stemming from the issuance of these bonds, the corporation may
19 transfer title to these projects to qualified nonprofit
20 organizations. Nothing in this section shall be construed to:

- 21 (1) Prohibit qualified nonprofit or for profit
22 organizations from operating these projects on behalf

1 of the corporation, or providing for the repair and
2 maintenance of these projects, before the payment of
3 all interest and principal stemming from the issuance
4 of these bonds; or

5 (2) Prohibit the corporation from transferring title to
6 these projects to qualified nonprofit or for profit
7 organizations if these bonds can be secured to the
8 satisfaction of the bondholders.

9 As used in this section, "qualified nonprofit organization"
10 includes community-based nonprofit organizations and resident
11 councils.

12 **§201H-BB Bonds; interest rate, price and sale.** (a) The
13 bonds shall bear interest at rates payable at times that the
14 corporation, with the approval of the governor, may determine
15 except for deeply discounted bonds that are subject to
16 redemption or retirement at their accreted value; provided that
17 the discounted value of the bonds shall not exceed ten per cent
18 of any issue; and provided further that no bonds may be issued
19 without the approval of the director of finance and the
20 governor. Notwithstanding any other law to the contrary, the
21 corporation may, subject to the approval of the director of
22 finance and the governor, issue bonds pursuant to section



1 201H-Z, in which the discounted value of the bonds exceeds ten
2 per cent of the issue.

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

15 **§201H-CC Trustee; designation, duties.** (a) The
16 corporation may designate a trustee for each issue of bonds
17 secured under the same trust indenture; provided that the
18 trustee shall be approved by the director of finance.

19 (b) The trustee shall be authorized by the corporation to
20 receive and receipt for, hold, and administer the proceeds of
21 the bonds, and to apply the proceeds to the purposes for which
22 the bonds are issued.



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

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

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

18 (2) The purchase, registration, transfer, exchange, and
19 redemption of the bonds.

20 (e) The trustee shall perform additional functions with
21 respect to the payment, purchase, registration, transfer,
22 exchange, and redemption, as the director of finance may deem



1 necessary, advisable, or expeditious, including the holding of
2 the bonds and coupons, if any, that have been paid and the
3 supervision of their destruction in accordance with law.

4 (f) Nothing in this part shall limit or be construed to
5 limit the powers granted to the director of finance in sections
6 36-3, 39-13, and 39-68(a), to appoint the trustee or others as
7 fiscal agents, paying agents, and registrars for the bonds or to
8 authorize and empower those fiscal agents, paying agents, and
9 registrars to perform the functions referred to in those
10 sections.

11 **§201H-DD Trust indenture.** (a) A trust indenture may
12 contain covenants and provisions authorized by part III of
13 chapter 39, and as deemed necessary or convenient by the
14 corporation for the purposes of this part.

15 (b) A trust indenture may allow the corporation to pledge
16 and assign to the trustee agreements related to the housing
17 project or projects or loan program and the rights of the
18 corporation thereunder, including the right to receive revenues
19 thereunder and to enforce the provision thereof.

20 (c) Where a trust indenture provides that any bond issued
21 under that trust indenture is not valid or obligatory for any
22 purpose unless certified or authenticated by the trustee, all



1 signatures of the officers of the State upon the bonds required
2 by section 39-56 may be facsimiles of their signatures.

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

4 (1) The investment of the proceeds of the bonds, the
5 investment of any reserve for the bonds, the
6 investment of the revenues of the housing project or
7 system of housing projects, and the use and
8 application of the earnings from investments; and

9 (2) The terms and conditions upon which the holders of the
10 bonds or any portion of them or any trustee thereof
11 may institute proceedings for the enforcement of any
12 agreement or any note or other undertaking,
13 obligation, or property securing the payment of the
14 bonds and the use and application of the moneys
15 derived therefrom.

16 (e) A trust indenture may also contain provisions deemed
17 necessary or desirable by the corporation to obtain or permit,
18 by grant, interest subsidy, or otherwise, the participation of
19 the federal government in the housing projects or in the
20 financing of the costs of administering, operating, or
21 maintaining the housing projects.

1 **§201H-EE Investment of reserves, etc.** The corporation may
2 invest any funds held in reserves or sinking funds or any funds
3 not required for immediate disbursement, including the proceeds
4 of bonds, in property or securities in which the director of
5 finance may legally invest, as provided in section 36-21, except
6 that funds held outside the state treasury may be invested for
7 terms not to exceed thirty-five years. No provisions with
8 respect to the acquisition, operation, or disposition of
9 property by other public bodies shall be applicable to the
10 corporation unless the legislature shall specifically so state.

11 **§201H-FF Security for funds deposited by the corporation.**

12 The corporation may by resolution provide that all moneys
13 deposited by it shall be secured:

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

17 (2) By an undertaking with sureties as are approved by the
18 corporation faithfully to keep and pay over upon the
19 order of the corporation any deposits and agreed
20 interest thereon, and all banks and trust companies
21 are authorized to give any such security for such
22 deposits.



1 **§201H-GG Arbitrage provisions, interest rate.** (a) Any
2 other provision of law to the contrary notwithstanding, neither
3 the corporation nor the director of finance shall make loans or
4 purchase mortgages with the proceeds of general obligation bonds
5 of the State or from a revolving fund established or maintained
6 from the proceeds of bonds, at a rate of interest or upon terms
7 and conditions which would cause any general obligation bond of
8 the State or any bond to be an "arbitrage bond" within the
9 meaning of that term as defined in the Internal Revenue Code of
10 1986, as amended, and the regulations of the Internal Revenue
11 Service promulgated pursuant thereto.

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



1 with the approval of the director of finance, establish
2 different rates.

3 (c) The director of finance shall approve those rates so
4 as to produce up to, but not in excess of, the maximum yield to
5 the State or the corporation permitted under the Internal
6 Revenue Code of 1986, as amended, and the regulations of the
7 Internal Revenue Service promulgated pursuant thereto, on the
8 assumption that the general obligation bonds of the State, the
9 proceeds of which have been or are to be used for the purposes
10 of making loans or purchasing mortgages under this chapter,
11 would otherwise be "arbitrage bonds" under the Internal Revenue
12 Code of 1986, as amended, and the regulations of the Internal
13 Revenue Service promulgated pursuant thereto, were the maximum
14 yield to be exceeded. The establishment of the rates of interest
15 shall be exempt from chapter 91.

16 **§201H-HH Housing finance revolving fund; housing project**
17 **bond special funds.** (a) There is created a housing finance
18 revolving fund to be administered by the corporation.
19 Notwithstanding sections 36-21 and 201H-EEEE, the proceeds in
20 the fund shall be used for long-term and other special
21 financings of the corporation and for the necessary expenses in
22 administering this part.



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

5 (c) A separate special fund shall be established for each
6 housing project or system of housing projects or loan program
7 financed from the proceeds of bonds secured under the same trust
8 indenture. Each fund shall be designated "housing project bond
9 special fund" or "housing loan program revenue bond special
10 fund," as appropriate, and shall bear additional designation as
11 the corporation deems appropriate to properly identify the fund.

12 (d) Notwithstanding any other law to the contrary, all
13 revenues, income, and receipts derived from a housing project or
14 system of projects or loan program financed from the proceeds of
15 bonds or pledged to the payment of principal of and interest and
16 premium on bonds, shall be paid into the housing project bond
17 special fund established for the housing project or system of
18 projects or loan program and applied as provided in the
19 proceedings authorizing the issuance of the bonds.

20 **§201H-II Kikala-Keokea housing revolving fund;**

21 **established.** (a) There is established in the state treasury
22 the Kikala-Keokea housing revolving fund to provide low interest



1 loans for home construction for Kikala-Keokea leaseholders who
 2 have been denied loans from traditional financial institutions.
 3 The revolving fund shall be administered by the corporation.

4 (b) The rate of interest on loans executed pursuant to
 5 this section shall not exceed three per cent per year and
 6 interest earnings on loans made pursuant to this section may be
 7 used for administrative and other expenses necessary for
 8 administering the loan program. Guidelines shall be established
 9 by the corporation with respect to loan terms and loan
 10 qualification criteria. Moneys appropriated for the purposes of
 11 this section shall be deposited into the Kikala-Keokea housing
 12 revolving fund; provided that upon fulfillment of the purposes
 13 of this section, all unencumbered moneys shall lapse into the
 14 state general fund.

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

17 **§201H-JJ Rate of wages for laborers and mechanics.** The
 18 corporation shall require an eligible bidder or eligible
 19 developer of a housing project developed under this subpart to
 20 comply with the requirements of section 104-2 for those laborers
 21 and mechanics hired to work on that housing project; provided
 22 that this section shall not apply to a housing project developed



1 under this chapter if the entire cost of the project is less
2 than \$500,000 and the eligible bidder or eligible developer is a
3 private nonprofit corporation.

4 **§201H-KK Additional powers.** The powers conferred upon the
5 corporation by this subpart shall be in addition and
6 supplemental to the powers conferred upon it by any other law,
7 and nothing herein shall be construed as limiting any powers,
8 rights, privileges, or immunities so conferred upon it.

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

10 **§201H-LL Definitions.** The following words or terms as
11 used in this subpart shall have the following meanings unless a
12 different meaning clearly appears from the context:

13 "Eligible borrower" means a person or family, irrespective
14 of race, creed, national origin, or sex, who:

- 15 (1) Is a citizen of the United States or a resident alien;
- 16 (2) Is a bona fide resident of the State;
- 17 (3) Is at least of legal age;
- 18 (4) Does not personally, or whose spouse does not if the
- 19 person is married, own any interest in a principal
- 20 residence within or without the State and who has not
- 21 owned a principal residence within the three years
- 22 immediately prior to the application for an eligible



1 loan under this part, except this requirement shall
2 not apply to any eligible loan for a targeted area
3 residence as defined in the Mortgage Subsidy Bond Tax
4 Act of 1980, Public Law 96-499, which residence is to
5 replace a housing unit which has been declared
6 structurally unsalvageable by a governmental board or
7 agency having the power to make the declaration; and
8 provided further that this requirement shall not apply
9 to up to ten per cent of eligible loans of a bond
10 issue made to single parent household borrowers. No
11 loans, however, shall be made if they adversely affect
12 the tax-exempt status of the bonds issued. For the
13 purpose of this section, "single parent household"
14 means a household headed by a single person who has
15 legal custody of one or more dependent children;
16 (5) Has never before obtained a loan under this part; and
17 (6) Meets other qualifications as established by rules
18 adopted by the corporation.

19 "Eligible improvement" means alterations, repairs, or
20 improvements to an existing housing unit which substantially
21 protect or improve the basic livability of the unit.



1 "Eligible improvement loan" means a loan to finance an
2 eligible improvement to the owner of the housing unit, which may
3 be a condominium unit, where the eligible improvement is to be
4 made; provided that the owner meets the requirements of an
5 eligible borrower, except that the requirements of paragraph (4)
6 set forth in the definition of "eligible borrower" need not
7 apply, the unit to be financed is located in the State, the unit
8 will be occupied as the principal place of residence of the
9 borrower, and meets other requirements as established by rules
10 adopted by the corporation.

11 "Eligible loan" means a loan to an eligible borrower for
12 the permanent financing of a dwelling unit, including a
13 condominium unit; provided that the property financed is located
14 in the State, will be occupied as the principal place of
15 residence by the eligible borrower, and meets other requirements
16 as established by rules adopted by the corporation.

17 "Eligible project loan" means an interim or permanent loan,
18 which may be federally insured or guaranteed, made to a
19 qualified sponsor for the financing of a rental housing project,
20 and which meets other requirements as established by rules
21 adopted by the corporation.



1 "Housing loan programs" includes all or any part of the
2 loan to lenders program, the purchase of existing loans program,
3 the advance commitments program, and the loan funding programs
4 authorized under this part.

5 "Qualified sponsor" means any person or entity determined
6 by the corporation:

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

17 **§201H-MM Owner-occupancy requirement.** (a) An eligible
18 borrower shall utilize the dwelling unit purchased under this
19 part as the eligible borrower's permanent and primary residence.

20 (b) From time to time, the corporation may submit a
21 verification of owner-occupancy form to the eligible borrower.
22 Failure to respond to this verification in a timely manner may



1 result in an immediate escalation of the interest rate or
2 acceleration of the eligible loan.

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

8 **§201H-NN Rules; eligible borrower.** (a) The corporation
9 shall establish the qualifications of the eligible borrower, and
10 may consider the following:

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

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



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

3 (1) The housing unit for which the eligible improvement
4 loan is to be made and the property on which the
5 housing unit is situated shall not be included in the
6 calculation of the eligible borrower's assets; and

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

10 (d) For the purpose of determining the qualification of an
11 eligible borrower for an eligible loan for a targeted area
12 residence:

13 (1) The housing unit being replaced and the property on
14 which the housing unit is situated shall not be
15 included in the calculation of the eligible borrower's
16 assets; and

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

20 **§201H-00 Rules; eligible loans.** (a) The corporation
21 shall establish requirements for property financed by an



1 eligible loan, and may consider the location, age, condition,
2 and other characteristics of the property.

3 (b) The corporation shall establish restrictions on the
4 terms, maturities, interest rates, collateral, and other
5 requirements for eligible loans.

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

8 **§201H-PP Rules; eligible project loans.** (a) The
9 corporation shall establish requirements for projects to be
10 financed by an eligible project loan, and may consider the
11 location, age, condition, and other characteristics of the
12 project.

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

16 (c) The corporation shall establish restrictions on the
17 prepayment of eligible project loans and on the transfer of
18 ownership of the projects securing eligible project loans.

19 (d) The corporation shall require that any sums deferred
20 on land leased at nominal rates by the corporation to the owner
21 of an eligible project shall be recovered by the corporation at
22 the time an eligible project loan is prepaid, whether as a



1 result of refinancing of the eligible project loan or otherwise,
2 to the extent that funds are available from the refinancing or
3 other method by which the eligible project loan is paid in full
4 prior to its due date.

5 (e) The corporation shall enter into an agreement with the
6 owner of an eligible project to be financed with an eligible
7 project loan which shall provide that in the event that the
8 eligible project loan is at any time prepaid for the purpose of
9 converting the rental units of such project to ownership units,
10 all tenants at the time of the proposed conversion shall have
11 the first option to purchase their units.

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

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

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

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

3 **§201H-RR Housing loan programs; procedures and**

4 **requirements.** (a) The corporation shall establish procedures
5 for:

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

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

10 (3) The making of advance commitments to purchase and the
11 purchasing of eligible loans, eligible improvement
12 loans, or eligible project loans to be made by
13 mortgage lenders by auction, invitation of tenders, or
14 negotiation; and

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

17 (b) The corporation shall establish standards and
18 requirements for:

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

20 (2) The allocation of funds to purchase existing loans
21 from mortgage lenders;



1 (3) The making of advance commitments and allocation of
2 funds to purchase eligible loans, eligible improvement
3 loans, or eligible project loans from mortgage
4 lenders; and

5 (4) The participation by mortgage lenders as originators
6 and processors of eligible loans, eligible improvement
7 loans, or eligible project loans on behalf of the
8 corporation.

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

13 **§201H-SS Housing loan programs; general powers.** (a) The
14 corporation may make, enter into, and enforce all contracts or
15 agreements which are necessary, convenient, or desirable for the
16 purposes of the performance of its duties in executing the
17 housing loan programs.

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

20 **§201H-TT Housing loan programs; self-supporting.** The
21 interest rate, fees, charges, premiums, and other terms of the
22 loans made under the housing loan programs shall be at least



1 sufficient to pay the cost of administering and maintaining the
2 portion of the specific housing loan programs for which the
3 bonds have been issued, and to assure payment of the principal
4 of and interest on the bonds as they become due.

5 **§201H-UU Housing loan program; fees.** The corporation may
6 establish, revise, charge, and collect fees, premiums, and
7 charges as necessary, reasonable, or convenient, for its housing
8 loan programs. The fees, premiums, and charges shall be
9 deposited into the housing loan program revenue bond special
10 fund established for the particular housing loan program or part
11 thereof from which the fees, premiums, and charges are derived
12 as determined by the corporation.

13 **§201H-VV Housing loan programs; evidence of eligible loan,**
14 **eligible improvement loans, or eligible project loan.** (a) Each
15 mortgage lender who participates in any housing loan program
16 shall submit evidence, as deemed satisfactory by the
17 corporation, that eligible loans, eligible improvement loans, or
18 eligible project loans have been made from the proceeds of the
19 bonds.

20 (b) The corporation may inspect the books and records of
21 the mortgage lenders as may be necessary for this section.



1 **§201H-WW Loans to lenders program.** (a) The corporation
2 may make loans to mortgage lenders under terms and conditions
3 requiring that the loan proceeds be used within a time period
4 prescribed by the corporation to make eligible loans, eligible
5 improvement loans, and eligible project loans in an aggregate
6 principal amount substantially equal to the amount of the loan.

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

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

10 (1) Bear a date or dates;

11 (2) Mature at a time or times;

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

14 (4) Be subject to prepayment; and

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

16 (d) Subject to any agreement with the holders of its
17 bonds, the corporation may consent to any modification to the
18 rate of interest, time, and payment of any installment of
19 principal or interest, security, or any other term of any loan
20 to a mortgage lender or any bond, note, contract, or agreement
21 of any kind to which the corporation is a party.



1 **§201H-XX Loan to lenders program; collateral security.**

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

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

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

18 (d) Subject to any agreement with the holders of its
19 bonds, the corporation may collect, enforce the collection of,
20 and foreclose on any collateral securing its loans to mortgage
21 lenders. The corporation may acquire, take possession of, sell



1 at public or private sale with or without bidding, or otherwise
2 deal with the collateral to protect its interests.

3 **§201H-YY Purchase of existing loans program.** (a) The
4 corporation may contract with a mortgage lender to purchase, in
5 whole or in part, existing loans, whether or not eligible loans,
6 eligible improvement loans, or eligible project loans. The
7 contract may contain provisions as determined by the corporation
8 to be necessary or appropriate to provide security for its
9 bonds, including but not limited to provisions requiring the:

- 10 (1) Repurchase of the loans, in whole or in part, by
11 mortgage lenders at the option of the corporation;
12 (2) Payments of premiums, fees, charges, or other amounts
13 by mortgage lenders to provide a reserve or escrow
14 fund for the purposes of protecting against loan
15 defaults; and
16 (3) Guarantee by, or for recourse against, mortgage
17 lenders, with respect to defaults on these loans of
18 the corporation.

19 (b) The corporation shall require as a condition of each
20 purchase of existing loans from a mortgage lender that the
21 mortgage lender proceed to make and disburse eligible loans,
22 eligible improvement loans, or eligible project loans in an



1 aggregate principal amount substantially equal to the amount of
2 the proceeds from the purchase by the corporation of loans
3 therefrom.

4 **§201H-ZZ Advance commitments program.** (a) The
5 corporation may contract with a mortgage lender for the advance
6 commitment to purchase eligible loans, eligible improvement
7 loans, or eligible project loans.

8 (b) The contract may contain provisions as determined by
9 the corporation to be necessary or appropriate to provide
10 security for its bonds. Notwithstanding any other law to the
11 contrary, project loans may be made available for housing
12 projects on Hawaiian home lands pursuant to the Hawaiian Homes
13 Commission Act, 1920, as amended.

14 **§201H-AAA Loan funding programs.** (a) The corporation may
15 contract with mortgage lenders to fund eligible loans and
16 eligible improvement loans and may directly make or contract
17 with mortgage lenders to fund eligible project loans.

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

21 **§201H-BBB Loans; service and custody.** The corporation may
22 contract for the service and custody of its loans. The contract



1 may provide for the payment of fees or charges for the services
2 rendered; provided that the fees or charges shall not exceed the
3 usual, customary, and reasonable charges for the services
4 rendered.

5 **§201H-CCC Loans; sale, pledge, or assignment.** (a)

6 Subject to any agreements with the holders of its revenue bonds,
7 the corporation may sell its loans at public or private sale at
8 a price and upon terms and conditions as it determines.

9 (b) Subject to any agreements with holders of its revenue
10 bonds, the corporation may pledge or assign its loans, other
11 agreements, notes, or property to secure the loans or
12 agreements.

13 **§201H-DDD Loans; insurance and guarantees.** The
14 corporation may procure insurance or guarantees against any
15 default of its loans, in amounts and from insurers or
16 guarantors, as it deems necessary or desirable.

17 **§201H-EEE Loans; default.** The corporation may
18 renegotiate, refinance, or foreclose any loan in default.

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



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

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

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

9 **§201H-FFF Additional powers.** The powers conferred upon
10 the corporation by this subpart shall be in addition and
11 supplemental to the powers conferred upon it by any other law,
12 and nothing herein shall be construed as limiting any powers,
13 rights, privileges, or immunities so conferred upon it.

14 **C. Rental Assistance Program**

15 **§201H-GGG Purpose; findings and determinations.** The
16 legislature finds and declares that the health and general
17 welfare of the people of the State require that the people of
18 this State have safe and sanitary rental housing accommodations
19 available at affordable rents; that a grave shortage in the
20 number of such accommodations affordable by families and
21 individuals of low and moderate income in the State exists; that
22 it is essential that owners of rental housing accommodations be



1 provided with appropriate additional means to assist in reducing
2 the cost of rental housing accommodations to the people of the
3 State.

4 Additionally, the legislature finds that the high cost of
5 infrastructure development and the obtaining of interim
6 construction financing are two of the greatest impediments to
7 the production of affordable rental housing in this State. It
8 is especially difficult for private nonprofit and profit
9 entities to participate in the development of affordable housing
10 due to the difficulty in amassing the capital necessary to plan
11 and carry a project to completion.

12 It is the purpose of this subpart to:

13 (1) Assist owners in maintaining the rentals at levels
14 affordable by families and individuals of low and
15 moderate income by providing owners with rental
16 assistance payments which, with rentals received by
17 tenants of low and moderate income, will provide
18 owners with limited but acceptable rates of return on
19 their investments in rental housing accommodations;
20 and that assisting owners by entering into contracts
21 with them which provide for rental assistance payments



1 is a valid public purpose and in the public interest;
2 and

3 (2) Provide a funding source for interim construction
4 financing for the development of affordable rental
5 housing by private nonprofit and profit entities, as
6 well as the corporation; provided that in allotting
7 this financing, the corporation shall give preference
8 to qualified sponsors who are private nonprofit and
9 profit entities.

10 **§201H-HHH Definitions.** The following words or terms as
11 used in this subpart shall have the following meanings unless a
12 different meaning clearly appears from the context:

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

- 14 (1) Is financed by the corporation pursuant to subpart B
15 or D, or the corporation determines will require
16 rental assistance to make it financially feasible;
- 17 (2) Is subject to a regulatory agreement with the
18 corporation;
- 19 (3) Maintains at least twenty per cent of its units for
20 eligible tenants; and
- 21 (4) Meets other qualifications as established by rules
22 adopted by the corporation.



1 Notwithstanding any provisions to the contrary, "eligible
2 project" may also include a rental housing project which is
3 financed by the corporation pursuant to subpart A.

4 "Eligible tenant" means a family or an individual whose
5 income does not exceed eighty per cent of the area median income
6 as determined by the United States Department of Housing and
7 Urban Development.

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

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

13 "Rental assistance contract" means an agreement between an
14 owner and the corporation providing for periodic rental
15 assistance payment for units in an eligible project.

16 **§201H-III Rental assistance revolving fund.** (a) There is
17 created a rental assistance revolving fund to be administered by
18 the corporation.

19 (b) The aggregate principal sum in the rental assistance
20 revolving fund which may without limitation include sums made
21 available from any government program or grant, from private
22 grants or contributions, from the proceeds of any bond issue, or



1 by appropriation, shall be invested by the corporation in a
2 manner which will maximize the rate of return on investment of
3 the fund; provided that any investment shall be consistent with
4 section 201H-CC but need not comply with section 36-21.

5 (c) The corporation may use, as needed, the aggregate
6 principal sum and the accumulated earnings in the rental
7 assistance revolving fund to make payments under the rental
8 assistance contracts or to subsidize tenants' rents in projects
9 developed under this part; provided that the corporation shall
10 use up to \$25,000,000 plus any bond proceeds to provide interim
11 construction financing to:

12 (1) Qualified sponsors who are private nonprofit or profit
13 entities; or

14 (2) The corporation, for the development of affordable
15 rental housing; provided further that the corporation,
16 in allotting interim construction financing moneys
17 pursuant to this part, shall give preference to rental
18 housing projects developed by qualified sponsors who
19 are private nonprofit or profit entities.

20 **§201H-JJJ Rental assistance contracts.** (a) The
21 corporation may enter into a rental assistance contract and a



1 regulatory agreement with the owner of an eligible project, when
2 the owner of an eligible project is other than the corporation.

3 (b) Prior to the execution of a rental assistance
4 contract, the corporation may execute an agreement to enter into
5 a rental assistance contract with an owner, which agreement
6 shall provide for the execution of a rental assistance contract
7 upon satisfaction of the terms set forth in such agreement and
8 otherwise established by the corporation. Each rental
9 assistance contract heretofore entered into by the corporation
10 which provided that rental assistance payments shall be made
11 solely from the earnings on the investment of the rental
12 assistance revolving fund shall hereafter, without modification
13 of such contracts, be payable from the aggregate principal sum
14 and the accumulated earnings in the rental assistance revolving
15 fund.

16 (c) A rental assistance contract and any subsidy of
17 tenants' rents in projects developed under this part shall be
18 for a term not in excess of thirty-five years and shall be
19 approved by the board of directors of the corporation. Upon such
20 approval by the corporation, the director of finance shall be
21 authorized to guarantee the obligation of the corporation for
22 the term of the rental assistance contract or the subsidy of



1 tenants' rents in an amount equal to the aggregate obligation of
2 the corporation to make assistance payments; provided that the
3 aggregate of all such outstanding guarantees shall not exceed
4 \$100,000,000. Pursuant to such guarantee, the corporation shall
5 make annual rental payments to the owner in accordance with the
6 approved rental assistance contract or to the tenants in
7 accordance with the approved subsidy.

8 (d) Each rental assistance contract shall set forth a
9 maximum annual rental assistance payment amount. The
10 corporation shall establish procedures for determining the
11 maximum annual rental assistance payment amount and may consider
12 the following:

- 13 (1) The cost of constructing the eligible project;
- 14 (2) The estimated annual operating cost of the eligible
15 project;
- 16 (3) The estimated maximum rentals which may be charged for
17 units in the eligible project;
- 18 (4) The amount of funds available for the funding of
19 rental assistance contracts;
- 20 (5) The number of eligible projects requiring assistance
21 under this part; and



1 (6) A restricted rate of return on equity to the owner,
2 which rate shall be established by the corporation by
3 rule.

4 **§201H-KKK Rules, rental assistance program.** (a) Prior to
5 the execution of a rental assistance contract and annually
6 thereafter, the owner shall submit a proposed rental schedule to
7 the corporation for approval, which schedule shall list every
8 rental unit in the project and shall designate which units are
9 to be maintained for eligible tenants.

10 (b) The corporation shall establish procedures for
11 evaluating the rental schedules submitted pursuant to this
12 section, and may consider the following:

- 13 (1) The size of and number of bedrooms in the units
14 comprising the eligible project;
- 15 (2) The location of the project and its type (whether
16 high-rise, mid-rise, or low-rise);
- 17 (3) The percentage of units being maintained for eligible
18 tenants; and
- 19 (4) The rentals prevalent in the open market for
20 comparable units.

21 (c) Annually, following the approval of the rental
22 schedule submitted pursuant to the preceding section, the



1 corporation shall determine the amount of rental assistance
2 payments payable to the owner for the forthcoming year, which
3 amount shall under no circumstances exceed the maximum annual
4 rental assistance payment amount determined in accordance with
5 section 201H-JJJ. The amount determined pursuant to this
6 subsection shall take into account the estimated amount to be
7 derived by the owner from rentals to be charged for the
8 forthcoming year and the limited rate of return on equity
9 permitted in accordance with section 201H-JJJ(d)(6).

10 (d) The corporation shall establish standards and
11 requirements for:

- 12 (1) The awarding of rental assistance contracts and the
13 allocation of annual rental assistance payments;
- 14 (2) The form of lease to be utilized by the owner in
15 renting units in an eligible project;
- 16 (3) The marketing and tenant selection and admission
17 processes to be employed by the owner with respect to
18 an eligible project; and
- 19 (4) The maintenance and operation of eligible projects.
- 20 (e) The corporation shall establish procedures for:
- 21 (1) The annual review of rental schedules for eligible
22 projects;



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

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

6 (f) When an eligible project is not owned by the
7 corporation, the corporation shall be entitled to share in the
8 appreciation in value of units maintained for eligible tenants
9 within an eligible project realized at the time of refinancing
10 or prepayment of the eligible project loan. The corporation's
11 share shall be calculated by multiplying the appreciation in
12 value of units maintained for eligible tenants realized upon
13 refinancing or prepayment by the ratio of the owner's equity to
14 the discounted value of the aggregate rental assistance
15 payments. The discount rate shall be established by rules
16 adopted by the corporation.

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

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



- 1 (A) At least sixty per cent of the project is
2 affordable to families earning one hundred per
3 cent or below of the applicable area median
4 income; and
- 5 (B) At least half of the foregoing sixty per cent is
6 affordable to families earning eighty per cent or
7 below of the applicable area median income; and
- 8 (2) The project from which the appreciation in value is
9 derived remains as affordable as it was prior to the
10 refinancing or prepayment of the eligible project
11 loan.

12 **§201H-LLL Benefits of program not exclusive.** Nothing in
13 this subpart contained shall be construed to prohibit, with
14 respect to an eligible project, the operation of the rental
15 assistance program in conjunction with other state or federal
16 programs including the state rent supplements provided for in
17 part VII of chapter .

18 **§201H-MMM Additional powers.** The powers conferred upon
19 the corporation by this subpart shall be in addition and
20 supplemental to the powers conferred upon it by any other law,
21 and nothing herein shall be construed as limiting any powers,
22 rights, privileges, or immunities so conferred upon it.



1 **D. Taxable Mortgage Securities Programs**

2 **§201H-NNN Definitions.** Whenever used in this subpart,
3 unless the context otherwise requires:

4 "Eligible borrower" means:

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

7 (A) Is a citizen of the United States or a declarant
8 alien;

9 (B) Is a bona fide resident of the State;

10 (C) Is at least of legal age;

11 (D) Does not personally, or whose spouse if the
12 person is married, own a majority interest in any
13 residential property in the State; and

14 (E) Meets other qualifications as established by
15 rules adopted by the corporation; or

16 (2) A qualified sponsor of an affordable housing project
17 who meets the qualification requirements as
18 established by rules adopted by the corporation.

19 "Eligible loan" or "loan" means:

20 (1) A loan to an eligible borrower for the purchase of a
21 housing unit, including a condominium unit; provided
22 that the property financed is located in the State,



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

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

9 "Housing loan programs" include all or any part of the loan
10 programs authorized in section 201H-000.

11 **§201H-000 Housing loan programs; authorization.** (a) The
12 corporation may establish under this subpart one or more
13 eligible loan programs.

14 (b) The corporation may invest in, make, purchase, take
15 assignments of, or otherwise acquire or make commitments to
16 invest in, make, purchase, take assignments of, or otherwise
17 acquire any eligible loans or any partial interest or
18 participation therein held by or on behalf of the corporation.

19 (c) The corporation may sell, assign, or otherwise dispose
20 of or enter into commitments to sell, assign, or otherwise
21 dispose of any eligible loans or any partial interest or
22 participation therein held by or on behalf of the corporation.



1 (d) The corporation may acquire any obligation under
2 conditions which require the seller of such obligation to use
3 the proceeds of the sale for the purpose of financing eligible
4 loans.

5 **§201H-PPP Housing loan programs; procedures and**
6 **requirements.** (a) The corporation may establish procedures and
7 requirements for:

- 8 (1) The purchase of loans from mortgage lenders by
9 auction, invitation of tender, advance commitment, or
10 other negotiation;
- 11 (2) The making of loans through mortgage lenders to
12 eligible borrowers or qualified sponsors;
- 13 (3) The allocation to mortgage lenders of money made
14 available under this subpart; and
- 15 (4) The participation by mortgage lenders as originators
16 and processors of loans on behalf of the corporation
17 under this subpart.

18 (b) The corporation may adopt rules necessary or
19 convenient for the operation of the housing loan programs
20 established under this subpart.

21 **§201H-QQQ Housing loan programs; general powers.** (a) The
22 corporation may make, enter into, and enforce all contracts or



1 agreements which are necessary, convenient, or desirable for the
2 purpose of the performance of its powers under this subpart.

3 (b) The corporation may establish, revise, charge, and
4 collect fees, premiums, and charges as necessary, reasonable, or
5 convenient in connection with its housing loan programs
6 established under this subpart. The fees, premiums, and charges
7 shall be deposited into such funds as are determined by the
8 corporation.

9 (c) The corporation may contract for the servicing and
10 custody of any loans or other obligations acquired under this
11 subpart.

12 (d) The corporation may procure insurance against any
13 default of its loans from insurers in amounts deemed necessary
14 or desirable.

15 (e) Subject to any agreements with the holders of its
16 bonds, the corporation may renegotiate, refinance, or foreclose
17 any loan in default; and may commence any action to protect or
18 enforce any right conferred upon it by any law, or as provided
19 in any mortgage, insurance policy, contract, or other agreement;
20 and may bid for and purchase the property secured by the loan at
21 any foreclosure or other sale; or acquire, or take possession of
22 the property secured by the loan and may operate, manage, lease,



1 dispose of, or otherwise deal with the property securing the
2 loan.

3 **§201H-RRR Additional powers.** The powers conferred upon
4 the corporation by this subpart shall be in addition and
5 supplemental to the powers conferred upon it by any other law,
6 and nothing herein shall be construed as limiting any powers,
7 rights, privileges, or immunities so conferred upon it.

8 **E. State Mortgage Guarantee Program**

9 **§201H-SSS State mortgage guarantee.** (a) The corporation
10 may guarantee:

- 11 (1) Up to the top twenty-five per cent of the principal
12 balance of real property mortgage loans for the
13 purchase of qualified single-family or multifamily
14 housing units;
- 15 (2) A maximum of one hundred per cent of the principal
16 balance of real property mortgage loans of qualified
17 single-family housing under section 213 of the
18 Hawaiian Homes Commission Act; or
- 19 (3) Up to one hundred per cent of the principal balance of
20 real property mortgage loans of single-family or
21 multifamily housing developed under self-help or shell
22 housing programs;



1 plus the interest due thereon, made to qualified borrowers by
2 qualified private lenders; provided that at no time shall the
3 corporation's liability, contingent or otherwise, on these
4 guarantees exceed \$10,000,000. For the purposes of this
5 section, the term "self-help housing program" means development
6 or preservation of housing in which prospective homeowners have
7 contributed labor, materials, or real property; provided that at
8 least two-thirds of the participating homeowners are qualified
9 by income for assistance under this subpart and that the program
10 is carried out under the sponsorship of a nonprofit community
11 development organization. For the purposes of this section, the
12 term "shell housing program" means development of housing which
13 is habitable but unfinished and can be completed or expanded;
14 provided that at least one hundred per cent of the participating
15 homeowners are qualified by income for assistance under this
16 chapter and that the program is carried out under the
17 sponsorship of a public, nonprofit, or private organization.

18 (b) The loans shall be secured by a duly recorded first
19 mortgage upon the fee simple or leasehold interest of the
20 borrower in the single-family or multifamily dwelling owned and
21 occupied by the borrower and the borrower's permitted assigns.
22 Private lenders shall include all banks, savings and loan

1 associations, mortgage companies, and other qualified companies
2 and trust funds whose business includes the making of loans in
3 the State.

4 (c) Loans guaranteed under this section shall be in
5 accordance with rules adopted by the corporation.

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

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

9 (2) Qualified under the rules adopted by the corporation;

10 and

11 (3) Willing to comply with the rules as may be adopted by
12 the corporation.

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

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



1 (f) In return for the corporation's guarantee, the private
2 lender shall remit out of monthly payments collected an
3 insurance fee as established by the corporation. The funds
4 remitted shall be deposited to the credit of the state general
5 fund.

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

15 (h) If there is any default in any payment to be made by
16 the borrower, the lender shall notify the corporation within
17 fifteen days. Should the lender deem that foreclosure
18 proceedings are necessary to collect moneys due from the
19 borrower, it shall so notify the corporation. Within thirty
20 days of either notification, the corporation may elect to
21 request an assignment of the loan on payment in full to the



1 lender of the principal balance and interest due. Foreclosure
2 proceedings shall be held in abeyance in the interim.

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

5 (1) Extend no portion of the qualified borrower's loan for
6 purposes other than those sanctioned by the
7 corporation;

8 (2) Not sell or otherwise dispose of the mortgaged
9 property except upon the prior written consent of the
10 corporation and except upon any conditions that may be
11 prescribed in writing by the private lender;

12 (3) Undertake to pay when due all taxes, liens, judgments,
13 or assessments which may be lawfully assessed against
14 the property mortgaged, together with cost and expense
15 of any foreclosure of the mortgage;

16 (4) Keep insured to the satisfaction of the private lender
17 all improvements and other insurable property covered
18 by the mortgage. Insurance shall be made payable to
19 the mortgagee as its interest may appear at the time
20 of the loss. At the option of the private lender,
21 subject to the rules and standards of the corporation,
22 sums so received may be used to pay for reconstruction



1 of the improvements destroyed, or for decreasing the
2 amount of the indebtedness;

3 (5) Keep the improvements in good repair; and

4 (6) The private lender may impose any other conditions in
5 its mortgage; provided the form of the mortgage has
6 received the prior approval of the corporation.

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

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

20 (k) All interest and fees collected under this subpart by
21 the corporation shall be deposited into the general fund. All
22 moneys necessary to guarantee payment of loans made under this



1 subpart and to carry on the operations of the corporation in
2 administering and granting loans under this subpart shall be
3 appropriated by the legislature out of the proceeds of the
4 general fund. The corporation shall include in its legislative
5 budgetary request for the upcoming fiscal period, the amounts
6 necessary to effectuate the purposes of this section.

7 **§201H-TTT Mortgage guaranty agreements.** (a) To induce
8 appropriate officials of any agency or instrumentality of the
9 United States to commit to insure and insure mortgages under the
10 provisions of the National Housing Act, as amended, the
11 corporation may enter into guaranty agreements with such
12 officials whenever:

13 (1) The purchaser-mortgagor in question is ineligible for
14 mortgage insurance purposes under the National Housing
15 Act because of credit standing, debt obligation or
16 income characteristics;

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



1 (3) The corporation finds that the purchaser-mortgagor
2 would be a satisfactory credit risk with ability to
3 repay the mortgage loan if the purchaser-mortgagor
4 were to receive budget, debt, management and related
5 counseling.

6 (b) Such guaranty agreements may obligate the corporation
7 to:

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

9 (2) Indemnify an agency or instrumentality of the United
10 States for a period not to exceed five years for any
11 loss sustained by such agency or instrumentality by
12 reason of insurance of a mortgage.

13 (c) The total of guaranties made pursuant to this section
14 and guaranties made pursuant to section 201H-SSS shall not
15 exceed \$10,000,000.

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



1 **F. Downpayment Loan Program**

2 **§201H-VVV Downpayment loans.** (a) The corporation may
3 make direct downpayment loans to eligible borrowers. The
4 downpayment loan to any borrower shall not exceed thirty per
5 cent of the purchase price of the residential property or
6 \$15,000, whichever is less. The interest rate on the loans may
7 range from zero per cent to eight per cent, depending on the
8 buyer's incomes.

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 home, or shall be repaid by the
16 borrower in such installments as determined by the corporation;
17 provided that the corporation may provide a period in which the
18 payment could be waived. The period over which the principal
19 and interest shall be paid need not coincide with the period
20 over which the loan from the mortgage lender for the balance of
21 the purchase price must be repaid. The borrower may repay the



1 whole or any part of the unpaid balance of the downpayment loan,
2 plus 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 which 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 above conditions shall be a part of any
4 downpayment mortgage executed under this part, regardless of
5 whether or not they are expressly incorporated in the mortgage
6 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 that the corporation is
4 authorized by law.

5 **§201H-ZZZ Additional powers.** The powers conferred upon
6 the corporation by this subpart shall be in addition and
7 supplemental to the powers conferred upon it by any other law,
8 and nothing herein shall be construed as limiting any powers,
9 rights, privileges, or immunities so conferred upon it.

10 **G. Homebuyers' Club**

11 **§201H-AAAA Homebuyers' club program.** (a) The corporation
12 may establish a homebuyers' club program for participants who
13 are desirous of purchasing a home and who have adequate incomes
14 but who lack sufficient funds for the downpayment and closing
15 costs. The primary focus of this program is to facilitate the
16 purchase of homes by providing participants with strategies to
17 save money, to resolve credit problems, and to educate
18 participants on how to shop for and purchase a home.

19 (b) In establishing such a program, the corporation shall
20 adopt rules pursuant to chapter 91 relating to establishing a
21 savings program for participants based upon individual analyses
22 of income and family expenses. The rules may also provide for



1 integration of the homebuyers' club program with other
2 governmental programs including but not limited to individual
3 housing accounts under section 235-5.5, the state mortgage
4 guarantee program under subpart E, the downpayment loan program
5 established under subpart F, and the rent-to-own program
6 established under subpart H.

7 (c) The corporation may secure the services of another
8 public or private entity to carry out the purposes of this
9 section.

10 **§201H-BBBB Additional powers.** The powers conferred upon
11 the corporation by this subpart shall be in addition and
12 supplemental to the powers conferred upon it by any other law,
13 and nothing herein shall be construed as limiting any powers,
14 rights, privileges, or immunities so conferred upon it.

15 **H. Rent-to-Own Program**

16 **§201H-CCCC Rent-to-own program.** (a) The corporation may
17 establish a rent-to-own program under which housing units that
18 are for sale may be rented to program participants. Under this
19 program, the corporation shall credit a portion of the rent
20 received toward the purchase of the unit.

21 (b) The sales price shall be established at the beginning
22 of the rental term and shall remain fixed for the first five



1 years after the rental agreement is executed. During this
2 period, the participant shall have the option of purchasing the
3 unit at the designated sales price. If the participant does not
4 elect to purchase the unit within the five-year period, the
5 renter shall forfeit the right to continue living in the unit
6 and the unit shall be made available to another purchaser or
7 renter.

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

11 **§201H-DDDD Additional powers.** The powers conferred upon
12 the corporation by this subpart shall be in addition and
13 supplemental to the powers conferred upon it by any other law,
14 and nothing herein shall be construed as limiting any powers,
15 rights, privileges, or immunities so conferred upon it.

16 **I. Dwelling Unit Revolving Fund**

17 **§201H-EEEE Dwelling unit revolving fund.** There is created
18 a dwelling unit revolving fund. The funds appropriated for the
19 purpose of the dwelling unit revolving fund and all moneys
20 received or collected by the corporation for the purpose of the
21 revolving fund shall be deposited in the revolving fund. The
22 proceeds in the revolving fund shall be used to reimburse the



1 general fund to pay the interest on general obligation bonds
2 issued for the purposes of the revolving fund, for the necessary
3 expenses in administering this part, and for carrying out the
4 purposes of this part, including but not limited to the
5 expansion of community facilities constructed in conjunction
6 with housing projects, permanent primary or secondary financing,
7 and supplementing building costs, federal guarantees required
8 for operational losses, and all things required by any federal
9 agency in the construction and receipt of federal funds or
10 low-income housing tax credits for housing projects.

11 **§201H-FFFF Additional powers.** The powers conferred upon
12 the corporation by this subpart shall be in addition and
13 supplemental to the powers conferred upon it by any other law,
14 and nothing herein shall be construed as limiting any powers,
15 rights, privileges, or immunities so conferred upon it.

16 **J. Rental Housing Trust Fund**

17 **§201H-GGGG Additional definitions.** As used in this
18 subpart, unless a different meaning is clearly required by the
19 context:

20 "Develop" or "development" means the planning, financing,
21 or acquisition of real and personal property; demolition of
22 existing structures; clearance of real property; construction,



1 reconstruction, alteration, or repairing of approaches, streets,
2 sidewalks, utilities, and services, or other site improvements;
3 construction, reconstruction, repair, remodeling, extension,
4 equipment, or furnishing of buildings or other structures; or
5 any combination of the foregoing, of any housing project. It
6 also includes any undertakings necessary therefor, and the
7 acquisition of any housing, in whole or in part.

8 "Fund" means the rental housing trust fund established in
9 this subpart.

10 **§201H-HHHH Rental housing trust fund.** (a) There is hereby
11 established a rental housing trust fund to be placed within the
12 corporation.

13 (b) An amount from the fund, to be set by the corporation
14 and authorized by the legislature, may be used for
15 administrative expenses incurred by the corporation in
16 administering the fund; however, fund moneys may not be used to
17 finance day-to-day administrative expenses of projects allotted
18 fund moneys.

19 (c) The following may be deposited into the fund:
20 appropriations made by the legislature, private contributions,
21 repayment of loans, interest, other returns, and moneys from
22 other sources.



1 (d) The fund shall be used to provide loans or grants for
2 the development, pre-development, construction, acquisition,
3 preservation, and substantial rehabilitation of rental housing
4 units. Permitted uses of the fund may include but are not
5 limited to planning, design, land acquisition, costs of options,
6 agreements of sale, downpayments, equity financing, capacity
7 building of nonprofit housing developers, or other housing
8 development services or activities as provided in rules adopted
9 by the corporation pursuant to chapter 91. The rules may
10 provide for a means of recapturing loans or grants made from the
11 fund if a rental housing project financed under the fund is
12 refinanced or sold at a later date. The rules may also provide
13 that moneys from the fund shall be leveraged with other
14 financial resources to the extent possible.

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

18 (1) Projects or units in projects that are allocated
19 low-income housing credits pursuant to the state
20 housing credit ceiling under section 42(h) of the
21 Internal Revenue Code of 1986, as amended, or projects
22 or units in projects that are funded by programs of



1 the United States Department of Housing and Urban
2 Development and United States Department of
3 Agriculture Rural Development wherein:

4 (A) At least fifty per cent of the available units
5 are for persons and families with incomes at or
6 below eighty per cent of the median family income
7 of which at least five per cent of the available
8 units are for persons and families with incomes
9 at or below thirty per cent of the median family
10 income; and

11 (B) The remaining units are for persons and families
12 with incomes at or below one hundred per cent of
13 the median family income; provided that the
14 corporation may establish rules to ensure full
15 occupancy of fund projects; and

16 (2) Mixed-income rental projects or units in a
17 mixed-income rental project wherein all of the
18 available units are for persons and families with
19 incomes at or below one hundred forty per cent of the
20 median family income.

21 (f) The corporation shall submit an annual report to the
22 legislature no later than twenty days prior to the convening of



1 each regular session describing the projects funded and, with
2 respect to rental housing projects targeted for persons and
3 families with incomes at or below thirty per cent of the median
4 family income, its efforts to develop those rental housing
5 projects, a description of proposals submitted for this target
6 group and action taken on the proposals, and any barriers to
7 developing housing units for this target group.

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

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

20 (i) For the period commencing July 1, 2005, through
21 June 30, 2007, the fund may be used to provide grants for rental
22 units set aside for persons and families with incomes at or



1 below thirty per cent of the median family income in any project
2 financed in whole or in part by the fund in proportion of those
3 units to the total number of units in the project. At the
4 conclusion of the period described in this subsection, the
5 corporation shall report to the legislature on the number and
6 use of grants provided and whether the grants were an effective
7 use of the funds for purposes of developing rental housing for
8 families at or below thirty per cent of median family income.

9 **§201H-III Eligible applicants for funds.** Eligible
10 applicants for funds shall include nonprofit and for-profit
11 corporations, 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 criteria set forth below that are listed in descending order

21 of 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 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 population 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 population of
12 the proposed rental housing project, such as proximity
13 to 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 in the above
17 process as it deems necessary to carry out the purposes of this
18 part.

19 If the corporation, after applying the process described in
20 this subsection, finds a nonprofit project equally ranked with a
21 for-profit or government project, the corporation shall give
22 preference to the nonprofit project in allotting fund moneys.

1 any purpose for which the fund may not lawfully be expended.
2 Nothing in sections 37-31 to 37-41 shall require the proceeds of
3 the revolving funds identified in subparts I and J of part III,
4 or sections 201H-HH, 201H-III, -82, or 516-44 to be
5 reappropriated annually.

6 **§201H-MMM Additional powers.** The powers conferred upon
7 the corporation by this subpart shall be in addition and
8 supplemental to the powers conferred upon it by any other law,
9 and nothing herein shall be construed as limiting any powers,
10 rights, privileges, or immunities so conferred upon it."

11 PART V

12 SECTION 6. Section 201H-1, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "[~~§~~201H-1] **Definitions.** The following terms, wherever
15 used or referred to in this chapter, shall have the following
16 respective meanings, unless a different meaning clearly appears
17 from the context:

18 [~~"Administration" means the Hawaii housing finance and
19 development administration.~~]

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



1 "Bonds" means any bonds, interim certificates, notes,
2 debentures, participation certificates, pass-through
3 certificates, mortgage-backed obligations, or other evidences of
4 indebtedness of the [~~administration~~] corporation issued pursuant
5 to this chapter.

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

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

16 "Corporation" means the Hawaii housing finance and
17 development corporation.

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

20 [~~"Elder" or "elderly" means a person who is a resident of~~
21 ~~the State and has attained the age of sixty-two years.~~



1 ~~"Elder or elderly households" means households in which at~~
2 ~~least one member is at least sixty-two years of age, the spouse~~
3 ~~or partner of that member has attained the age of majority, and~~
4 ~~the remaining members have attained the age of fifty-five years~~
5 ~~at the time of application to a public housing project. A live-~~
6 ~~in aide shall cease to be a resident therein upon the recovery~~
7 ~~of, or removal from the project of, the elder.~~

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

- 9 ~~(1) A housing project intended for and occupied by elder~~
10 ~~or elderly households; or~~
- 11 ~~(2) Housing provided under any state or federal program~~
12 ~~that the Secretary of the United States Department of~~
13 ~~Housing and Urban Development determines is~~
14 ~~specifically designed and operated to assist elders or~~
15 ~~elderly persons, which, upon a determination by the~~
16 ~~Secretary, may also be occupied by persons with~~
17 ~~disabilities who have reached the age of majority.]~~

18 "Executive director" means the executive director of the
19 Hawaii housing finance and development ~~[administration.]~~
20 corporation.



1 "Federal government" includes the United States and any
2 agency or instrumentality, corporate or otherwise, of the United
3 States.

4 "Government" includes the State and the United States and
5 any political subdivision, agency, or instrumentality, corporate
6 or otherwise, of either of them.

7 "Household member" means a person who:

8 (1) Is a co-applicant; or

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

11 "Housing project" or "project" includes all real and
12 personal property, buildings and improvements, commercial
13 spaces, lands for farming and gardening, and community
14 facilities acquired or constructed or to be acquired or
15 constructed, and all tangible or intangible assets held or used
16 in connection with the housing project.

17 The term "housing project" or "project" may also be applied
18 to the planning of the buildings and improvements, the
19 acquisition of property by purchase, lease, or otherwise, the
20 demolition of existing structures, the construction,
21 reconstruction, alteration, and repair of the improvements, and
22 all 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~~] corporation as
14 meeting these 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, association,
2 or other duly chartered entity that is registered with the State
3 and has received a written determination from the Internal
4 Revenue Service that it is exempt under either section
5 501(c)(3), section 501(c)(4), or so much of section 501(c)(2) as
6 applied to title holding corporations that turn over their
7 income to organizations that are exempt under either section
8 501(c)(3) or 501(c)(4), of the Internal Revenue Code of 1986, as
9 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 corporation shall set
3 the salary of the executive director and executive assistant,
4 subject to the approval of the governor. The ~~[administration]~~
5 corporation may employ, subject to chapter 76, technical experts
6 and officers, agents, and employees, permanent and temporary, as
7 required. The ~~[administration]~~ corporation may also employ
8 officers, agents, and employees, prescribe their duties and
9 qualifications, and fix their salaries, not subject to
10 chapter 76, when in the determination of the ~~[administration,~~
11 corporation, the services to be performed are unique and
12 essential to the execution of the functions of the
13 ~~[administration]~~ corporation. The ~~[administration]~~ corporation
14 may call upon the attorney general or retain counsel for legal
15 services as it may require. The ~~[administration]~~ corporation
16 may delegate to one or more of its agents or employees its
17 powers and duties as it deems proper."

18 SECTION 8. Section 201H-3, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "[+]§201H-3[+] **Board; establishment, functions, duties.**

21 (a) There is created a board of directors of the Hawaii housing
22 finance and development ~~[administration]~~ corporation consisting



1 of nine members, of whom six shall be public members appointed
2 by the governor as provided in section 26-34. At least four of
3 the public members shall have knowledge and expertise in public
4 or private finance and development of affordable housing.

5 Public members shall be appointed from each of the counties of
6 Honolulu, Hawaii, Maui, and Kauai. At least one public member
7 shall represent community advocates for low-income housing,
8 affiliated with private nonprofit organizations that serve the
9 residents of low-income housing. The public members of the
10 board shall serve four-year staggered terms; provided that the
11 initial appointments shall be as follows:

- 12 (1) Two members to be appointed for four years;
13 (2) Two members to be appointed for three years; and
14 (3) Two members to be appointed for two years.

15 The director of business, economic development, and tourism and
16 the director of finance, or their designated representatives, and
17 a representative of the governor's office, shall be ~~[an]~~ ex
18 officio voting ~~[member.]~~ members. The ~~[administration]~~
19 corporation shall be headed by the board.

20 (b) The board of directors shall select a chairperson and
21 vice chairperson from among its members; provided that the
22 chairperson shall be a public member. The director of business,

1 economic development, and tourism, director of finance, and the
2 governor's representative shall be ineligible to serve as
3 chairperson of the board.

4 (c) Five members shall constitute a quorum, whose
5 affirmative vote shall be necessary for all actions by the
6 ~~[administration.]~~ corporation. The members shall receive no
7 compensation for services, but shall be entitled to necessary
8 expenses, including travel expenses, incurred in the performance
9 of their duties."

10 SECTION 9. Section 201H-7, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "[~~§~~201H-7] **Housing research.** (a) The
13 ~~[administration]~~ corporation may study the plans of any
14 government in relation to the problem of clearing, replanning,
15 or reconstructing an area in which unsafe or unsanitary ~~[public]~~
16 dwelling or ~~[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 the
12 [~~administration~~] corporation proposes to develop public land, it
13 shall file with the department of land and natural resources a
14 petition setting forth such purpose. The petition shall be
15 conclusive proof that the intended use is a public use superior
16 to that which the land has been appropriated.

17 (c) The [~~administration~~] corporation may develop or assist
18 in the development of federal lands with the approval of
19 appropriate federal authorities.

20 (d) The [~~administration~~] corporation shall not develop any
21 public land where the development may endanger the receipt of
22 any federal grant, impair the eligibility of any public body for



1 a federal grant, prevent the participation of the federal
2 government in any government program, or impair any covenant
3 between the government and the holder of any bond issued by the
4 government.

5 (e) The [~~administration~~] corporation may contract or
6 sponsor with any county, housing authority, or person, subject
7 to the availability of funds, an experimental or demonstration
8 housing project designed to meet the needs: of elders; the
9 disabled; displaced or homeless persons; low- and moderate-
10 income persons; teachers or other government employees; or
11 university and college students and faculty."

12 SECTION 11. Section 201H-14, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "~~[+]§201H-14[+]~~ **Contracts with federal government.** (a)

15 The [~~administration~~] corporation may:

16 (1) Borrow money or accept grants from the federal
17 government for or in aid of any housing project that
18 the [~~administration~~] corporation is authorized to
19 undertake;

20 (2) Take over any land acquired by the federal government
21 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 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 revisor of statutes shall substitute all
22 references made to "chapter 201G" or any specific section or



1 part of chapter 201G, as the case may be, in sections 10-13.6,
2 26-14.6, 29-15.5, 46-1.5, 46-4, 46-15.1, 46-15.2, 53-1, 53-17,
3 104-2, 171-18.5, 171-19.5, 201H-10, 205-4, 206-1, 237-23,
4 237-29, 247-7, 321-15.6, 346-152, 467-2, 480-11, 514A-14.5,
5 514A-108, 514B-99.5, 516-1, 516-31, 516-104, and 521-7, Hawaii
6 Revised Statutes, with the corresponding chapter, part, or
7 section number of the new law created and codified under this
8 Act, as appropriate.

9 SECTION 15. Act 196, Session Laws of Hawaii 2005, is
10 amended by amending sections 21, 22, 23, 24, and 25 by
11 substituting the words "Hawaii housing finance and development
12 corporation," or like term, wherever the words "Hawaii housing
13 finance and development administration," or like term, appears,
14 as the context requires.

15 SECTION 16. Act 196, Session Laws of Hawaii 2005, is
16 amended by amending section 26 to read as follows:

17 "SECTION 26. (a) All references to the "housing and
18 community development corporation of Hawaii," or "corporation"
19 or similar terms as the case may be in [~~in chapter 201G, and~~]
20 sections 27-11, 53-6, 76-16, 209-16(b), 290-1(b), 290-8, and
21 521-7, Hawaii Revised Statutes, shall be amended to "Hawaii
22 public housing [~~administration~~] authority," "[~~administration~~]"



1 authority," or similar terms, as the case may be, as the context
2 requires.

3 (b) All references to the "housing and community
4 development corporation of Hawaii," or "corporation," or similar
5 terms as the case may be in chapter 201H, chapter 516, and
6 sections 10-2, 10-13.6, 36-24, 46-15.1, 53-17, 53-22(e), 111-8,
7 111-9, 171-2, 171-18.5, 171-50.2, 206E-15, 209-16(a), 209-17,
8 237-29, 247-3, 290-1(c), 519-2(b), and 519-3(b), Hawaii Revised
9 Statutes, shall be amended to [~~"Hawaii housing finance and
10 development administration", "administration",~~] "Hawaii housing
11 and finance development corporation," "corporation," or similar
12 terms, as the case may be, as the context requires.

13 SECTION 17. Act 196, Session Laws of Hawaii 2005, is
14 amended by amending section 41 to read as follows:

15 "SECTION 41. This Act shall take effect on July 1, 2005;
16 provided that:

17 (1) Sections 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, and
18 30 shall take effect on July 1, 2006;

19 (2) Section 37 shall take effect upon the date specified
20 by the governor pursuant to the notice provided under
21 section 36 of this Act if, prior to July 1, 2007, the
22 United States Department of Housing and Urban



1 Development declares the housing and community
2 development corporation of Hawaii to be in substantial
3 default of the Memorandum of [~~Understanding~~] Agreement
4 dated September 30, 2004; and

5 (3) Sections 36 and 37 shall be repealed on [~~July 1, 2007,~~
6 ~~and~~] July 1, 2007.

7 [~~(4) Section 5 shall be repealed on June 30, 2010, and~~
8 ~~section 201G-432, Hawaii Revised Statutes, shall be~~
9 ~~reenacted in the form in which it read on the day~~
10 ~~prior to the effective date of this Act.]"~~

11 SECTION 18. Act 204, Session Laws of Hawaii 2005, is
12 amended by amending section 2 to read as follows:

13 "SECTION 2. The department of education shall meet with
14 the [~~housing and community development corporation of Hawaii~~]
15 Hawaii public housing authority to discuss the transfer of
16 management of the teacher housing program to the department of
17 education. The department of education shall prepare a report
18 detailing the feasibility of the transfer and the department of
19 education's capacity to assume the [~~corporation's~~] authority's
20 responsibilities.



1 The department of education shall submit its findings to
2 the legislature no later than twenty days prior to the convening
3 of the regular session of 2007."

4 SECTION 19. Act 204, Session Laws of Hawaii 2005, is
5 amended by amending section 4 to read as follows:

6 "SECTION 4. All rights, powers, functions, and duties with
7 respect to the administration of teachers' housing [~~is~~] are
8 transferred from the [~~housing and community development~~
9 ~~corporation of Hawaii~~] Hawaii public housing authority to the
10 department of education.

11 All rules, policies, procedures, guidelines, and other
12 material adopted or developed by the [~~corporation~~] authority
13 with respect to teachers' housing shall remain in full force and
14 effect until amended or repealed by the department of education.
15 In the interim, every reference to the [~~corporation~~] authority
16 or chair of the board of directors of the [~~corporation~~]
17 authority in those rules, policies, procedures, guidelines, and
18 other material is amended to refer to the department of
19 education, or the superintendent, or the chair of the board of
20 education, as the case may be.

21 All deeds, leases, contracts, loans, agreements, permits,
22 or other documents executed or entered into by or on behalf of



1 the [~~corporation~~] authority pursuant to the Hawaii Revised
2 Statutes that are reenacted or made applicable to the department
3 of education by this Act shall remain in full force and effect.
4 Effective July 1, 2008, every reference to the [~~housing and~~
5 ~~community development corporation of Hawaii~~] Hawaii public
6 housing authority or the chair of the board of directors of the
7 [~~corporation~~] authority, with respect to teachers' housing,
8 shall be construed as a reference to the department of
9 education, or the superintendent, or the chair of the board of
10 education, as the case may be.

11 All appropriations, records, equipment, machines, files,
12 supplies, contracts, books, papers, documents, maps, and other
13 personal property made, used, acquired, or held by the
14 [~~corporation~~] authority, with respect to teachers' housing that
15 relate to the functions transferred to the department of
16 education, shall be transferred with the functions to which they
17 relate."

18 SECTION 20. Act 204, Session Laws of Hawaii 2005, is
19 amended by amending section 6 to read as follows:

20 "SECTION 6. This Act shall take effect upon approval;
21 provided that sections 2 and 3 shall take effect on July 1,



1 2006, and sections 1, [~~3,~~] 4, and 5 shall take effect on July 1,
2 2008."

3 SECTION 21. Act 227, Session Laws of Hawaii 2002, is
4 amended by amending section 13 to read as follows:

5 "SECTION 13. This Act shall take effect upon its approval
6 [~~and shall be repealed on July 1, 2007; provided that sections~~
7 ~~201G-33, 201G-51, 201G-52, 201G-53, 201G-54, 201G-55, and~~
8 ~~201G-56, Hawaii Revised Statutes, are reenacted in the form in~~
9 ~~which they read on the day before the approval of this Act]."~~

10 SECTION 22. The functions of the housing and community
11 development corporation of Hawaii described in part II of
12 chapter 201G, Hawaii Revised Statutes, relating to public
13 housing, except for subpart F, and in subparts D and M of
14 part III of chapter 201G, Hawaii Revised Statutes, relating to
15 housing tenants, and in part IV of chapter 201G, Hawaii Revised
16 Statutes, relating to homeless assistance, shall be transferred
17 to the Hawaii public housing authority.

18 SECTION 23. All rights, powers, functions, and duties of
19 the housing and community development corporation of Hawaii
20 under part II of chapter 201G, Hawaii Revised Statutes, relating
21 to public housing, except for subpart F, and in subparts D and M
22 of part III of chapter 201G, Hawaii Revised Statutes, relating



1 to housing tenants, and in part IV of chapter 201G, Hawaii
2 Revised Statutes, relating to homeless assistance, are
3 transferred to the Hawaii public housing authority.

4 All officers and employees whose functions are transferred
5 by this Act shall be transferred with their functions and shall
6 continue to perform their regular duties upon their transfer,
7 subject to the state personnel laws and this Act.

8 No officer or employee of the State having tenure shall
9 suffer any loss of salary, seniority, prior service credit,
10 vacation, sick leave, or other employee benefit or privilege as
11 a consequence of this Act, and such officer or employee may be
12 transferred or appointed to a civil service position without the
13 necessity of examination; provided that the officer or employee
14 possesses the minimum qualifications for the position to which
15 transferred or appointed; and provided that subsequent changes
16 in status may be made pursuant to applicable civil service and
17 compensation laws.

18 An officer or employee of the State who does not have
19 tenure and who may be transferred or appointed to a civil
20 service position as a consequence of this Act shall become a
21 civil service employee without the loss of salary, seniority,
22 prior service credit, vacation, sick leave, or other employee



1 benefits or privileges and without the necessity of examination;
2 provided that such officer or employee possesses the minimum
3 qualifications for the position to which transferred or
4 appointed.

5 If an office or position held by an officer or employee
6 having tenure is abolished, the officer or employee shall not
7 thereby be separated from public employment, but shall remain in
8 the employment of the State with the same pay and classification
9 and shall be transferred to some other office or position for
10 which the officer or employee is eligible under the personnel
11 laws of the State as determined by the head of the department or
12 the governor.

13 SECTION 24. All appropriations, records, equipment,
14 machines, files, supplies, contracts, books, papers, documents,
15 maps, and other personal property heretofore made, used,
16 acquired, or held by the department of housing and community
17 development corporation of Hawaii relating to the functions
18 transferred to the Hawaii public housing authority shall be
19 transferred with the functions to which they relate.

20 SECTION 25. All rules, policies, procedures, guidelines,
21 and other material adopted or developed by the housing and
22 community development corporation of Hawaii to implement



1 provisions of the Hawaii Revised Statutes that are made
2 applicable to the Hawaii public housing authority by this Act,
3 shall remain in full force and effect until amended or repealed
4 by the Hawaii public housing authority, pursuant to chapter 91,
5 Hawaii Revised Statutes.

6 In the interim, every reference to the housing and
7 community development corporation of Hawaii or the executive
8 director of the housing and community development corporation of
9 Hawaii in those rules, policies, procedures, guidelines, and
10 other material is amended to refer to the Hawaii public housing
11 authority or the executive director of the Hawaii public housing
12 authority, as appropriate.

13 SECTION 26. All rental agreements made by the housing and
14 community development corporation of Hawaii prior to July 1,
15 2006 that are made applicable to the Hawaii public housing
16 authority by this Act shall remain in full force and effect
17 until the completion of their lease terms.

18 PART VII

19 SECTION 27. There is appropriated out of the general fund
20 of the State of Hawaii the sum of \$708,300, or so much thereof
21 as may be necessary for fiscal year 2006-2007, to be expended to



1 purchase a computer network, printers and faxes for the Hawaii
2 housing finance and development corporation.

3 The sum appropriated shall be expended by the Hawaii
4 housing finance and development corporation for the purposes of
5 this Act.

6 SECTION 28. There is appropriated out of the general fund
7 the sum of \$366,303 or so much thereof as may be necessary for
8 fiscal year 2006-2007, as follows:

- 9 (1) One full-time equivalent (1.00 FTE) executive director
10 position;
- 11 (2) One full-time equivalent (1.00 FTE) executive
12 assistant position;
- 13 (3) One full-time equivalent (1.00 FTE) secretary II
14 position;
- 15 (4) One full-time equivalent (1.00 FTE) clerk III
16 position;
- 17 (5) One full-time equivalent (1.00 FTE) account clerk V
18 position; and
- 19 (6) One full-time equivalent (1.00 FTE) secretary III
20 position.



1 The sum appropriated shall be expended by the Hawaii
2 housing finance and development corporation for the purposes of
3 this Act.

4 PART VIII

5 SECTION 29. There is appropriated out of the general fund
6 the sum of \$99,427 or so much thereof as may be necessary for
7 fiscal year 2006-2007, as follows:

- 8 (1) One full-time equivalent (1.00 FTE) clerk typist II
9 position;
- 10 (2) One full-time equivalent (1.00 FTE) account clerk III
11 position; and
- 12 (3) One full-time equivalent (1.00 FTE) clerk typist III
13 position.

14 The sum appropriated shall be expended by the Hawaii public
15 housing authority for the purposes of this Act.

16 SECTION 30. The director of finance is authorized to issue
17 general obligation bonds in the sum of \$1,800,000, or so much
18 thereof as may be necessary, and the same sum, or so much
19 thereof as may be necessary, is appropriated for fiscal year
20 2006-2007 for the purpose of renovations to the Hawaii public
21 housing authority's School Street office.

1 applications of the Act, which can be given effect without the
2 invalid provision or application, and to this end the provisions
3 of this Act are severable.

4 SECTION 35. In codifying the new sections added by
5 sections 2 through 5 of this Act, the revisor of statutes shall
6 substitute appropriate section numbers for the letters used in
7 designating the new sections in this Act.

8 SECTION 36. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 37. This Act shall take effect on July 1, 2006.



Report Title:

Public Housing; Finance; Community Development; Implementation Plan

Description:

Effectuates the implementation plan of the housing and community development corporation of Hawaii to reorganize the State's housing functions. Creates two separate state housing agencies. Contains recommended statutory amendments to implement the plan. (SD1)

