
A BILL FOR AN ACT

RELATING TO HOUSING.

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

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

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

16 PART I

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



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

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

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

20 (e) The authority may contract or sponsor with any county,
21 housing authority, or person, subject to the availability of
22 funds, an experimental or demonstration housing project designed



1 to meet the needs of elders, disabled, displaced or homeless
2 persons, low and moderate income persons, employees, teachers,
3 or other government workers, or university and college students
4 and faculty.

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

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

19 **§ -13 Administration of federal programs.** (a) The
20 authority may carry out federal programs designated to be
21 carried out by a public housing agency, or entity designated by
22 the authority.



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

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

9 **§ -14 Federal funds outside of state treasury.**

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

14 **§ -15 Eminent domain, exchange or use of public**

15 **property.** The authority may acquire any real property,
16 including fixtures and improvements, or interest therein,
17 through voluntary negotiation; through exchange of land in
18 accordance with section 171-50, provided that the public land to
19 be exchanged need not be of like use to that of the private
20 land; or by the exercise of the power of eminent domain which it
21 deems necessary by the adoption of a resolution declaring that
22 the acquisition of the property described therein is in the



1 public interest and required for public use. The authority
 2 shall exercise the power of eminent domain granted by this
 3 section in the same manner and procedure as is provided by
 4 chapter 101, and otherwise in accordance with all applicable
 5 provisions of the general laws of the State; provided that
 6 condemnation of parcels greater than fifteen acres shall be
 7 subject to legislative disapproval expressed in a concurrent
 8 resolution adopted by majority vote of the senate and the house
 9 of representatives in the first regular or special session
 10 following the date of condemnation.

11 The authority may acquire by the exercise of the power of
 12 eminent domain property already devoted to a public use;
 13 provided that no property belonging to any government may be
 14 acquired without its consent, and that no property belonging to
 15 a public utility corporation may be acquired without the
 16 approval of the public utilities commission, and subject to
 17 legislative disapproval expressed in a concurrent resolution
 18 adopted by majority vote of the senate and the house of
 19 representatives in the first regular or special session
 20 following the date of condemnation.

21 § -16 **Contracts with federal government.** (a) The
 22 authority may:



- 1 (1) Borrow money or accept grants from the federal
2 government for, or in aid of any public housing
3 project that the authority is authorized to undertake;
- 4 (2) Take over any land acquired by the federal government
5 for the construction or operation of a public housing
6 project;
- 7 (3) Take over, lease, or manage any public housing project
8 constructed or owned by the federal government, and to
9 these ends, enter into contracts, mortgages, leases,
10 or other agreements as the federal government may
11 require including agreements that the federal
12 government shall have the right to supervise and
13 approve the construction, maintenance, and operation
14 of the public housing project;
- 15 (4) Procure insurance or guarantees from the federal
16 government of the payment of any debts or parts
17 thereof secured by mortgages made or held by the
18 authority on any property included in any public
19 housing project;
- 20 (5) Agree to any conditions attached to federal financial
21 assistance relating to the determination of prevailing
22 salaries or wages or payment of not less than



1 prevailing salaries or wages or compliance with labor
2 standards, in the development or administration of
3 projects, and include in any construction contract
4 related to a project, stipulations requiring that the
5 contractor and any subcontractors comply with
6 requirements as to minimum salaries or wages and
7 maximum hours of labor;

8 (6) Comply with any conditions required by the federal
9 government in any contract for financial assistance;
10 and

11 (7) Execute contracts with the federal government.

12 (b) In any contract for annual contributions with the
13 federal government, the authority may obligate itself to convey
14 to the federal government possession of or title to the project
15 to which the contract relates, if a substantial default, as
16 defined by contract occurs. Notwithstanding any other law to
17 the contrary, this obligation shall be specifically enforceable
18 and shall not constitute a mortgage.

19 The contract may provide further that if a conveyance
20 occurs, the federal government may complete, operate, manage,
21 lease, convey, or otherwise deal with the project in accordance
22 with the terms of the contract; provided that the contract shall



1 require that as soon as practicable after the federal government
2 is satisfied that all defaults with respect to the project have
3 been cured and that the project will thereafter be operated in
4 accordance with the terms of the contract, the federal
5 government shall reconvey to the authority the project as then
6 constituted.

7 (c) It is the purpose and intent of this part to authorize
8 the authority to do any and all things necessary to secure the
9 financial aid and the cooperation of the federal government in
10 the undertaking, construction, maintenance, and operation of any
11 public housing project that the authority is empowered to
12 undertake.

13 § -17 **Public works contracts.** The authority may make,
14 execute, and carry out contracts for, or in connection with, any
15 housing project in the manner provided in chapter 103D and
16 section 103-53; and, with regard to the contracts, the term
17 "procurement officers", as used in chapter 103D, shall mean the
18 authority or officer authorized by the authority to act as its
19 contracting officer. Unless made and executed in the name of
20 the State, each contract made and executed as authorized in this
21 section shall state therein that it is so made and executed.



1 § -18 Remedies of an obligee; mandamus; injunction;
2 possessory action; receiver; accounting; etc. An obligee of the
3 authority shall have the right, in addition to all other rights
4 that may be conferred on the obligee subject only to any
5 contractual restrictions binding upon the obligee, and subject
6 to the prior and superior rights of others:

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

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

18 (3) By suit, action, or proceeding in any court of
19 competent jurisdiction to cause possession of any
20 public housing project or any part thereof to be
21 surrendered to any obligee having the right to



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



1 § -19 Subordination of mortgage to agreement with
2 government. The authority may agree in any mortgage made by it
3 that the mortgage shall be subordinate to a contract for the
4 supervision by a government of the operation and maintenance of
5 the mortgaged property and the construction of improvements
6 thereon. In that event, any purchaser or purchasers at a sale
7 of the property of the authority pursuant to a foreclosure of
8 the mortgage or any other remedy in connection therewith shall
9 obtain title subject to the contract.

10 § -20 Duty to make reports. Except as otherwise
11 provided by law, the authority shall be responsible for the
12 following reports:

- 13 (1) The authority shall file at least once a year with the
14 governor a report of its activities for the preceding
15 fiscal year;
- 16 (2) The authority shall report to the state comptroller on
17 moneys deposited in depositories other than the state
18 treasury under section 40-81, and rules adopted
19 thereunder;
- 20 (3) The authority shall submit an annual report to the
21 legislature on all program areas no later than twenty
22 days prior to the convening of each regular session,



1 which shall provide the following information on the
2 status of its programs and finances:

3 (A) A financial audit and report conducted on an
4 annual basis by a certified public accounting
5 firm; and

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

9 § -21 Bonds; authorization. (a) The authority, with
10 the approval of the governor, may issue from time to time bonds
11 (including refunding bonds to pay, retire, or provide for the
12 retirement of bonds previously issued by the authority) in
13 amounts not exceeding the total amount of bonds authorized to be
14 issued by the legislature for any of its corporate purposes.

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

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



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

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

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

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

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

15 (5) Any combination of the above.

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



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

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

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

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



1 except for deeply discounted bonds that are subject to
2 redemption or retirement at their accreted value; provided that
3 the discounted value of the bonds shall not exceed ten per cent
4 of any issue; and provided further that no bonds may be issued
5 without the approval of the director of finance and the
6 governor. Notwithstanding any other law to the contrary, the
7 authority may, subject to the approval of the director of
8 finance and the governor, issue bonds pursuant to section
9 -21, in which the discounted value of the bonds exceeds ten
10 per cent of the issue.

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

21 § -23 **Trustee; designation, duties.** (a) The authority
22 may designate a trustee for each issue of bonds secured under



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

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

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

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

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



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

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

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

16 § -24 Trust indenture. (a) A trust indenture may
17 contain covenants and provisions authorized by part III of
18 chapter 39, and as deemed necessary or convenient by the
19 authority for the purposes of this part.

20 (b) A trust indenture may allow the authority to pledge
21 and assign to the trustee agreements related to the public
22 housing project or projects and the rights of the authority



1 thereunder, including the right to receive revenues thereunder
2 and to enforce the provision thereof.

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

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

9 (1) The investment of the proceeds of the bonds, the
10 investment of any reserve for the bonds, the
11 investment of the revenues of the public housing
12 project or system of public housing projects, and the
13 use and application of the earnings from investments;
14 and

15 (2) The terms and conditions upon which the holders of the
16 bonds or any portion of them or any trustee thereof
17 may institute proceedings for the enforcement of any
18 agreement or any note or other undertaking,
19 obligation, or property securing the payment of the
20 bonds and the use and application of the moneys
21 derived therefrom.



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

7 **§ -25 Investment of reserves, etc.** The authority may
 8 invest any funds held in reserves or sinking funds or any funds
 9 not required for immediate disbursement, including the proceeds
 10 of bonds, in property or securities in which the director of
 11 finance may legally invest, as provided in section 36-21, except
 12 that funds held outside the state treasury may be invested for
 13 terms not to exceed thirty-five years. No provisions with
 14 respect to the acquisition, operation, or disposition of
 15 property by other public bodies shall be applicable to the
 16 authority unless the legislature shall specifically so state.

17 **§ -26 Security for funds deposited by the authority.**

18 The authority may by resolution provide that all moneys
 19 deposited by it shall be secured:

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

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

6 **§ -27 Arbitrage provisions; interest rate.** (a) Any law
7 to the contrary notwithstanding, neither the authority nor the
8 director of finance shall make loans or purchase mortgages with
9 the proceeds of general obligation bonds of the State or from a
10 revolving fund established or maintained from the proceeds of
11 bonds, at a rate of interest or upon terms and conditions which
12 would cause any general obligation bond of the State or any bond
13 to be an "arbitrage bond" within the meaning of that term as
14 defined in the Internal Revenue Code of 1986, as amended, and
15 the regulations of the Internal Revenue Service adopted pursuant
16 thereto.

17 (b) The rate of interest on loans made under this chapter
18 from the proceeds of general obligation bonds of the State shall
19 be established by the authority, with the approval of the
20 director of finance, after each sale of general obligation bonds
21 of the State, the proceeds of which are to be used for the
22 purposes of making loans or purchasing mortgages under this

1 chapter. If no sale of general obligation bonds of the State
2 intervenes in a twelve-month period after the last rate fixing,
3 the authority may review the then existing rates on loans or
4 mortgages made under this chapter from the proceeds of general
5 obligation bonds of the State and retain the existing rate or,
6 with the approval of the director of finance, establish
7 different rates.

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

21 § -28 Public housing revolving fund; housing project

22 bond special funds. (a) There is established the public



1 housing revolving fund to be administered by the authority.
2 Notwithstanding section 36-21, the proceeds in the fund shall be
3 used for long-term and other special financings of the authority
4 and for necessary expenses in administering this chapter.

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

9 (c) A separate special fund shall be established for each
10 public housing project or projects financed from the proceeds of
11 bonds secured under the trust indenture. Each fund shall be
12 designated "housing project bond special fund" and shall bear
13 additional designation as the authority deems appropriate to
14 properly identify the fund.

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



1 § -29 Quitclaim deeds. Unless otherwise provided by
2 law, the authority shall issue quitclaim deeds and leases
3 whenever it conveys, transfers, sells, or assigns any property
4 developed, constructed, or sponsored under this chapter.

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

6 § -31 Rentals and tenant selection. (a) In the
7 operation or management of public housing projects, the
8 authority (acting directly or by an agent or agents) shall at
9 all times, observe the following duties with respect to rentals
10 and tenant selections:

11 (1) The authority may establish maximum limits of annual
12 net income for tenant selection in any public housing
13 project, less any exemptions as may be authorized by
14 federal regulations pertaining to public housing. The
15 authority may agree to conditions as to tenant
16 eligibility or preference required by the federal
17 government pursuant to federal law in any contract for
18 financial assistance with the authority;

19 (2) The authority may rent or lease the dwelling
20 accommodations therein only at rentals within the
21 financial reach of persons who lack the amount of
22 income which it determines to be necessary in order to



1 obtain safe, sanitary, and uncongested dwelling
2 accommodations within the area of operation of the
3 authority and to provide an adequate standard of
4 living; and

5 (3) The authority may rent or lease to a tenant a dwelling
6 consisting of the number of rooms (but no greater
7 number) which it deems necessary to provide safe and
8 sanitary accommodations to the proposed occupants
9 thereof, without overcrowding.

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

12 (1) To vest in an obligee the right, in the event of a
13 default by the authority, to take possession of a
14 public housing project or cause the appointment of a
15 receiver thereof, free from all the restrictions
16 imposed by this part with respect to rentals, tenant
17 selection, manner of operation, or otherwise; or

18 (2) To vest in obligees the right, in the event of a
19 default by the authority, to acquire title to a public
20 housing project or the property mortgaged by the
21 authority, free from all the restrictions imposed by
22 this part.



1 § -32 Delinquent accounts. (a) Notwithstanding section
2 40-82, the authority, with the approval of the attorney general,
3 may delete from its accounts receivable records, delinquent
4 accounts for vacated units within federal low rent public
5 housing projects that have been delinquent for at least ninety
6 days.

7 (b) The delinquent accounts may be assigned to a
8 collection agency.

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

13 § -33 Investigatory powers. (a) The authority may:

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

16 (2) Enter upon any building or property in order to
17 conduct investigations or to make surveys or
18 soundings;

19 (3) Conduct examinations and investigations and hear
20 testimony and take proof under oath at public or
21 private hearings on any matter material for its
22 information;



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

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

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



1 § -34 Additional powers. The powers conferred upon the
2 corporation by this subpart shall be in addition and
3 supplemental to the powers conferred by any other law, and
4 nothing herein shall be construed as limiting any powers,
5 rights, privileges, or immunities so conferred.

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

7 **A. State low income housing; administration**

8 § -41 Definitions. The following terms, wherever used
9 or referred to in this subpart, shall have the following
10 meanings, unless a different meaning clearly appears from the
11 context:

12 "Administer" or "administration" means the management,
13 operation, maintenance, and regulation of any state low income
14 housing project. It also includes any and all undertakings
15 necessary therefor.

16 "Veteran" includes any person who served in the military or
17 naval forces of the United States during World War II and who
18 has been discharged or released therefrom under conditions other
19 than dishonorable. The term "veteran" includes Filipino World
20 War II veterans who served honorably in an active duty status
21 under the command of the United States Armed Forces in the Far
22 East, or within the Philippine Army, the Philippine Scouts, or



1 recognized guerilla units. The Filipino World War II veterans
2 must have: served at any time between September 1, 1939, and
3 December 31, 1946; been born in the Philippines; and resided in
4 the Philippines prior to the military service.

5 § -42 Housing, tenant selection. Subject to the
6 following limitations and preferences, the authority shall
7 select tenants upon the basis of those in greatest need for
8 housing. The authority may limit the tenants of any state low
9 income housing project to classes of persons when required by
10 federal law or regulation as a term or condition of obtaining
11 assistance from the federal government. Within the priorities
12 established by the authority recognizing need, veterans with a
13 permanent disability of ten per cent or more as certified by the
14 United States Department of Veterans' Affairs, the dependent
15 parents of the veteran and the deceased veteran's widow shall be
16 given first preference.

17 § -43 Rentals. (a) Notwithstanding any law to the
18 contrary, the authority shall fix the rates of the rentals for
19 dwelling accommodations and other facilities in the state low
20 income housing projects provided for by this subpart, at rates
21 that will produce revenues that will be sufficient to pay all
22 expenses of management, operation, and maintenance, including



1 the cost of insurance, a proportionate share of the
2 administrative expenses of the authority (to be fixed by it),
3 and the costs of repairs, equipment, and improvements, so that
4 the state low income housing projects shall be and always remain
5 self-supporting. The authority, in its discretion, may fix the
6 rates in amounts that will produce additional revenues (in
7 addition to the foregoing) sufficient to amortize the cost of
8 the state low income housing project or projects, including
9 equipment, over a period or periods of time that the authority
10 may deem advisable.

11 (b) Notwithstanding any law to the contrary, if any state
12 low income housing project or projects have been specified in
13 any resolution of issuance adopted pursuant to part I or if the
14 income or revenues from any project or projects have been
15 pledged by the authority to the payment of any bonds issued
16 under part I, or if any of the property of any state low income
17 housing project or projects is security for any bonds, the
18 authority shall fix the rates of the rentals for dwelling
19 accommodations and other facilities in the state low income
20 housing project or projects specified or encumbered at increased
21 rates that will produce the revenues required by subsection (a)
22 and, in addition, those amounts that may be required by part I,



1 by any resolution of issuance adopted under part I and by any
2 bonds or mortgage or other security issued or given under part
3 I.

4 **§ -44 Administration of state low income housing**

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

8 (b) State low income housing projects shall be subject to
9 chapter 521.

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

15 **§ -45 State low income housing revolving fund.** The
16 director of finance shall establish a revolving fund to be known
17 as "the state low income housing revolving fund".

18 Notwithstanding any law to the contrary, moneys received by the
19 authority under or pursuant to this subpart, including refunds,
20 reimbursements, rentals, fees, and charges received from
21 tenants, shall be deposited in the state low income housing
22 revolving fund. Except as otherwise provided in this chapter,



1 the state low income housing revolving fund may be expended by
2 the authority for any and all of the purposes of this subpart,
3 including, without prejudice to the generality of the foregoing,
4 the expenses of management, operation, and maintenance of state
5 low income housing, including but not limited to the cost of
6 insurance, a proportionate share of the administrative expenses
7 of the authority, and the cost of repairs, equipment, and
8 improvement; the acquisition, clearance, and improvement of
9 property; the construction and reconstruction of building sites;
10 the construction, reconstruction, repair, remodeling, extension,
11 equipment, and furnishing of any state low income housing
12 project; the development and administration of any state low
13 income housing project; the payment of rentals; and
14 administration and other expenses.

15 § -46 Investigatory powers. (a) The authority may:

16 (1) Investigate living, dwelling, and housing conditions
17 and the means and methods of improving those
18 conditions;

19 (2) Enter upon any building or property in order to
20 conduct investigations or to make surveys or
21 soundings;

1 (3) Conduct examinations and investigations, hear
2 testimony and take proof under oath at public or
3 private hearings on any matter material for its
4 information;

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

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

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



1 designated by the authority to conduct an investigation or
2 examination may administer oaths, take affidavits, and issue
3 subpoenas or orders for the taking of depositions.

4 § -47 Housing, government aid, political subdivisions.

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

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

17 B. State low income housing; liens

18 § -51 Definitions. The following terms wherever used or
19 referred to in this subpart shall have the following respective
20 meanings, unless a different meaning clearly appears from the
21 context:



1 "State low income housing project" means and includes any
2 state low income housing project or projects owned, managed,
3 administered, or operated by the authority.

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

8 **§ -52 Lien on personalty for rent, etc.** The authority
9 shall have a statutory lien on all personal property, not exempt
10 from execution, belonging to, or in the lawful possession of,
11 every tenant while the personal property is in or upon any state
12 low income housing project, for the amount of its proper charges
13 against the tenant for rent of a room, dwelling accommodation,
14 living quarters, or space in the state low income housing
15 project, or for utilities, facilities, or services in the state
16 low income housing project. The lien shall commence with the
17 tenancy or occupancy of the tenant and continue for one year
18 after the charge or charges are due and owing to the authority.
19 Whenever any tenant fails or refuses to pay the charge or
20 charges after the charges are due and owing, the authority shall
21 have the right and power, acting by its authorized agents or
22 representatives, without process of law and without any



1 liability for the taking, seizure, and retention of the personal
 2 property, to take and seize any of the personal property
 3 belonging to, or in the lawful possession of, the tenant which
 4 is found in or upon the public housing project, and to hold and
 5 retain the personal property, as security for the payment of the
 6 charge or charges, until the amount of the charge or charges is
 7 paid and discharged. If the charge or charges, due and owing,
 8 are not paid and discharged within thirty days after the taking
 9 and seizure, the authority may sell the personal property.

10 § -53 Foreclosure of lien, notice, etc. The lien upon
 11 personal property which has been taken and retained by the
 12 authority may be foreclosed by the authority by selling the
 13 personal property at public auction:

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



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

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



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

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

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

18 § -56 Lien on abandoned personalty, sale, etc. Whenever
19 the authority has in its possession for four months after the
20 termination of any residence or occupancy herein mentioned, any
21 personal property that has been left in or about any state low
22 income housing project by any person who formerly resided in, or



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



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

13 § -58 Lien attaches to personalty in possession.
14 Sections -56 and -57 shall also apply to any personal
15 property which, before May 2, 1949, was left in, or about any
16 public housing project, and was taken into the possession of the
17 authority, as herein set forth and provided.

18 § -59 Priority of housing lien. The statutory liens
19 provided for in this subpart shall be preferred and have
20 priority over all other liens or claims and over all attachments
21 or other process.



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

5 **PART IV. HOUSING FOR ELDERS**

6 § -71 Resident selection; dwelling accommodations;
 7 rentals. In the administration of elder or elderly housing, the
 8 authority shall observe the following with regard to resident
 9 selection, dwelling accommodations, and rentals:

10 (1) Except as hereinafter provided, it shall accept elder
 11 or elderly households as residents in the housing
 12 projects;

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



- 1 cease to be a resident therein upon the recovery of,
2 or removal from the project of, the elder;
- 3 (3) It may rent or lease to an elder a dwelling
4 accommodation consisting of any number of rooms as the
5 authority deems necessary or advisable to provide safe
6 and sanitary accommodations to the proposed resident
7 or residents without overcrowding;
- 8 (4) Notwithstanding that the elder has no written rental
9 agreement or that it has expired, so long as the elder
10 continues to tender the usual rent to the authority or
11 proceeds to tender receipts for rent lawfully
12 withheld, no action or proceeding to recover
13 possession of the dwelling unit may be maintained
14 against the elder, nor shall the authority otherwise
15 cause the elder to quit the dwelling unit
16 involuntarily, demand an increase in rent from the
17 elder, or decrease the services to which the elder has
18 been entitled during hospitalization of the elder due
19 to illness or other disability; and
- 20 (5) Elder or elderly housing shall be subject to chapter
21 521.



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

11 § -73 Additional powers. The powers conferred upon the
12 authority by this subpart shall be in addition and supplemental
13 to the powers conferred by any other law, and nothing herein
14 shall be construed as limiting any powers, rights, privileges,
15 or immunities so conferred.

16 **PART V. AUTHORITY-COUNTY COOPERATION**

17 § -81 Gifts, etc. to counties from authority. The
18 authority may make and pay gifts, or donations, of money
19 directly to any county. Any county may receive the gifts or
20 donations as a general fund realization, and expend the funds
21 for any purpose authorized by law.



1 § -82 Facilities and services by counties to authority
2 and tenants. Each county within which the authority may own,
3 operate, or administer any public housing project or complex
4 under any law or laws, and to which, or for whose benefit, the
5 authority has made (by payment to the county) or may hereafter
6 make, gifts or donations, including any payment in lieu of
7 taxes, upon request of the authority, shall provide and furnish
8 to the authority, in regard to every public housing project or
9 complex within the county, and to the tenants and other
10 occupants of the housing project, free of charge and without
11 condition or other requirement, all the facilities, services,
12 and privileges as it provides or furnishes, with or without
13 charge or other consideration, to any person or persons
14 whomsoever, including, without limitation to the generality of
15 the foregoing, police protection, fire protection, street
16 lighting, or paving maintenance, traffic control, garbage or
17 trash collection and disposal, use of streets or highways, use
18 of county incinerators or garbage dumps, storm drainage, and
19 sewage disposal. In addition, each county, upon request of the
20 authority and free of charge and without condition or other
21 requirement, shall open or close, but not construct or
22 reconstruct, streets, roads, highways, alleys, or other



1 facilities within any public housing project or complex within
2 the county. Nothing in this section shall be construed to
3 restrict or limit the power of the authority to agree to pay, or
4 to pay, for any and all of the facilities, services, and
5 privileges, if in its discretion it deems the payment advisable.

6 § -83 Construction of additional powers. Sections
7 -41 and -42 shall not be construed as abrogating,
8 limiting, or modifying part II, including amendments thereto.

9 § -84 Charges for prior services by counties to
10 authority. Every county (including departments, boards, or
11 instrumentalities thereof) which has, prior to May 14, 1949,
12 provided or furnished any facilities, services, or privileges,
13 including, without limitation to the generality of the
14 foregoing, garbage and trash collection and disposal, use of
15 streets or highways, and use of county incinerators or garbage
16 dumps, to the authority in regard to any public housing project
17 or complex owned, operated, or administered by the authority
18 under any law or laws, or to the tenants or occupants of the
19 public housing project or complex, for which facilities,
20 services, or privileges the authority, or the tenants or
21 occupants have not paid, is prohibited from charging,



1 collecting, or receiving any privileges, except the sum or sums
2 as the authority, in its discretion, may hereafter agree to pay.

3 **§ -85 Garbage, trash disposal.** Every county that
4 maintains or operates any garbage or trash collection and
5 disposal service, free of charge, shall collect and dispose of
6 garbage and trash at, and from any public housing project or
7 complex located within a county, which is owned, operated, or
8 administered by the authority. Upon request of the authority,
9 each county shall allow the authority to establish, maintain, or
10 operate its own garbage and trash collection and disposal
11 service for any or all public housing project or complex located
12 within the county, and in regard to the service, shall allow the
13 authority to use, free of charge, all incinerators, garbage
14 dumps, and other facilities that the county may own, control, or
15 operate.

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

21 **§ -86 Furnishing of free water not required.** Sections
22 -82 to -85 shall not be construed to require the



1 furnishing of any free water to the authority or to the tenants
2 or occupants of any public housing project or complex owned,
3 operated, or administered by the authority.

4 **§ -87 Powers, etc., supplemental.** The powers conferred
5 upon the authority by sections -41 to -45 shall be in
6 addition and supplemental to the powers conferred by any other
7 law, and nothing in the sections shall be construed as limiting
8 any other powers, rights, privileges, or immunities of the
9 authority.

10 **§ -88 Regulation of traffic within public housing**
11 **projects in city and county of Honolulu.** Any law to the
12 contrary notwithstanding, the city council of the city and
13 county of Honolulu may regulate traffic within the various
14 public housing projects of the authority in the city and county
15 of Honolulu by ordinance.

16 **§ -89 Regulation of traffic within public housing**
17 **projects in other counties.** Any law to the contrary
18 notwithstanding, the county councils of the counties of Hawaii,
19 Maui, and Kauai may regulate traffic within the various public
20 housing projects of the authority within their respective
21 counties by ordinance as provided by law.



1 § -90 Regulations, effective when. No ordinance or laws
2 enacted by the council of any county regulating traffic within
3 the public housing projects of the authority within the county
4 shall be valid or effective unless prior thereto, the authority
5 has entered into a written contract with the county absolving
6 the county from any and all responsibility or liability for the
7 construction, maintenance, and repair of any streets, lanes,
8 alleys, or highways or street markers, traffic signs, or signal
9 devices within the projects of the authority.

10 § -91 Additional powers. The powers conferred upon the
11 authority by this subpart shall be in addition and supplemental
12 to the powers conferred by any other law, and nothing herein
13 shall be construed as limiting any powers, rights, privileges,
14 or immunities so conferred.

15 **PART VI. HOMELESS ASSISTANCE**

16 **A. General Provisions**

17 § -101 Additional definitions. As used in this part:
18 "Donor" means any individual, partnership, corporation,
19 joint-stock company, unincorporated organization, foundation,
20 estate, trust, or any other person or firm that donates money,
21 real property, goods, or services to a homeless facility, or any
22 other program for the homeless authorized by this part,



1 including board members, trustees, officers, partners,
2 principals, stockholders, members, managers, employees,
3 contractors, agents of these entities, or any person who was
4 involved with the donation.

5 "Emergency shelter" means a homeless facility designed to
6 provide temporary shelter and appropriate and available services
7 to homeless families or individuals for up to six weeks.

8 "Homeless" means:

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

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

13 (A) A supervised publicly or privately operated
14 shelter designed to provide temporary living
15 accommodations;

16 (B) An institution that provides temporary residence
17 for individuals intended to be institutionalized;
18 or

19 (C) A public or private place not designed for or
20 ordinarily used as sleeping accommodations for
21 human beings.



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

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

7 "Homeless shelter stipend" means a payment to a provider
8 agency or to the authority on behalf of a homeless family or
9 individual to assist with the costs of operating a homeless
10 facility and providing appropriate services.

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

16 (1) A profit organization incorporated under the laws of
17 the State or a nonprofit organization determined by
18 the Internal Revenue Service to be exempt from the
19 federal income tax; or

20 (2) A nonprofit organization, with a governing board whose
21 members have no material conflict of interest and
22 serve without compensation with bylaws or policies



1 that describe the manner in which business is
2 conducted and policies that relate to nepotism and
3 management of potential conflict of interest
4 situations.

5 In addition, the organization shall be qualified by the
6 authority to operate and manage a homeless facility, or any
7 other program for the homeless authorized by this part, pursuant
8 to eligibility standards and criteria established by rules
9 adopted pursuant to chapter 91.

10 "Transitional shelter" means a homeless facility designed
11 to provide temporary shelter and appropriate and available
12 services to homeless families or individuals for up to twenty-
13 four months, pursuant to rules adopted in accordance with
14 chapter 91.

15 § -102 Duties. (a) In addition to any other power or
16 duty prescribed by law, the authority shall administer and
17 operate homeless facilities and any other program for the
18 homeless authorized by this part; establish programs for the
19 homeless; and take any other actions necessary to effectuate the
20 purposes of this part.

21 (b) The authority shall adopt rules pursuant to chapter 91
22 for the purposes of this part; provided that these rules or any



1 rules relating directly to homelessness authorized by any
2 statute, shall be exempt from the requirements of chapter 91,
3 and shall take effect immediately upon filing with the office of
4 the lieutenant governor.

5 § -103 Exception to liability for donors. (a) Any
6 donor who gives money to a provider agency, to a homeless
7 facility, to or through the authority, or for any other program
8 for the homeless authorized by this part, shall not be liable
9 for any civil damages resulting from the donation.

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

21 (c) Any donor who in good faith and without remuneration
22 or expectation of remuneration provides services or materials



1 used to build and construct a facility for the homeless, or who
2 renovates, repairs, or maintains an existing or acquired
3 facility for the homeless, or who provides shelter to homeless
4 persons, shall not be liable for any civil damages resulting
5 from the donor's acts or omissions, except for damages resulting
6 from the donor's gross negligence relating to the donation.

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

12 **§ -104 Contract or conveyance to the authority.**

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



1 § -105 Program administration. To the extent that
2 appropriations are made available, the authority may contract
3 with a provider agency to administer homeless facilities, or any
4 other program for the homeless created by this part. The
5 selection of provider agencies to administer homeless
6 facilities, or any other program for the homeless authorized by
7 this part, shall not be subject to chapters 42F, 102, 103, and
8 103F. The selection of provider agencies shall be subject to
9 qualifying standards and criteria established by rule adopted
10 pursuant to chapter 91.

11 § -106 Time limits. To the extent that appropriations
12 are made available, a provider agency shall provide shelter or
13 any other program assistance authorized by this part to eligible
14 homeless families and homeless individuals not later than two
15 days, or a time set by rule which shall not be later than seven
16 days, after they apply and qualify for the shelter or other
17 program assistance, pursuant to rule. Such time limits may be
18 waived at the discretion of the authority for a maximum period
19 of fourteen days for the purpose of implementing repairs to the
20 subject shelter, which repairs the authority deems major or
21 extensive.



1 § -107 Determination of eligibility and need. (a) The
2 provider agency operating and managing a homeless facility, or
3 any other program for the homeless authorized by this part, or
4 the authority operating and managing its own homeless facility,
5 shall be responsible for determining if an applicant is eligible
6 for shelter or other services at the homeless facility or
7 through any other program for the homeless, pursuant to
8 standards and criteria established by rule adopted pursuant to
9 chapter 91.

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

17 (c) The authority may establish by rule adopted pursuant
18 to chapter 91, standards and criteria for eligibility, need, and
19 priority for each program; provided that the authority may
20 establish by rule adopted pursuant to chapter 91, exceptions to
21 these eligibility requirements based on special circumstances.



1 § -108 Abuse of assistance. (a) The provider agency
2 operating and managing a homeless facility, or any other program
3 for the homeless authorized by this part, or the authority
4 operating and managing its own homeless facility, shall be
5 responsible for determining if a participant is no longer
6 eligible for shelter or other services at the homeless facility
7 or through any other program for the homeless, pursuant to
8 standards and criteria established by rule adopted pursuant to
9 chapter 91.

10 (b) Pursuant to rule adopted pursuant to chapter 91, and
11 the right of due process, the authority or its designee, or
12 provider agencies together with the authority, may act to bar
13 homeless families or individuals from participating further in
14 any homeless facility, may issue a writ of possession, and take
15 other actions as provided by rule adopted pursuant to chapter
16 91.

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



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

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

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



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

11 § -109 Exemptions. (a) Any compensation received by a
12 provider agency for services rendered to homeless families or
13 individuals, or in operating or managing a homeless facility
14 authorized by this part, is exempt from taxes under chapter 237.

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

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



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

4 **§ -110 Emergency/transitional shelter volunteers**

5 **exempted.** (a) For the purposes of this section,

6 "emergency/transitional shelter volunteer" means an individual
7 who:

8 (1) Is a tenant at an emergency or transitional shelter
9 administered pursuant to this part;

10 (2) Is not an employee of the provider agency operating or
11 managing the shelter;

12 (3) Is under the direction of the provider agency
13 operating or managing the shelter and not the
14 corporation or State; and

15 (4) Provides up to eighty hours of volunteer labor or
16 services per month to the provider agency operating or
17 managing the shelter, notwithstanding payment of
18 stipends or credits for labor and services.

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

21 (c) In addition to any exemptions granted to nonpaid
22 labor, emergency/transitional shelter volunteers who acknowledge



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

9 § -111 Annual performance audits. (a) The authority
10 shall require any provider agency that dispensed shelter or
11 assistance for any homeless facility or any other program for
12 the homeless authorized by this part to submit to the
13 corporation a financial audit and report on an annual basis
14 conducted by a certified public accounting firm. This audit and
15 report shall contain information specific to the funds received
16 under state homeless programs contracts. The audit shall
17 include recommendations to address any problems found.

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



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

6 **§ -112 Provider agency and donor cooperation are not in**
7 **restraint of trade.** No provider agency or any other agency, or
8 donor or donors, or method or act thereof that complies with
9 this part, shall be deemed a conspiracy or combination in
10 restraint of trade or an illegal monopoly, or an attempt to
11 lessen competition or fix prices arbitrarily, or the creation of
12 a combination or pool, or to accomplish any improper or illegal
13 purpose. Any cooperation or agreement established pursuant to
14 rule adopted pursuant to chapter 91, shall not be considered as
15 illegal, in restraint of trade, or as part of a conspiracy or
16 combination to accomplish an illegal purpose or act.

17 **§ -113 Construction of part.** If there is any conflict
18 between this part and any other law, this part shall control.

19 **§ -114 Homeless shelter stipends.** (a) The stipend
20 limits per "shelter unit of zero bedrooms" shall be adjusted by
21 the authority each first day of July pursuant to standards
22 established by rule adopted pursuant to chapter 91, which may



1 consider changes in the cost of operating homeless facilities,
2 the fair market rents, the consumer price index, or other
3 relevant factors. A "shelter unit of zero bedrooms" means a
4 living unit which is a studio unit or a single-room occupancy
5 unit. The homeless shelter stipend at transitional shelters for
6 larger shelter unit sizes shall be related to the difference in
7 unit size, pursuant to standards established by rule adopted
8 pursuant to chapter 91.

9 (b) The authority may make or may contract to make
10 homeless shelter stipend payments on behalf of one or more
11 homeless families or individuals to a provider agency operating
12 or managing an emergency or transitional shelter or, in the case
13 that the authority itself operates and manages a homeless
14 facility, to the authority in amounts and under circumstances as
15 provided by rule adopted pursuant to chapter 91. The contract
16 may specify a minimum total amount of homeless shelter stipends
17 to be received by a provider agency for making its shelter and
18 services available to eligible homeless families or individuals,
19 as provided by rule adopted pursuant to chapter 91.

20 (c) In making homeless shelter stipend payments to a
21 provider agency the authority may establish minimal services to
22 be provided by the provider agency to homeless families or



1 individuals at the agency's shelter. The authority may also
2 direct provider agencies to establish and manage a savings
3 account program as described in subsection (d). Additionally,
4 the authority may direct provider agencies to subcontract for
5 outreach services from other private agencies specializing in
6 programs for the unsheltered homeless.

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

15 § -115 **Additional powers.** The powers conferred upon the
16 authority by this part shall be in addition and supplemental to
17 the powers conferred by any other law, and nothing in this part
18 shall be construed as limiting any powers, rights, privileges,
19 or immunities conferred upon the authority.

20 **B. Hale Kokua Program**

21 § -121 **Findings and purpose.** The legislature finds that
22 the issue of homelessness should be regarded as one of the



1 State's most significant social problems. The severity of the
2 problem is visible in every area of the State, and evidence that
3 the problem is escalating is becoming more and more apparent.
4 The problem of homelessness impacts everyone, and the burden of
5 rectifying this problem should be approached comprehensively and
6 as a collective responsibility.

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

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



1 The Hale Kokua program shall assist homeless families and
2 individuals who are willing to engage in self-improvement
3 programs and regular employment with an alternative to living in
4 homeless shelters where homeless families as well as the special
5 needs homeless are indiscriminately grouped together.
6 Developing the employment skills of participating tenants is an
7 integral component of the program.

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

18 The program has the potential to drastically reduce the
19 actual number of homeless families and individuals living in
20 public areas, to ultimately provide full and free access to
21 Hawaii's malls, streets, parks, and campgrounds. As a result,
22 Hawaii's overall quality of life will be enriched and Hawaii's



1 reputation as one of the most beautiful visitor destinations
2 will be enhanced.

3 § -122 Definitions. As used in this subpart, unless the
4 context clearly requires otherwise:

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

10 § -123 Hale Kokua program; established. There is
11 established, within the Hawaii public housing authority, a
12 homeless assistance program known as the "Hale Kokua" program,
13 to provide incentives and assistance to private homeowners
14 throughout the State who set aside existing dwelling units, or
15 construct or renovate dwelling units, for rental for a period of
16 five years by families or individuals classified as employed but
17 homeless. The Hawaii public housing authority shall administer
18 the Hale Kokua program and adopt the standards and framework
19 necessary to implement the program statewide after the initial
20 phase of the program.



1 § -124 Powers and duties. (a) The authority may
2 contract with private services to carry out the duties and
3 responsibilities of the program.

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

8 (b) The duties of the authority or contracted agency shall
9 include:

10 (1) Carrying out the requirements of the Hale Kokua
11 program under this subpart;

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

19 (3) Developing and adopting the requirements,
20 qualifications, and the registration procedures for
21 property owners who provide rental housing to
22 qualified homeless tenants; provided that priority



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



1 in establishing and coordinating job training, and
2 other programs to help tenants to progress toward
3 self- sufficiency;

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

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

13 (10) Working towards securing funding assistance from
14 federal agencies and programs involved in housing
15 development, job-training, or homeless assistance;

16 (11) Monitoring the progress of the Hale Kokua program, and
17 collecting annual statistics showing the numbers of
18 homeless people, homeless families, and homeless
19 children, using appropriate measurement systems; and

20 (12) Preparing recommendations to improve and expand the
21 program, including but not limited to incentives for



1 participating property owners to sign up for
2 additional terms;
3 provided that the authority shall adopt rules pursuant to
4 chapter 91 to effectuate this section.

5 § -125 Homeowner participation; limitation; payments and

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

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

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



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

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

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

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

16 **§ -126 Early withdrawal from program; recovery of grant.**

17 (a) Any property owner who withdraws without just cause from
18 the Hale Kokua program prior to five years shall return the
19 state grant for construction improvements within ninety days of
20 the date of withdrawal. The authority shall effect the recovery
21 of the grant, including but not limited to the filing of liens
22 against the real property of withdrawing property owners. The

1 administrator shall be awarded reasonable attorneys' fees and
2 costs as determined by the court in any action brought to
3 enforce this subpart.

4 (b) The respective county government whose jurisdiction
5 includes the site shall determine the disposition of the
6 additional unit constructed with the grant.

7 § -127 Availability of funding. All rental subsidies,
8 grants, and payments allocated by the Hale Kokua program under
9 this subpart shall be subject to the availability of funds.

10 **PART VII. STATE RENT SUPPLEMENT PROGRAM**

11 § -131 Rent supplements. The authority is authorized to
12 make, and contract to make, annual payments to a "housing owner"
13 on behalf of a "qualified tenant", as those terms are defined in
14 this subpart, in amounts and under circumstances as are
15 prescribed in or pursuant to this subpart. No payment on behalf
16 of a qualified tenant shall exceed a segregated amount of \$160 a
17 month.

18 § -132 Housing owner defined. As used in this subpart,
19 the term "housing owner" means:

- 20 (1). A private nonprofit corporation or other private
21 nonprofit legal entity, a limited dividend corporation
22 or other limited dividend legal entity, or a



1 cooperative housing corporation, that is a mortgagor
2 under section 202, 207, 213, 221(d)(3), 221(d)(5), or
3 231 of the National Housing Act, as amended, or that
4 conforms to the standards of those sections but that
5 is not a mortgagor under those sections or any other
6 private mortgagor under the National Housing Act, as
7 amended, for very low income, low-income, or moderate-
8 income family housing, regulated or supervised under
9 federal or state laws or by political subdivisions of
10 the State, or agencies thereof, as to rents, charges,
11 capital structure, rate of return, and methods of
12 operation, from the time of issuance of the building
13 permit for the project;

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

16 (3) The authority.

17 **§ -133 Qualified tenant defined.** As used in this
18 subpart, the term "qualified tenant" means any single person or
19 family, pursuant to criteria and procedures established by the
20 authority, that has been determined to have an income not
21 exceeding the very low income limit as determined by the
22 authority pursuant to rules adopted by the authority in



1 accordance with chapter 91; provided that the qualified tenant's
 2 primary place of residence shall be in the State or that the
 3 qualified tenant intends to make the State the qualified
 4 tenant's primary place of residence. The terms "qualified
 5 tenant" and "tenant" include a member of a cooperative who
 6 satisfies the foregoing requirements and who, upon resale of the
 7 member's membership to the cooperative, will not be reimbursed
 8 for more than fifty per cent of any equity increment accumulated
 9 through payments under this subpart. With respect to members of
 10 a cooperative, the terms "rental" and "rental charges" mean the
 11 charges under the occupancy agreements between the members and
 12 the cooperative. The term "qualified tenant" shall not include
 13 any person receiving money payments for public assistance from
 14 the department of human services; provided that the term "public
 15 assistance" shall exclude aid provided through the federal
 16 Supplemental Security Income Program.

17 **§ -134 Relationship of annual payment to rental and**
 18 **income.** The amount of the annual payment with respect to any
 19 dwelling unit shall not exceed the amount by which the fair
 20 market rental for that unit exceeds thirty per cent of the
 21 tenant's income as determined by the authority pursuant to

1 procedures and regulations established pursuant to rule in
2 accordance with chapter 91.

3 § -135 **Determination of eligibility of occupants and**

4 **rental charges.** (a) For purposes of carrying out this subpart,

5 the authority shall establish criteria and procedures for

6 determining the eligibility of occupants and rental charges,

7 including criteria and procedures with respect to periodic

8 review of tenant incomes and periodic adjustment of rental

9 charges. The authority shall issue, upon the request of a

10 housing owner, certificates as to the income of the single

11 persons and families applying for admission to, or residing in,

12 dwellings of that owner.

13 (b) Procedures adopted by the authority hereunder shall

14 provide for recertification of the incomes of occupants, except

15 elders, at intervals of two years, or at shorter intervals, for

16 the purpose of adjusting rental charges and annual payments on

17 the basis of occupants' incomes, but in no event shall rental

18 charges adjusted under this subpart for any dwelling exceed the

19 fair market rental of the dwelling.

20 (c) No payments under this subpart may be made with

21 respect to any property for which the costs of operation,

22 including wages and salaries, are determined by the authority to



1 be greater than similar costs of operation of similar housing in
2 the community where the property is situated.

3 § -136 Rules. The authority may adopt rules necessary
4 to carry out the purpose of this subpart pursuant to chapter 91,
5 including rules relating to determining preference among
6 applicants for state rent supplements.

7 § -137 Additional powers. The powers conferred upon the
8 authority by this subpart shall be in addition and supplemental
9 to the powers conferred by any other law, and nothing herein
10 shall be construed as limiting any powers, rights, privileges,
11 or immunities so conferred.

12 PART VIII. STATE SALES HOUSING PROGRAM

13 § -141 State sales housing. Notwithstanding any law to
14 the contrary, but subject to any resolution of issuance under
15 subpart A, the authority may permit any member of a tenant
16 family of a public housing project, or any individual meeting
17 the income standards under section 221(d)(3) of the National
18 Housing Act to enter into a contract for the acquisition of a
19 dwelling unit and lot or the acquisition of a dwelling unit and
20 the lease of its lot, the lease to conform to chapter 171 with
21 the exception that the lease shall not require bid, auction, or
22 negotiation, in any public housing project, state low income



1 housing project, or elderly housing project which is suitable
2 for sale and for occupancy by the purchaser or a member or
3 members of the purchaser's family, upon the following terms:

4 (1) The purchaser shall pay at least:

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

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

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

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



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

9 (4) If at any time:

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

14 (B) The purchaser or a member of the purchaser's
15 family who assumes the contract does not reside
16 in the dwelling, the authority shall have an
17 option to acquire the purchaser's interest under
18 the contract upon payment to the purchaser or the
19 purchaser's estate of an amount equal to the
20 purchaser's aggregate principal payments plus the
21 value to the authority of any improvements made



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

3 § -142 Additional powers. The powers conferred upon the
 4 authority by this subpart shall be in addition and supplemental
 5 to the powers conferred by any other law, and nothing herein
 6 shall be construed as limiting any powers, rights, privileges,
 7 or immunities so conferred."

8 PART III

9 SECTION 4. Act 196, Session Laws of Hawaii 2005, is
 10 amended by amending section 26 to read as follows:

11 "(a) All references to the "housing and community
 12 development corporation of Hawaii", or "corporation", or similar
 13 terms as the case may be [~~in chapter 201G, and~~] the title to
 14 chapter 201G, chapter 201G, part II, subparts C, D, and G,
 15 sections 27-11, 53-6, 76-16, 209-16(b), 290-1(b), 290-8, and
 16 521-7, Hawaii Revised Statutes, shall be amended to "Hawaii
 17 public housing [~~administration~~]" authority",
 18 [~~"administration"~~] "authority", or similar terms, as the case
 19 may be, as the context requires.

20 (b) All references to the "housing and community
 21 development corporation of Hawaii", or "corporation", or similar
 22 terms as the case may be in chapter 516, and sections 10-2,



1 10-13.6, 36-24, 46-15.1, 53-17, 53-22(e), 111-8, 111-9, 171-2,
2 171-18.5, 171-50.2, 206E-15, 209-16(a), 209-17, 237-29, [~~290-~~
3 ~~1(e),~~] 519-2(b), and 519-3(b), Hawaii Revised Statutes, shall be
4 amended to [~~"Hawaii housing finance and development~~
5 ~~administration", "administration",~~] "Hawaii housing and finance
6 development corporation", "corporation", or similar terms, as
7 the case may be, as the context requires."

8 SECTION 5. Chapter 201G, parts I, III, and IV, Hawaii
9 Revised Statutes, are repealed. Chapter 201G, part II, subparts
10 A, B, E, F, and H, Hawaii Revised Statutes, are repealed.

11 PART IV

12 SECTION 6. The purpose of this part is to:

- 13 (1) Amend Act 196, Session Laws of Hawaii 2005 to transfer
14 appropriate housing functions to the Hawaii housing
15 finance and development corporation; and
16 (2) Make additional technical and conforming amendments to
17 ensure that references to chapter 201G throughout the
18 Hawaii Revised Statutes are amended to the new chapter
19 designated "Hawaii housing finance and development
20 corporation".

21 SECTION 7. Act 196, Session Laws of Hawaii 2005, is
22 amended by amending sections 21, 22, 23, 24, and 25 by



1 substituting the words "Hawaii housing finance and development
2 corporation", or like term, wherever the words "Hawaii housing
3 finance and development administration", or like term, appears,
4 as the context requires.

5 SECTION 8. Section 46-15.1, Hawaii Revised Statutes, is
6 amended by amending subsection (a) to read as follows:

7 "(a) Any law to the contrary notwithstanding, any county
8 shall have and may exercise the same powers, subject to
9 applicable limitations, as those granted the Hawaii housing
10 finance and development [~~administration~~] corporation pursuant to
11 chapter [~~201G~~] _____ insofar as such powers may be reasonably
12 construed to be exercisable by a county for the purpose of
13 developing, constructing, and providing low and moderate income
14 housing; provided that no county shall be empowered to cause the
15 State to issue general obligation bonds to finance a project
16 pursuant to this section; provided further that county projects
17 shall be granted an exemption from general excise or receipts
18 taxes in the same manner as projects of the Hawaii housing
19 finance and development [~~administration~~] corporation pursuant to
20 section [~~{201G-116},~~] _____-36; and provided further that the
21 provisions of section [~~201G-15~~] _____-16 shall not apply to this
22 section unless federal guidelines specifically provide local



1 governments with that authorization and the authorization does
2 not conflict with any state laws. The powers shall include the
3 power, subject to applicable limitations, to:

- 4 (1) Develop and construct dwelling units, alone or in
5 partnership with developers;
- 6 (2) Acquire necessary land by lease, purchase, exchange,
7 or eminent domain;
- 8 (3) Provide assistance and aid to a public agency or
9 person in developing and constructing new housing and
10 rehabilitating old housing for elders of low and
11 moderate income, other persons of low and moderate
12 income, and persons displaced by any governmental
13 action, by making long-term mortgage or interim
14 construction loans available;
- 15 (4) Contract with any eligible bidders to provide for
16 construction of urgently needed housing for persons of
17 low and moderate income;
- 18 (5) Guarantee the top twenty-five per cent of the
19 principal balance of real property mortgage loans,
20 plus interest thereon, made to qualified borrowers by
21 qualified lenders;



1 (6) Enter into mortgage guarantee agreements with
2 appropriate officials of any agency or instrumentality
3 of the United States in order to induce those
4 officials to commit to insure or insure mortgages
5 under the provisions of the National Housing Act, as
6 amended;

7 (7) Make a direct loan to any qualified buyer for the
8 downpayment required by a private lender to be made by
9 the borrower as a condition of obtaining a loan from
10 the private lender in the purchase of residential
11 property;

12 (8) Provide funds for a share, not to exceed fifty per
13 cent of the principal amount of a loan made to a
14 qualified borrower by a private lender who is unable
15 otherwise to lend the borrower sufficient funds at
16 reasonable rates in the purchase of residential
17 property; and

18 (9) Sell or lease completed dwelling units.

19 For purposes of this section, a limitation is applicable to
20 the extent that it may reasonably be construed to apply to a
21 county."



1 SECTION 9. Section 53-1, Hawaii Revised Statutes, is
2 amended by amending the definition of "Housing and community
3 development corporation of Hawaii", "corporation", "government",
4 "federal government", and "real property" to read as follows:

5 "Hawaii housing finance and development corporation",
6 "corporation", "government", "federal government", and "real
7 property" have the respective meanings set forth for these terms
8 in chapter [2016] _____."

9 SECTION 10. Section 53-17, Hawaii Revised Statutes, is
10 amended to read as follows:

11 **"§53-17 Bonds of agency to be legal investments.** Bonds
12 issued by a redevelopment agency in connection with one or more
13 redevelopment plans or redevelopment projects pursuant to this
14 part shall be legal investments and security for public deposits
15 to the same extent and for the same public officers and bodies,
16 political subdivisions, persons, companies, corporations,
17 associations, banks, institutions, and fiduciaries as bonds or
18 obligations issued by the Hawaii housing finance and development
19 ~~[administration]~~ corporation under chapter [2016] _____ in
20 connection with slum clearance and housing projects."

21 SECTION 11. Section 171-18.5, Hawaii Revised Statutes, is
22 amended by amending subsection (a) to read as follows:



1 "(a) This section applies to the amount to which the
2 department of Hawaiian home lands is entitled pursuant to
3 Article XII, Section 1 of the State Constitution from land
4 previously cultivated as sugarcane land under any provision of
5 law which is conveyed by the department to the Hawaii housing
6 finance and development [~~administration~~] corporation for the
7 development of "housing projects" as defined under section
8 [~~201G-1.~~] -1. The amount to which the department of Hawaiian
9 home lands is entitled shall be determined by multiplying the
10 fair market value of the land by thirty per cent. For the
11 purpose of this section, "fair market value" means the amount of
12 money which a purchaser willing but not obliged to buy the land
13 would pay to an owner willing but not obliged to sell it, taking
14 into consideration the highest and best use of the land. For
15 the purpose of this section, "highest and best use" means the
16 most profitable, probable, and legal use to which the land can
17 be put."

18 SECTION 12. Section 237-29, Hawaii Revised Statutes, is
19 amended by amending subsection (a) to read as follows:

20 "(a) All gross income received by any qualified person or
21 firm for the planning, design, financing, construction, sale, or
22 lease in the State of a housing project which has been certified



1 or approved under section [~~201G-116~~] -36 shall be exempt from
2 general excise taxes."

3 SECTION 13. Section 247-3, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§247-3 Exemptions.** The tax imposed by section 247-1
6 shall not apply to:

7 (1) Any document or instrument that is executed prior to
8 January 1, 1967;

9 (2) Any document or instrument that is given to secure a
10 debt or obligation;

11 (3) Any document or instrument that only confirms or
12 corrects a deed, lease, sublease, assignment,
13 transfer, or conveyance previously recorded or filed;

14 (4) Any document or instrument between husband and wife,
15 reciprocal beneficiaries, or parent and child, in
16 which only a nominal consideration is paid;

17 (5) Any document or instrument in which there is a
18 consideration of \$100 or less paid or to be paid;

19 (6) Any document or instrument conveying real property
20 that is executed pursuant to an agreement of sale, and
21 where applicable, any assignment of the agreement of
22 sale, or assignments thereof; provided that the taxes



- 1 under this chapter have been fully paid upon the
2 agreement of sale, and where applicable, upon such
3 assignment or assignments of agreements of sale;
- 4 (7) Any deed, lease, sublease, assignment of lease,
5 agreement of sale, assignment of agreement of sale,
6 instrument or writing in which the United States or
7 any agency or instrumentality thereof or the State or
8 any agency, instrumentality, or governmental or
9 political subdivision thereof are the only parties
10 thereto;
- 11 (8) Any document or instrument executed pursuant to a tax
12 sale conducted by the United States or any agency or
13 instrumentality thereof or the State or any agency,
14 instrumentality, or governmental or political
15 subdivision thereof for delinquent taxes or
16 assessments;
- 17 (9) Any document or instrument conveying real property to
18 the United States or any agency or instrumentality
19 thereof or the State or any agency, instrumentality,
20 or governmental or political subdivision thereof
21 pursuant to the threat of the exercise or the exercise
22 of the power of eminent domain;



- 1 (10) Any document or instrument that solely conveys or
2 grants an easement or easements;
- 3 (11) Any document or instrument whereby owners partition
4 their property, whether by mutual agreement or
5 judicial action; provided that the value of each
6 owner's interest in the property after partition is
7 equal in value to that owner's interest before
8 partition;
- 9 (12) Any document or instrument between marital partners or
10 reciprocal beneficiaries who are parties to a divorce
11 action or termination of reciprocal beneficiary
12 relationship that is executed pursuant to an order of
13 the court in the divorce action or termination of
14 reciprocal beneficiary relationship;
- 15 (13) Any document or instrument conveying real property
16 from a testamentary trust to a beneficiary under the
17 trust;
- 18 (14) Any document or instrument conveying real property
19 from a grantor to the grantor's revocable living
20 trust, or from a grantor's revocable living trust to
21 the grantor as beneficiary of the trust;



- 1 (15) Any document or instrument conveying real property, or
2 any interest therein, from an entity that is a party
3 to a merger or consolidation under chapter 414, 414D,
4 415A, 421, 421C, 425, 425E, or 428 to the surviving or
5 new entity;
- 6 (16) Any document or instrument conveying real property, or
7 any interest therein, from a dissolving limited
8 partnership to its corporate general partner that
9 owns, directly or indirectly, at least a ninety per
10 cent interest in the partnership, determined by
11 applying section 318 (with respect to constructive
12 ownership of stock) of the federal Internal Revenue
13 Code of 1986, as amended, to the constructive
14 ownership of interests in the partnership; and
- 15 (17) Any document or instrument conveying real property to
16 any nonprofit or for-profit organization that has been
17 certified by the [~~housing and community development~~
18 ~~corporation of Hawaii~~] Hawaii housing finance and
19 development corporation for low-income housing
20 development."



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PART V

SECTION 14. The purpose of this part is to make additional technical and conforming amendments to ensure that references to chapter 201G throughout the Hawaii Revised Statutes are amended to the new chapter designated "Hawaii public housing authority".

SECTION 15. Section 521-7, Hawaii Revised Statutes, is amended to read as follows:

"§521-7 Exclusions from application of chapter. Unless created solely to avoid the application of this chapter, this chapter shall not apply to:

- (1) Residence at an institution, whether public or private, where residence is merely incidental to detention or the provision of medical, geriatric, educational, religious, or similar services;
- (2) Residence in a structure directly controlled and managed by the University of Hawaii for housing students or faculty of the University of Hawaii or residence in a structure erected on land leased from the University of Hawaii by a nonprofit corporation for the exclusive purpose of housing students or faculty of the University of Hawaii;

- 1 (3) Occupancy under a bona fide contract of sale of the
2 dwelling unit or the property of which it is a part
3 where the tenant is, or succeeds to the interest of,
4 the purchaser;
- 5 (4) Residence by a member of a fraternal organization in a
6 structure operated without profit for the benefit of
7 the organization;
- 8 (5) Transient occupancy on a day-to-day basis in a hotel
9 or motel;
- 10 (6) Occupancy by an employee of the owner or landlord
11 whose right to occupancy is conditional upon such
12 employment or by a pensioner of the owner or landlord
13 or occupancy for a period of up to four years
14 subsequent thereto, pursuant to a plan for the
15 transfer of the dwelling unit or the property of which
16 it is a part to the occupant;
- 17 (7) A lease of improved residential land for a term of
18 fifteen years or more, measured from the date of the
19 commencement of the lease;
- 20 (8) Occupancy by the prospective purchaser after an
21 accepted offer to purchase and prior to the actual
22 transfer of the owner's rights;



- 1 (9) Occupancy in a homeless facility, or any other program
2 for the homeless authorized under chapter [~~201G, part~~
3 ~~IV~~] _____, part VI;
- 4 (10) Residence or occupancy in a public housing complex or
5 shelter directly controlled, owned, or managed by the
6 Hawaii housing finance and development
7 [~~administration~~] corporation; or
- 8 (11) Residence or occupancy in a transitional facility for
9 abused family or household members."

PART VI

11 SECTION 16. There is appropriated out of the general fund
12 of the State of Hawaii the sum of \$708,300, or so much thereof
13 as may be necessary for fiscal year 2006-2007, to be expended to
14 purchase a computer network, printers, and faxes for the Hawaii
15 housing finance and development corporation.

16 The sum appropriated shall be expended by the Hawaii
17 housing finance and development corporation for the purposes of
18 this Act.

19 SECTION 17. There is appropriated out of the general
20 revenues of the State of Hawaii the sum of \$ _____, or so
21 much thereof as may be necessary for fiscal year 2006-2007, for
22 the Hawaii housing finance and development corporation.



1 The sum appropriated shall be expended by the Hawaii
2 housing finance and development corporation.

3 SECTION 18. There is appropriated out of the special funds
4 the sum of \$366,303, or so much thereof as may be necessary for
5 fiscal year 2006-2007, as follows:

6 (1) One full-time equivalent (1.00 FTE) executive director
7 position;

8 (2) One full-time equivalent (1.00 FTE) executive
9 assistant position;

10 (3) One full-time equivalent (1.00 FTE) secretary II
11 position;

12 (4) One full-time equivalent (1.00 FTE) clerk III
13 position;

14 (5) One full-time equivalent (1.00 FTE) account clerk V
15 position; and

16 (6) One full-time equivalent (1.00 FTE) secretary III
17 position.

18 The sum appropriated shall be expended by the Hawaii
19 housing finance and development corporation for the purposes of
20 this Act.



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PART VII

SECTION 19. There is appropriated out of the general obligation bond fund the sum of \$1,800,000, or so much thereof as may be necessary for fiscal year 2006-2007, to be expended on renovations to the Hawaii public housing authority's School Street office.

The sum appropriated shall be expended by the Hawaii public housing authority for the purposes of this Act.

SECTION 20. There is appropriated out of federal funds the sum of \$99,427, or so much thereof as may be necessary for fiscal year 2006-2007, as follows:

- (1) One full-time equivalent (1.00 FTE) clerk typist II position;
- (2) One full-time equivalent (1.00 FTE) account clerk III position;
- (3) One full-time equivalent (1.00 FTE) clerk typist III position;

The sum appropriated shall be expended by the Hawaii public housing authority for the purposes of this Act.

PART VIII

SECTION 21. All rental agreements made by the housing and community development corporation of Hawaii prior to July 1,

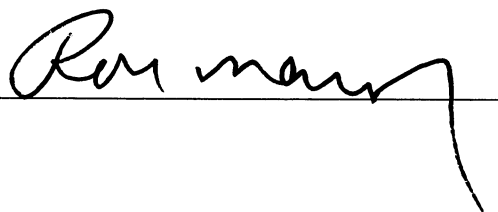
1 2006 that are made applicable to the Hawaii public housing
2 authority by this Act shall remain in full force and effect
3 until the completion of their lease terms.

4 SECTION 22. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 23. This Act shall take effect on July 1, 2006.

7

INTRODUCED BY: _____

A handwritten signature in black ink, appearing to read "Roy Maunaloa", is written over a horizontal line. The signature is cursive and extends slightly below the line.

SB. NO. 2953

Report Title:
Housing Agencies

Description:

Further implements division of housing and community development corporation of Hawaii into two separate agencies, the housing finance and development corporation, and the Hawaii public housing authority.



1 "CHAPTER

2 HAWAII HOUSING FINANCE AND DEVELOPMENT [ADMINISTRATION]

3 CORPORATION

4 PART I. GENERAL PROVISIONS

5 § -1 Definitions. The following terms, wherever used or
6 referred to in this chapter, shall have the following respective
7 meanings, unless a different meaning clearly appears from the
8 context:

9 [~~"Administration" means the Hawaii housing finance and
10 development administration.~~]

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

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

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

1 designed primarily for the benefit and use of the
2 [~~administration~~] corporation or the occupants of the dwelling.

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

7 "Corporation" means the Hawaii housing finance and
8 development corporation.

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

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

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

20 [~~"Elder or elderly housing" means:~~

- 21 (1) ~~A housing project intended for and occupied by elder
22 or elderly households; or~~



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

8 "Executive director" means the executive director of the
9 Hawaii housing finance and development ~~[administration.]~~
10 corporation.

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

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

17 "Household member" means a person who:

- 18 (1) Is a co-applicant; or
19 (2) Will reside in the dwelling unit purchased or leased
20 from the corporation.

21 "Housing project" or "project" includes all real and
22 personal property, buildings and improvements, commercial



1 spaces, lands for farming and gardening, and community
2 facilities acquired or constructed or to be acquired or
3 constructed, and all tangible or intangible assets held or used
4 in connection with the housing project.

5 The term "housing project" or "project" may also be applied
6 to the planning of the buildings and improvements, the
7 acquisition of property by purchase, lease, or otherwise, the
8 demolition of existing structures, the construction,
9 reconstruction, alteration, and repair of the improvements, and
10 all other work in connection therewith.

11 "Land" or "property" includes vacant land or land with site
12 improvements, whether partially or entirely finished in
13 accordance with governmental subdivision standards, or with
14 complete dwellings.

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

- 16 (1) Is eighteen years of age or older;
- 17 (2) Is living in the unit solely to assist the elder or
18 elderly person in daily living activities, including
19 bathing, meal preparation and delivery, medicinal
20 care, transportation, and physical activities;
- 21 (3) Is not legally obligated to support the elder or
22 elderly person; and



1 (4) Is verified by the [~~administration~~] corporation as
2 meeting these requirements.

3 "Mortgage holder" includes the United States Department of
4 Housing and Urban Development, Federal Housing Administration,
5 the United States Department of Agriculture, or other federal or
6 state agency engaged in housing activity, [~~Administrator of~~
7 United States Department of Veterans Affairs, Federal National
8 Mortgage Association, Government National Mortgage Association,
9 Federal Home Loan Mortgage Corporation, private mortgage lender,
10 private mortgage insurer, and their successors, grantees, and
11 assigns.

12 "Mortgage lender" means any bank, trust company, savings
13 bank, national banking association, savings and loan
14 association, building and loan association, mortgage banker,
15 credit union, insurance company, or any other financial
16 institution, or a holding company for any of the foregoing,
17 that:

- 18 (1) Is authorized to do business in the State;
- 19 (2) Customarily provides service or otherwise aids in the
20 financing of mortgages on single-family or multifamily
21 residential property; and



1 (3) Is a financial institution whose accounts are
2 federally insured or is an institution that is an
3 approved mortgagee for the Federal Housing
4 Administration, an approved lender for the United
5 States Department of Veterans Affairs or the United
6 States Department of Agriculture, or an approved
7 mortgage loan servicer for the Federal National
8 Mortgage Association or the Federal Home Loan Mortgage
9 Corporation.

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

19 "Obligee of the [~~administration~~] corporation" or "obligee"
20 includes any bondholder, trustee or trustees for any
21 bondholders, any lessor demising property to the
22 [~~administration~~] corporation used in connection with a housing



1 project, or any assignee or assignees of the lessor's interest
2 or any part thereof, and the United States, when it is a party
3 to any contract with the [~~administration.~~] corporation.

4 "Real property" includes lands, land under water,
5 structures, and any and all easements, franchises, and
6 incorporeal hereditaments and every estate and right therein,
7 legal and equitable, including terms for years and liens by way
8 of judgment, mortgage, or otherwise.

9 "Trustee" means a national or state bank or trust company
10 located within or outside the State that enters into a trust
11 indenture.

12 "Trust indenture" means an agreement by and between the
13 [~~administration~~] corporation and the trustee, which sets forth
14 the duties of the trustee with respect to the bonds, the
15 security therefor, and other provisions as deemed necessary or
16 convenient by the corporation to secure the bonds.

17 § -2 **Hawaii housing finance and development**

18 [~~administration~~] corporation; **establishment, staff.** (a) There
19 is established the Hawaii housing finance and development
20 [~~administration~~] corporation to be placed within the department
21 of business, economic development, and tourism for



1 administrative purposes only. The [~~administration~~] corporation
2 shall be a public body and a body corporate and politic.

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



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

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

4 There is created a board of directors of the Hawaii housing
5 finance and development [~~administration~~] corporation consisting
6 of nine members, of whom six shall be public members appointed
7 by the governor as provided in section 26-34. At least four of
8 the public members shall have knowledge and expertise in public
9 or private finance and development of affordable housing.

10 Public members shall be appointed from each of the counties of
11 Honolulu, Hawaii, Maui, and Kauai. At least one public member
12 shall represent community advocates for low-income housing,
13 affiliated with private nonprofit organizations that serve the
14 residents of low-income housing. The public members of the
15 board shall serve four-year staggered terms; provided that the
16 initial appointments shall be as follows:

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

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

19 (3) Two members to be appointed for two years.

20 The director of business, economic development, and tourism and
21 the director of finance, or their designated representatives, and
22 a representative of the governor's office, shall be [~~an~~] ex



1 officio voting [~~member.~~] members. The [~~administration]~~
2 corporation shall be headed by the board.

3 (b) The board of directors shall select a chairperson and
4 vice chairperson from among its members; provided that the
5 chairperson shall be a public member. The director of business,
6 economic development, and tourism, director of finance, and the
7 governor's representative shall be ineligible to serve as
8 chairperson of the board.

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

15 **§ -4 General powers.** (a) The [~~administration]~~
16 corporation may:

- 17 (1) Sue and be sued;
- 18 (2) Have a seal and alter the same at pleasure;
- 19 (3) Make and execute contracts and other instruments
20 necessary or convenient to the exercise of its powers;
21 and



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

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

8 § -5 **Fair housing law to apply.** Notwithstanding any law
9 to the contrary, the provisions of chapter 515 shall apply in
10 administering this chapter.

11 § -6 **Housing advocacy and information system.** (a) The
12 [~~administration,~~] corporation, with the assistance of other
13 agencies of the State and counties with related
14 responsibilities, shall develop and maintain a housing advocacy
15 and information system to aid the [~~administration~~] corporation
16 in meeting the needs and demands of housing consumers.

17 (b) In establishing and maintaining the housing advocacy
18 and information system, the [~~administration~~] corporation shall
19 conduct market studies, engage in community outreach, and
20 solicit recommendations from and statistics and research
21 developed by agencies of the United States, the State, the
22 counties, private research organizations, nonprofit community



1 groups, trade associations, including those of the construction
2 and real estate industries, departments, individuals at the
3 University of Hawaii, and housing consumers.

4 (c) The [~~administration~~] corporation shall analyze the
5 information received and make recommendations to the appropriate
6 agencies and developers.

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

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

19 **§ -7 Housing research.** (a) The [~~administration~~]
20 corporation may study the plans of any government in relation to
21 the problem of clearing, replanning, or reconstructing an area

1 in which unsafe or unsanitary public dwelling or public housing
2 conditions exist.

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

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

14 (1) Sociocultural investigation of housing and community
15 utilization, preferences, or needs of residents within
16 the housing need classification of the housing
17 functional plan;

18 (2) Development of technology for the application of
19 innovative building systems or materials, to provide
20 energy or resource conservation or cost savings in the
21 construction or operation of a housing project;



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

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

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

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

17 § -8 **Housing counseling.** The [~~administration~~]
18 corporation may provide the following services for the programs
19 it administers:

20 (1) Listing and referral services to tenants seeking to
21 rent homes;



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



1 § -9 Acquisition, use, and disposition of property. (a)

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

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

21 (c) The [~~administration~~] corporation may lease or rent all
22 or a portion of any housing project and establish and revise the

1 rents or charges therefor. The [~~administration~~] corporation may
2 sell, exchange, transfer, assign, or pledge any property, real
3 or personal, or any interest therein to any person or
4 government.

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

8 § -10 **Cooperative agreements with other governmental**

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

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

15 (2) Arrange or enter into agreements with any governmental
16 agency for the acquisition of property, options, or
17 property rights or for the furnishing, installing,
18 opening, or closing of streets, roads, alleys,
19 sidewalks, or other places, or for the furnishing of
20 property, services, parks, sewage, water, and other
21 facilities in connection with housing projects, or for
22 the changing of the map of a political subdivision or



1 the planning, replanning, zoning, or rezoning of any
2 part of a political subdivision;

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

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

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

18 (1) Dedicate, grant, sell, convey, or lease any of its
19 property or grant easements, licenses, or any other
20 rights or privileges therein to the [~~administration]~~
21 corporation or to the federal government;



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



1 or facilities to the [~~administration,~~] corporation, in
2 the purchase of bonds or other obligations of the
3 [~~administration]~~ corporation to the extent provided
4 under section [~~2016-161,~~] -61; and exercise all the
5 rights of any holder of the bonds or other
6 obligations;

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

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

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

19 For the purpose of aiding and cooperating in the planning,
20 construction, and operation of housing projects, the department
21 of land and natural resources, the Hawaiian homes commission,
22 and any other agency of the State having power to manage or



1 dispose of its public lands, with the approval of the governor
2 and with or without consideration, may grant, sell, convey, or
3 lease, for any period, any parts of such public lands, without
4 limit as to area, to the [~~administration~~] corporation or to the
5 federal government.

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

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

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

19 (c) Any county in which a public housing project is
20 located or is about to be located may make donations or advances
21 to the [~~administration~~] corporation in sums as the county in its
22 discretion may determine. The advances or donations shall be



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

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

19 **§ -12 Development of property.** (a) The
20 ~~[administration,]~~ corporation, in its own behalf or on behalf of
21 any federal, state, or county agency, may:

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



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

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

12 (b) The [~~administration~~] corporation may develop public
13 land in an agricultural district subject to the prior approval
14 of the land use commission, when developing lands greater than
15 fifteen acres in size, and public land in a conservation
16 district subject to the prior approval of the board of land and
17 natural resources. The [~~administration~~] corporation shall not
18 develop state monuments or historical sites or parks. When the
19 [~~administration~~] corporation proposes to develop public land, it
20 shall file with the department of land and natural resources a
21 petition setting forth such purpose. The petition shall be

1 conclusive proof that the intended use is a public use superior
2 to that which the land has been appropriated.

3 (c) The [~~administration~~] corporation may develop or assist
4 in the development of federal lands with the approval of
5 appropriate federal authorities.

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

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

20 § -13 **Eminent domain, exchange or use of public**
21 **property.** The [~~administration~~] corporation may acquire any real
22 property, including fixtures and improvements, or interest

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

17 The ~~[administration]~~ corporation may acquire by the
18 exercise of the power of eminent domain property already devoted
19 to a public use; provided that no property belonging to any
20 government may be acquired without its consent, and that no
21 property belonging to a public utility corporation may be
22 acquired without the approval of the public utilities

1 commission, and subject to legislative disapproval expressed in
2 a concurrent resolution adopted by majority vote of the senate
3 and the house of representatives in the first regular or special
4 session following the date of condemnation.

5 **§ -14 Contracts with federal government.** (a) The
6 [~~administration~~] corporation may:

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



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

7 § -15 Administration of low-income housing credit
8 allowed under section 235-110.8. (a) The [~~administration~~]
9 corporation is designated as a state housing credit agency to
10 carry out section 42(h) (with respect to limitation on aggregate
11 credit allowable with respect to a project located in a state)
12 of the Internal Revenue Code of 1986, as amended. As a state
13 housing credit agency, the [~~administration~~] corporation shall
14 determine the eligibility basis for a qualified low-income
15 building, make the allocation of housing credit dollar amounts
16 within the State, and determine the portion of the State's
17 housing credit ceiling set aside for projects involving
18 qualified nonprofit organizations. The [~~administration~~]
19 corporation shall file any certifications and annual reports
20 required by section 42 (with respect to low-income housing
21 credit) of the Internal Revenue Code of 1986, as amended.



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

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

20 (d) All claims for allocation of the low-income housing
21 credit under section 235-110.8 shall be filed with the
22 [~~administration.~~] corporation. The [~~administration~~] corporation

1 shall determine the amount of the credit allocation, if
2 necessary, and return the claim to the taxpayer. The taxpayer
3 shall file the credit allocation with the taxpayer's tax return
4 with the department of taxation.

5 **§ -16 Administration of federal programs.** (a) The
6 [~~administration~~] corporation may carry out federal programs
7 designated to be carried out by a housing finance or housing
8 development entity.

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

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

17 **§ -17 Federal funds outside of state treasury.**

18 Notwithstanding chapter 38, the [~~administration~~] corporation may
19 establish and manage federal funds outside of the state treasury
20 to be used for federal housing programs. The [~~administration~~]
21 corporation shall invest those funds in permitted investments in
22 accordance with chapter 36.



1 § -18 **Public works contracts.** The [~~administration~~]
2 corporation may make, execute, and carry out contracts for, or
3 in connection with, any housing project in the manner provided
4 under chapter 103D and section 103-53; provided that with regard
5 to the contracts, the term "officers", as used in chapter 103D,
6 shall mean the [~~administration~~] corporation or officer
7 authorized by the [~~administration~~] corporation to act as its
8 contracting officer. Unless made and executed in the name of
9 the State, each contract made and executed as authorized in this
10 section shall state therein that it is so made and executed.

11 § -19 **Remedies of an obligee: mandamus; injunction;**
12 **possessory action; receiver; accounting; etc.** An obligee of the
13 [~~administration~~] corporation shall have the right, in addition
14 to all other rights that may be conferred on the obligee subject
15 only to any contractual restrictions binding upon the obligee,
16 and subject to the prior and superior rights of others:

17 (1) By mandamus, suit, action, or proceeding in law or
18 equity to compel the [~~administration,~~] corporation,
19 and the members, officers, agents, or employees
20 thereof to perform each and every item, provision, and
21 covenant contained in any contract of the corporation,
22 and to require the carrying out of any or all



1 covenants and agreements of the [~~administration~~]
2 corporation and the fulfillment of all duties imposed
3 upon the [~~administration~~] corporation by this chapter;
4 (2) By suit, action, or proceeding in equity to enjoin any
5 acts or things that may be unlawful, or the violation
6 of any of the rights of the obligee of the
7 [~~administration,~~] corporation;
8 (3) By suit, action, or proceeding in any court of
9 competent jurisdiction to cause possession of any
10 housing project or any part thereof to be surrendered
11 to any obligee having the right to possession pursuant
12 to any contract of the [~~administration,~~] corporation;
13 (4) By suit, action, or proceeding in any court of
14 competent jurisdiction, upon the happening of an event
15 of default (as defined in a contract of the
16 [~~administration,~~] corporation, to obtain the
17 appointment of a receiver of any housing project of
18 the [~~administration~~] corporation or any part or parts
19 thereof, and if the receiver is appointed, the
20 receiver may enter and take possession of the housing
21 project or any part or parts thereof and operate and
22 maintain same, and collect and receive all fees,



1 rents, revenues, or other charges thereafter arising
2 therefrom in the same manner as the [~~administration~~]
3 corporation itself might do and shall keep the moneys
4 in a separate account or accounts and apply the same
5 in accordance with the obligations of the
6 [~~administration~~] corporation as the court shall
7 direct; and

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

12 **§ -20 Subordination of mortgage to agreement with**
13 **government.** The [~~administration~~] corporation may agree in any
14 mortgage made by it that the mortgage shall be subordinate to a
15 contract for the supervision by a governmental agency of the
16 operation and maintenance of the mortgaged property and the
17 construction of improvements thereon. In that event, any
18 purchaser or purchasers at a sale of the property of the
19 [~~administration~~] corporation pursuant to a foreclosure of the
20 mortgage or any other remedy in connection therewith shall
21 obtain title subject to the contract.



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

- (1) File at least once a year with the governor a report of its activities for the preceding fiscal year;
- (2) Report to the state comptroller on moneys deposited in depositories other than the state treasury under section 40-81 and rules adopted thereunder; and
- (3) Submit an annual report to the legislature on all [~~administration~~] corporation program areas and funds organized by program area, and by fund within each program area, no later than twenty days prior to the convening of each regular session, which shall provide the following information on the status of its programs and finances:
 - (A) A description of programs being developed in the current fiscal biennium, including a summary listing of the programs, the status of each program, the methods of project financing or loans, and other information deemed significant;
 - (B) A description of programs planned for development during the two ensuing fiscal bienniums, including a summary listing of the proposed

1 programs, the methods of project financing or
2 loans, and other information deemed significant;

3 (C) A status report of actual expenditures made in
4 the prior completed fiscal year from each fund
5 established under this chapter, estimated
6 expenditures anticipated for the current fiscal
7 year, and projected expenditures for the ensuing
8 fiscal years to be described in relation to
9 specific projects developed to implement the
10 purposes of any program or fund established under
11 this chapter;

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

15 (E) Recommendations with reference to any additional
16 legislation or other action that may be necessary
17 to carry out the purposes of this part.

18 § -22 **Quitclaim deeds.** Unless otherwise provided by
19 law, the [~~administration~~] corporation shall issue quitclaim
20 deeds and leases whenever it conveys, transfers, sells, or
21 assigns any property developed, constructed, or sponsored under
22 this chapter.



PART II. HOUSING DEVELOPMENT PROGRAMS

1 **§ -31 Criteria.** In administering this chapter and other
2 laws of the State applicable to the supplying of housing or the
3 assistance in obtaining housing, the corporation shall give
4 preference to those applicants most in need of assistance in
5 obtaining housing, in light of the amount of moneys available
6 for the various programs. In doing so, the corporation shall
7 take into consideration the applicant's household income and
8 number of dependents; the age of the applicant; the physical
9 disabilities of the applicant or those living with the
10 applicant; whether or not the present housing of the applicant
11 is below standard; whether or not the applicant's need for
12 housing has arisen by reason of displacement of the applicant by
13 governmental actions; and other factors as it may deem
14 pertinent.

15 **§ -32 Definitions.** The following terms, wherever used
16 or referred to in this subpart, shall have the following
17 respective meanings unless a different meaning clearly appears
18 from the context:

19 "Develop" or "development" means the planning, financing,
20 acquisition of real and personal property, demolition of
21 existing structures, clearance of real property, construction,
22

1 reconstruction, alteration, or repairing of approaches, streets,
2 sidewalks, utilities, and services, or other site improvements,
3 or 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 and all undertakings necessary therefor, and
7 the acquisition of any housing, in whole or in part.

8 "Eligible bidder" means a person, partnership, firm, or
9 corporation determined by the corporation:

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

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

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

18 (1) To be qualified by experience and financial
19 responsibility and support to construct housing of the
20 type described and of the magnitude encompassed by the
21 given project;



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

6 (3) To meet all other requisites the corporation deems to
7 be just and reasonable, and all requirements
8 stipulated in this chapter.

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

12 "Qualified resident" means a person who:

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

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

15 (3) Is domiciled in the State and shall physically reside
16 in the dwelling unit purchased or rented under this
17 chapter;

18 (4) In the case of the purchase of real property in fee
19 simple or leasehold, has a gross income sufficient to
20 qualify for the loan to finance the purchase; or in
21 the case of a rental, demonstrates an ability to pay
22 rent as determined by the corporation and meets any



1 additional criteria established by the corporation for
2 the respective rental housing development for which
3 the applicant is applying; and

4 (5) Meets the following qualifications:

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

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



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

8 "Short term project notes" means evidences of indebtedness
9 issued by the State for specified housing projects and secured
10 by the projects the terms of which call for complete repayment
11 by the State of the face amount in not less than two nor more
12 than ten years.

13 § -33 Powers and duties, generally. (a) The
14 corporation may develop fee simple or leasehold property,
15 construct dwelling units thereon, including condominiums,
16 planned units, and cluster developments, and sell, lease, or
17 rent or cause to be leased or rented, at the lowest possible
18 price to qualified residents, nonprofit organizations, or
19 government agencies, with an eligible developer or in its own
20 behalf, either:



- 1 (1) Fully completed dwelling units with the appropriate
2 interest in the land on which the dwelling unit is
3 located;
- 4 (2) Units which are substantially complete and habitable
5 with the appropriate interest in the land on which the
6 dwelling unit is located; or
- 7 (3) The land with site improvements (other than the
8 dwelling unit) either partially or fully developed.
- 9 (b) The corporation shall require all applicants for the
10 purchase of dwelling units to make application therefor under
11 oath, and may require additional testimony or evidence under
12 oath in connection with any application. The determination of
13 any applicant's eligibility under this chapter by the
14 corporation shall be conclusive as to all persons thereafter
15 dealing with the property; but the making of any false statement
16 knowingly by the applicant or other person to the corporation in
17 connection with any application shall constitute perjury and be
18 punishable as such. The corporation shall establish a system to
19 determine preferences by lot in the event that it receives more
20 qualified applications than it has units available.
- 21 (c) The corporation shall adopt, pursuant to chapter 91,
22 rules on health, safety, building, planning, zoning, and land



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

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

21 (d) The corporation may acquire, by eminent domain,
22 exchange, or negotiation, land or property required within the



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

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

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



1 development of housing projects, the implementation of
2 this chapter, and the staffing of any citizen advisory
3 committee the corporation may establish;

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

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

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

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

11 § -34 Additional powers; development. Notwithstanding
12 section 103-7 but with the approval of the governor, the
13 corporation may enter into and carry out agreements and
14 undertake projects or participate in projects authorized by this
15 chapter. The powers conferred upon the corporation by this
16 subpart shall be in addition and supplemental to the powers
17 conferred upon it by part I and any other law, and nothing
18 herein shall be construed as limiting any powers, rights,
19 privileges, or immunities so conferred upon it.

20 § -35 Bond financing. The director of finance may issue
21 general obligation bonds and short term project notes of the
22 State in the aggregate amount not to exceed \$105,000,000 for the



1 dwelling unit revolving fund created by section -171.
 2 Pending the receipt of funds from the issuance and sale of the
 3 bonds and notes, the amount required for the purposes of this
 4 chapter shall be advanced from the general fund of the State.
 5 Upon the receipt of the bond or note funds, the general fund
 6 shall be reimbursed. The director of finance may sequester and
 7 separate the proceeds from the sale of the bonds and notes into
 8 separate funds and the amounts in either fund may be used for
 9 any of the purposes set forth in this chapter.

10 **§ -36 Exemption from general excise taxes.** (a) In
 11 accordance with section 237-29, the corporation may approve and
 12 certify for exemption from general excise taxes any qualified
 13 person or firm involved with a newly constructed, or moderately
 14 or substantially rehabilitated project:

- 15 (1) Developed under this subpart;
- 16 (2) Developed under a government assistance program
 17 approved by the corporation, including but not limited
 18 to, the United States Department of Agriculture 502
 19 program and Federal Housing Administration 235
 20 program;
- 21 (3) Developed under the sponsorship of a private nonprofit
 22 corporation providing home rehabilitation or new homes



1 for qualified families in need of decent, low-cost
2 housing; or

3 (4) Developed by a qualified person or firm to provide
4 affordable rental housing where at least fifty per
5 cent of the available units are for households with
6 incomes at or below eighty per cent of the area median
7 family income, as determined by the United States
8 Department of Housing and Urban Development, of which
9 at least twenty per cent of the available units are
10 for households with incomes at or below sixty per cent
11 of the area median family income as determined by the
12 United States Department of Housing and Urban
13 Development.

14 (b) All claims for exemption under this section shall be
15 filed with and certified by the corporation and forwarded to the
16 department of taxation. Any claim for exemption that is filed
17 and approved, shall not be considered a subsidy for the purpose
18 of this subpart.

19 (c) For the purposes of this section, "moderate
20 rehabilitation" means rehabilitation to upgrade a unit to a
21 decent, safe, and sanitary condition, or to repair or replace
22 major building systems or components in danger of failure.



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

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

15 **§ -37 Exemption from tax on income and obligations.**
16 Income earned and obligations issued by a nonprofit entity
17 determined to constitute a "public housing agency" pursuant to
18 section 3(6) of the United States Housing Act of 1937, as
19 amended, and which income and obligations are declared by the
20 United States Department of Housing and Urban Development to be
21 exempt from all taxation imposed by the United States pursuant



1 to section 11(b) of the Act shall be exempt from all taxation
2 now or hereafter imposed by the State.

3 § -38 Housing development; exemption from statutes,
4 ordinances, charter provisions, rules. (a) The corporation may
5 develop, on behalf of the State or with an eligible developer,
6 or may assist under a government assistance program in the
7 development of, housing projects which shall be exempt from all
8 statutes, ordinances, charter provisions, and rules of any
9 governmental agency relating to planning, zoning, construction
10 standards for subdivisions, development and improvement of land,
11 and the construction of units thereon; provided that:

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

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

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



- 1 (A) The legislative body shall approve or disapprove
2 the project by resolution within forty-five days
3 after the corporation has submitted the
4 preliminary plans and specifications for the
5 project to the legislative body. If on the forty-
6 sixth day a project is not disapproved, it shall
7 be deemed approved by the legislative body;
- 8 (B) No action shall be prosecuted or maintained
9 against any county, its officials, or employees
10 on account of actions taken by them in reviewing,
11 approving, or disapproving the plans and
12 specifications; and
- 13 (C) The final plans and specifications for the
14 project shall be deemed approved by the
15 legislative body if the final plans and
16 specifications do not substantially deviate from
17 the preliminary plans and specifications. The
18 final plans and specifications for the project
19 shall constitute the zoning, building,
20 construction, and subdivision standards for that
21 project. For purposes of sections 501-85 and 502-
22 17, the executive director of the corporation, or



1 the responsible county official may certify maps
 2 and plans of lands connected with the project as
 3 having complied with applicable laws and
 4 ordinances relating to consolidation and
 5 subdivision of lands, and the maps and plans
 6 shall be accepted for registration or recordation
 7 by the land court and registrar; and

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

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

19 § -39 Starter homes; design standards; applicant
 20 eligibility; authority to incorporate starter homes into housing
 21 projects of the corporation. (a) The corporation shall adopt
 22 rules in accordance with chapter 91 to establish design and

1 construction standards for starter homes configured to expand
2 incrementally over time. For the purposes of this section,
3 "starter home" means a dwelling unit that is designed to meet
4 the basic living capacity requirements of homebuyers with
5 families of limited size by eliminating needless design and
6 space amenities, but which nonetheless enables future expansion,
7 modification, and improvement by the owner to accommodate
8 increased occupancy over time as may be necessary. The rules
9 shall include building, setback, minimum lot size,
10 infrastructure, and architectural standards for the construction
11 and development of starter homes.

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

20 (c) The corporation may incorporate starter homes into any
21 affordable housing project developed by the corporation under
22 this chapter. The corporation shall determine on a project-by-



1 project basis the number of starter home units to be included in
2 each particular project.

3 (d) The corporation shall include in its annual report to
4 the legislature a report on the number of starter homes
5 constructed and developed by the corporation in accordance with
6 the authorization provided in this section.

7 **§ -40 Dwelling unit project, construction and**
8 **sponsorship thereof.** (a) The corporation, on behalf of the
9 State or with eligible developers and contractors, shall develop
10 real property and construct dwelling units thereon; provided
11 that, not less than ten per cent of the total number of units in
12 single-family projects consisting of fifty units or more
13 sponsored by the corporation shall be first offered to owner-
14 builders or to nonprofit organizations assisting owner-builders
15 in the construction of units thereon. Qualifications for
16 developers and contractors shall be provided by rules to be
17 adopted by the corporation in accordance with chapter 91. Any
18 person, if qualified, may act as both the developer and the
19 contractor.

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



1 (c) If working in partnership with an eligible developer,
2 the corporation shall have sole control of the partnership,
3 shall keep all books of the partnership, and shall ascertain all
4 costs of the partnership including the cost of services
5 performed by any other partners and it shall audit the same.
6 The other partners shall perform services for the partnership
7 under the direction of the corporation and shall be reimbursed
8 for all costs relating to the project as certified by the
9 corporation, including administrative and overhead costs.
10 Additionally, the other partners, upon transfer of title by the
11 corporation to the purchaser, shall be entitled to a guaranteed
12 gross share if the actual cost of the project does not exceed
13 the original project cost. The gross share shall not exceed
14 fifteen per cent of the original project cost prorated to the
15 dwelling units, less any amount subsidized by the State.
16 Subsidies shall include unrecovered development and land costs
17 and any other subsidized items as defined in rules to be adopted
18 by the corporation pursuant to chapter 91. The percentage of
19 the share shall be determined by the corporation by contract
20 with the partner based upon the nature of the services rendered
21 by them. For purposes of this subsection, "original project



1 cost" means the original budget of a project as approved by the
2 corporation without modification at a later date.

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

8 § -41 Independent development of projects. (a) In any
9 county, the corporation may develop or may enter into agreements
10 for housing projects with an eligible developer if in the
11 corporation's reasonable judgment a project is primarily
12 designed for lower income housing. The agreement may provide
13 for the housing to be placed under the control of the
14 corporation, or to be sold by the corporation, or to be sold to
15 the corporation as soon as the units are completed and shall
16 contain terms, conditions, and covenants as the corporation, by
17 rules adopted pursuant to chapter 91, deems appropriate. Every
18 agreement shall provide for the developer to furnish a
19 performance bond, in favor of the corporation, assuring the
20 timely and complete performance of the housing project.

21 Sureties on the bond shall be satisfactory to the corporation.

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

- 1 (1) Provide for economically integrated housing by
2 stipulation and design;
- 3 (2) Provide for the sale of all units in fee simple or in
4 leasehold either to the corporation or to the
5 purchaser and in all cases subject to all of the
6 provisions of sections -47, -49, and -50
7 excepting units sold at market price; and
- 8 (3) Encompass the use of lands adequately suited to the
9 size, design, and types of occupancies designated in
10 subsection (a), properly located for occupancy by the
11 groups for which the project was primarily designed
12 under this section, properly districted for the use
13 intended prior to this application, and appropriately
14 zoned within an urban land use district, or
15 appropriate in its situation and surroundings for more
16 intensive or denser zoning.
- 17 (c) The corporation may accept and approve projects
18 independently initiated by private developers which fully comply
19 with subsections (a) and (b). The corporation may review the
20 plans, specifications, districting, and zoning of the project
21 for the purpose of exempting the project from all statutes,
22 ordinances, charter provisions, and rules of any governmental



1 agency relating to zoning and construction standards for
 2 subdivisions, development, and improvement of land and the
 3 construction, improvement, and sale of homes thereon; provided
 4 that the procedures in section -38(a)(1), (2), and (3) have
 5 been satisfied.

6 **§ -42 Private development of projects.** (a) The
 7 corporation may enter into contracts with any eligible bidder to
 8 provide for the construction of a housing project or projects.
 9 Each contract shall provide that the housing project or projects
 10 shall be placed under the control of the corporation, as soon as
 11 the unit is available for occupancy. Each contract also shall
 12 provide that the capital stock of the mortgagor (where the
 13 mortgagor is a corporation) be transferred to the corporation,
 14 when the housing project or projects have been completed. Each
 15 contract shall contain terms and conditions that the corporation
 16 may determine to be necessary to protect the interests of the
 17 State. Each contract shall provide for the furnishing by the
 18 contractor of a performance bond and a payment bond with
 19 sureties satisfactory to the corporation, and the furnishings of
 20 bonds shall be deemed sufficiently compliant with the law and no
 21 additional bonds shall be required. Before the corporation
 22 shall enter into any contract as authorized by this section for



1 the construction of a housing project or projects, it shall
2 invite the submission of competitive bids after giving public
3 notice in the manner prescribed by law.

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

15 (c) On request by the corporation, the attorney general
16 shall furnish to the corporation, an opinion as to the
17 sufficiency of title to any property on which it proposes to
18 construct housing projects, or on which housing projects have
19 been constructed, under this section. If the opinion of the
20 attorney general is that the title to the property is good and
21 sufficient, the corporation is authorized to guarantee, or enter
22 into a commitment to guarantee the mortgagee against any losses



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

12 (d) The State shall be authorized to guarantee the
13 repayment of one hundred per cent of the principal and interest
14 of loans from commercial lenders for the purposes of this
15 section pursuant to rules adopted pursuant to chapter 91, by the
16 corporation which shall conform as closely as is possible to the
17 practices of the Federal Housing Administration in insuring
18 loans under sections 203 and 207 of the National Housing Act, as
19 amended; provided that at no time shall the State's liability,
20 contingent or otherwise, on the guarantees exceed \$10,000,000.

21 § -43 Interim financing of projects. (a) The
22 corporation may provide interim construction loans to eligible



1 developers. In addition to the rate of interest charged on
2 interim loans, the corporation may charge loan commitment fees,
3 to be determined by rules adopted pursuant to chapter 91.

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

15 § -44 Commercial, industrial and other uses. (a) In
16 connection with the development of any residential units under
17 this chapter the corporation may also develop commercial,
18 industrial, and other properties if it determines that the uses
19 can be an integral part of the development and can help to
20 preserve the lifestyles of the purchasers of residences in the
21 development. The corporation may designate any portion of the
22 developments as commercial, industrial, or other use and shall



1 have all the powers granted under this chapter with respect
2 thereto including the power to bypass statutes, ordinances,
3 charter provisions and rules of any governmental agency pursuant
4 to section -38. For this purpose the corporation may use any
5 of the funds authorized under this chapter.

6 (b) The corporation shall adopt rules pursuant to chapter
7 91 that shall provide the manner of designation of the uses and
8 shall provide that any commercial, industrial, or other
9 properties so developed shall be sold or leased at cost or at
10 economic rents or sales prices. Sale or lease shall be made at
11 cost to owners of commercial, industrial, or other facilities
12 displaced by the corporation. All other leases or sales shall
13 be at economic rents or sales prices determined by the
14 corporation, after appraisal, to be consistent with rents or
15 sales prices in similar locations or terms. The net proceeds of
16 all sales or leases, less costs to the corporation, shall be
17 deposited in the dwelling unit revolving fund. The rules may
18 also provide that during the first twenty years after its
19 purchase, any commercial, industrial, or other property so
20 developed and sold or leased may be resold or assigned only to
21 the corporation at the original purchase price plus the cost of
22 any improvements made by the purchaser together with simple



1 interest on all of the purchaser's equity in the property at the
2 rate of seven per cent a year. Rules may also provide that
3 ownership of the commercial, industrial, or other property
4 cannot be separated from ownership of the residential property
5 in connection with which it was sold or leased.

6 **§ -45 Sale, mortgage, agreement of sale, other**
7 **instruments.** (a) The corporation shall sell completed dwelling
8 units or dwelling units that are substantially completed and
9 habitable, developed and constructed hereunder, to qualified
10 residents in fee simple, or shall cause them to be leased or
11 rented to qualified residents, at a price or rental based on
12 costs as determined by the corporation. The gross share to the
13 other partners or contract payments and any amounts subsidized
14 by the State, including but not limited to the land, need not be
15 counted as cost so as to increase the price. Such may be borne
16 by the State, under rules adopted pursuant to chapter 91 subject
17 to reimbursement upon sale as provided for in section -47.

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



1 in that event shall execute with the corporation an agreement of
2 sale or mortgage or other instrument under the terms of which
3 the unpaid principal and the interest thereon shall be paid in
4 monthly installments over a period of not more than forty years.

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

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

19 (e) The mortgages, agreements of sale, and other
20 instruments of indebtedness, at the direction of the
21 corporation, may be assigned to, and serviced by commercial
22 banks and other lending institutions doing business in the State



1 at a fee of not more than one-half of one per cent of the amount
2 loaned to the purchaser.

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

8 § -46 Co-mortgagor. For purposes of qualifying for a
9 mortgage loan to finance the purchase of a dwelling unit under
10 this subpart, a "qualified resident" as defined in section
11 -32 may be assisted by a co-mortgagor who is a family member
12 as defined by the corporation, who may own other lands in fee
13 simple or leasehold suitable for dwelling purposes, whose
14 interest in the dwelling unit to be purchased is limited to no
15 more than one per cent, and who certifies that the co-mortgagor
16 does not intend to reside in the dwelling unit. The income and
17 assets of the co-mortgagor shall not be counted in determining
18 the eligibility of the "qualified resident" under this chapter.

19 § -47 Real property; restrictions on transfer; waiver of
20 restrictions. (a) The following restrictions shall apply to
21 the transfer of real property developed and sold under this
22 chapter, whether in fee simple or leasehold:



- 1 (1) For a period of ten years after the purchase, whether
2 by lease, assignment of lease, deed, or agreement of
3 sale, if the purchaser wishes to transfer title to the
4 real property, the corporation shall have the first
5 option to purchase the real property at a price that
6 shall not exceed the sum of:
- 7 (A) The original cost to the purchaser, as defined in
8 rules adopted by the corporation pursuant to
9 chapter 91;
- 10 (B) The cost of any improvements added by the
11 purchaser, as defined in rules adopted by the
12 corporation pursuant to chapter 91; and
- 13 (C) Simple interest on the original cost and capital
14 improvements to the purchaser at the rate of one
15 per cent a year.
- 16 (2) The corporation may purchase the real property either:
- 17 (A) By conveyance free and clear of all mortgages and
18 liens; or
- 19 (B) By conveyance subject to existing mortgages and
20 liens.
- 21 If the real property is conveyed in the manner
22 provided in subparagraph (A), it shall be conveyed to



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

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

17 (4) After the end of the tenth year from the date of
18 purchase, or execution of an agreement of sale, the
19 purchaser may sell the real property and sell or
20 assign the property free from any price restrictions;
21 provided that the purchaser shall be required to pay
22 to the corporation the sum of:



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

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

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

11 (5) Notwithstanding any provision in this subsection to
12 the contrary, pursuant to rules adopted by the
13 corporation under chapter 91, the subsidy or deferred
14 sales price described in subsection (a) (4) (B) and any
15 interest accrued pursuant to subsection (a) (4) (C) may
16 be paid, in part or in full, at any time.

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

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



- 1 (2) Any mortgage insured or held by a federal housing
- 2 agency; and
- 3 (3) Any mortgage or lien created for any other purpose
- 4 provided that the corporation has previously consented
- 5 to it in writing.

6 The amount paid by the corporation to the seller shall be
7 the difference, if any, between the purchase price determined by
8 paragraphs (1) (A) to (C) of subsection (a), and the total of the
9 outstanding principal balances of the mortgages and liens
10 assumed by the corporation.

11 (c) For a period of ten years after the purchase, whether
12 by lease, assignment of lease, deed, or agreement of sale, if
13 the purchaser wishes to transfer title to the real property, and
14 if the corporation does not exercise the option to purchase the
15 real property as provided in subsection (a), then the
16 corporation shall require the purchaser to sell the real
17 property to a "qualified resident" as defined in section -32,
18 and upon the terms that preserve the intent of this section and
19 sections -49 and -50, and in accordance with rules adopted
20 by the corporation pursuant to chapter 91.

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

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

5 (2) The sale or transfer of the real property would be at
6 a price and upon terms that preserve the intent of
7 this section without the necessity of the State
8 repurchasing the real property; provided that, in this
9 case, the purchaser shall sell the unit or lot and
10 sell or assign the property to a person who is a
11 "qualified resident" as defined in section -32; and
12 provided further that the purchaser shall pay to the
13 corporation its share of appreciation in the unit as
14 determined in rules adopted pursuant to chapter 91
15 when applicable.

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



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

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

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

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



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

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

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

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



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

4 § -48 Exception of current owners in corporation

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

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

1 issued by the family court pursuant to section
2 580-71.

3 **§ -49 Real property; restrictions on use.** (a) Real
4 property purchased under this chapter shall be occupied by the
5 purchaser at all times during the ten-year restriction period
6 set forth in section -47, except in hardship circumstances
7 where the inability to reside on the property arises out of
8 unforeseeable job or military transfer, a temporary educational
9 sabbatical, serious illness of the person, or in other hardship
10 circumstances as determined by the corporation on a case-by-case
11 basis.

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

1 The corporation shall adopt rules under chapter 91 to
2 implement the letter and spirit of this subsection and to
3 prescribe necessary terms and conditions. The rules shall
4 include:

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

11 No qualified resident who fails to reoccupy a dwelling unit
12 after any waiver period shall receive more than the maximum to
13 which the person would be entitled under section -47. Any
14 person who disagrees with the corporation's determination under
15 this section shall be entitled to a contested case proceeding
16 under chapter 91.

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

1 (c) Any deed, lease, agreement of sale, or other
2 instrument of conveyance issued by the corporation shall
3 expressly contain the restrictions on use prescribed in this
4 section.

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

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

15 (f) The corporation is authorized to waive any of the
16 restrictions set forth in this section in order to comply with
17 or conform to requirements set forth in federal laws or
18 regulations governing mortgage insurance or guarantee programs
19 or requirements set forth by federally chartered secondary
20 mortgage market participants.

21 **§ -50 Restrictions on use, sale, and transfer of real**
22 **property; effect of amendment or repeal.** (a) Restrictions on

1 the use, sale, and transfer of real property shall be made as
2 uniform as possible in application to purchasers of all real
3 property, and restrictions shall be conformed with agreement of
4 the purchaser to reflect change or repeal made by any subsequent
5 legislative act, ordinance, rule, or regulation. Purchasers
6 shall be permitted at their election to sell or transfer real
7 property subject to restrictions in effect at the time of their
8 sale or transfer.

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



1 (c) For all purchasers of real property prior to June 25,
2 1990, where the restrictions on use and transfer of property
3 apply for a period of time, the period of time shall not be
4 increased beyond the date calculated from the date of original
5 purchase.

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

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

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



1 (g) The restrictions of this section shall terminate as to
 2 a particular real property and shall not attach in subsequent
 3 transfers of title of that real property if the corporation
 4 releases the restrictions when the real property is financed
 5 under a federally subsidized mortgage program.

6 **§ -51 Corporation's right to repurchase or rent real**
 7 **property; authority to seek recovery.** (a) Notwithstanding any
 8 provision in this chapter to the contrary, during the period in
 9 which the restrictions in section -47 are in effect, the
 10 following provisions shall apply when dwelling units developed,
 11 constructed, financed, purchased, or sold pursuant to Act 105,
 12 Session Laws of Hawaii 1970, as amended, are found to have a
 13 substantial construction defect, or when vacant lands developed,
 14 financed, purchased, or sold pursuant to Act 105, Session Laws
 15 of Hawaii 1970, as amended, are found to have a substantial soil
 16 defect:

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



- 1 (A) The corporation may repurchase a dwelling unit or
2 land if:
 - 3 (i) The dwelling unit or land is deemed unsafe
4 by the county building department;
 - 5 (ii) The defects are irreparable; or
 - 6 (iii) In the opinion of the corporation, the
7 defect is of such magnitude that it will
8 take longer than a year to repair;
- 9 (B) The corporation's purchase price shall be based
10 on the formula set forth in section -47(a)(1);
- 11 (C) After repairs to the unit or land are completed,
12 the former owner shall have the first right of
13 refusal to repurchase the real property;
- 14 (D) The corporation shall give preference in all
15 other projects of the corporation to all owners
16 whose real property is repurchased by the
17 corporation under this subsection, and the
18 corporation may waive certain eligibility
19 requirements for these owners; and
- 20 (E) If the corporation exercises its right to
21 purchase defective real property against an
22 owner's wishes pursuant to this paragraph, the



1 corporation shall provide relocation assistance
2 to that owner as provided in chapter 111;

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

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

18 For the purposes of this subsection, "substantial
19 construction defect" includes but is not necessarily limited to:
20 structural defects such as shifting foundations and bearing
21 walls; structural deficiencies due to the use of defective or
22 undersized materials; and defects affecting the health and



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

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

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



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

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

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

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

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



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

3 § -52 Nonprofit organizations; government agencies. (a)

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

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

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



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

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

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

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

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

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



1 § -53 Rate of wages for laborers and mechanics. The
2 corporation shall require an eligible bidder or eligible
3 developer of a housing project developed under this subpart to
4 comply with the requirements of section 104-2 for those laborers
5 and mechanics hired to work on that housing project; provided
6 that this section shall not apply to a housing project developed
7 under this chapter if the entire cost of the project is less
8 than \$500,000 and the eligible bidder or eligible developer is a
9 private nonprofit corporation.

10 § -54 Additional powers. The powers conferred upon the
11 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 **PART III. FINANCING PROGRAMS**

16 **A. General Provisions**

17 § -61 Bonds; authorization. (a) The corporation, with
18 the approval of the governor, may issue from time to time bonds
19 (including refunding bonds to pay, retire, or provide for the
20 retirement of bonds previously issued by the corporation) in
21 amounts not exceeding the total amount of bonds authorized to be
22 issued by the legislature for any of its corporate purposes;



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

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

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

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

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

20 (2) Receipts derived from any grant from the federal
21 government made in aid of a housing project or
22 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 subpart
8 B, or any other agreement or agreements entered into
9 for a "housing loan program", as the term is defined
10 in subpart B or any other loan program administered by
11 the corporation and financed from the proceeds of
12 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,
16 which loans to mortgage lenders or loans purchased are
17 financed from the proceeds of bonds;

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

21 (7) Proceeds derived from any insurance;

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



1 (9) Any combination of the above.

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

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

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



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

11 (g) Any housing project or projects authorized by, and
12 undertaken pursuant to this chapter shall constitute an
13 "undertaking" within the meaning of that term as defined and
14 used in part III, chapter 39; any loan program authorized by,
15 and undertaken pursuant to this chapter, including without
16 limitation housing loan programs defined in and authorized by
17 subparts B and E of this part, shall constitute a "loan program"
18 within the meaning of that term as defined and used in part III,
19 chapter 39; and the corporation shall constitute a "department"
20 and the board shall constitute a "governing body" within the
21 meaning of those terms as defined and used in part III, chapter
22 39.



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

4 **§ -62 Issuance of bonds for the development of**
5 **infrastructure.** Without limiting section -61, the
6 corporation, pursuant to, and in accordance with this subpart,
7 is hereby authorized to issue bonds for the purpose of financing
8 the development of infrastructure on land owned by the
9 corporation.

10 **§ -63 Issuance of bonds for the preservation of low-**
11 **income housing projects.** The corporation, pursuant to, and in
12 accordance with this subpart, may issue bonds to purchase low-
13 income housing projects financed by the United States Department
14 of Housing and Urban Development in order to preserve these
15 projects. Upon the payment of all interest and principal
16 stemming from the issuance of these bonds, the corporation may
17 transfer title to these projects to qualified nonprofit
18 organizations. Nothing in this section shall be construed to:

19 (1) Prohibit qualified nonprofit or for profit
20 organizations from operating these projects on behalf
21 of the corporation, or providing for the repair and
22 maintenance of these projects, before the payment of



1 all interest and principal stemming from the issuance
2 of these bonds; or

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

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

10 **§ -64 Bonds; interest rate, price and sale.** (a) The
11 bonds shall bear interest at rates payable at times that the
12 corporation, with the approval of the governor, may determine
13 except for deeply discounted bonds that are subject to
14 redemption or retirement at their accreted value; provided that
15 the discounted value of the bonds shall not exceed ten per cent
16 of any issue; and provided further that no bonds may be issued
17 without the approval of the director of finance and the
18 governor. Notwithstanding any other law to the contrary, the
19 corporation may, subject to the approval of the director of
20 finance and the governor, issue bonds pursuant to section
21 -62, in which the discounted value of the bonds exceeds ten
22 per cent of the issue.

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

13 § -65 **Trustee; designation, duties.** (a) The
14 corporation may designate a trustee for each issue of bonds
15 secured under the same trust indenture; provided that the
16 trustee shall be approved by the director of finance.

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

21 (c) The trustee shall also be authorized by the
22 corporation to hold and administer any housing project bond



1 special funds established pursuant to section -70, and to
2 receive and receipt for, hold, and administer the revenues
3 derived by the corporation from any housing project or projects
4 or loan program for which the bonds are issued or the projects
5 or loan programs pledged to the payment of the bonds, and to
6 apply the revenues to the payment of the cost of administering,
7 operating, and maintaining the housing project or projects or
8 loan program, to pay the principal of and the interest on the
9 bonds, to the establishment of reserves, and to other purposes
10 as may be authorized in the proceedings providing for the
11 issuance of the bonds.

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

14 (1) The payment of the principal of, and interest on the
15 bonds; and

16 (2) The purchase, registration, transfer, exchange, and
17 redemption of the bonds.

18 (e) The trustee shall perform additional functions with
19 respect to the payment, purchase, registration, transfer,
20 exchange, and redemption, as the director of finance may deem
21 necessary, advisable, or expeditious, including the holding of



1 the bonds and coupons, if any, that have been paid and the
2 supervision of their destruction in accordance with law.

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

10 § -66 Trust indenture. (a) A trust indenture may
11 contain covenants and provisions authorized by part III of
12 chapter 39, and as deemed necessary or convenient by the
13 corporation for the purposes of this part.

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

19 (c) Where a trust indenture provides that any bond issued
20 under that trust indenture is not valid or obligatory for any
21 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 § -67 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 § -68 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 to keep and pay over faithfully 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 § -69 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
15 interest shall be exempt from chapter 91.

16 **§ -70 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 -171, the proceeds in the
20 fund shall be used for long-term and other special financings of
21 the corporation and for the necessary expenses in administering
22 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
16 and premium on bonds, shall be paid into the housing project
17 bond special fund established for the housing project or system
18 of projects or loan program and applied as provided in the
19 proceedings authorizing the issuance of the bonds.

20 **§ -71 Kikala-Keokea housing revolving fund; established.**

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

1 home construction for Kikala-Keokea leaseholders who have been
2 denied loans from traditional financial institutions. The
3 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 § -72 **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 § -73 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 § -81 Definitions. The following words or terms as used
11 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 pursuant to chapter 91.
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 pursuant to chapter 91.

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 pursuant to chapter 91.



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 § -82 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 pursuant to section -49 on a case-by-
7 case basis.

8 § -83 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 § -84 Rules; eligible loans. (a) The corporation shall
21 establish requirements for property financed by an eligible



1 loan, and may consider the location, age, condition, and other
2 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 pursuant to rules according to
6 chapter 91.

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

9 **§ -85 Rules; eligible project loans.** (a) The
10 corporation shall establish requirements for projects to be
11 financed by an eligible project loan, and may consider the
12 location, age, condition, and other characteristics of the
13 project.

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

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

20 (d) The corporation shall require that any sums deferred
21 on land leased at nominal rates by the corporation to the owner
22 of an eligible project shall be recovered by the corporation at



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

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

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

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

17 **§ -86 Rules; eligible improvement loans.** (a) The
18 corporation shall establish requirements for property financed
19 by an eligible improvement loan, and may consider the location,
20 age, condition, value, and other characteristics of the
21 property.



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

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

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

8 **§ -87 Housing loan programs; procedures and**

9 **requirements.** (a) The corporation shall establish procedures
10 for:

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

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

15 (3) The making of advance commitments to purchase and the
16 purchasing of eligible loans, eligible improvement
17 loans, or eligible project loans to be made by
18 mortgage lenders by auction, invitation of tenders, or
19 negotiation; and

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



1 (b) The corporation shall establish standards and
2 requirements for:

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

4 (2) The allocation of funds to purchase existing loans
5 from mortgage lenders;

6 (3) The making of advance commitments and allocation of
7 funds to purchase eligible loans, eligible improvement
8 loans, or eligible project loans from mortgage
9 lenders; and

10 (4) The participation by mortgage lenders as originators
11 and processors of eligible loans, eligible improvement
12 loans, or eligible project loans on behalf of the
13 corporation.

14 (c) The standards and requirements for the allocation of
15 funds to mortgage lenders adopted by rule, pursuant to chapter
16 91, by the corporation, shall be designed to include the maximum
17 number of qualified mortgage lenders as participants in the
18 housing loan programs.

19 § -88 Housing loan programs; general powers. (a) The
20 corporation may enter into, and enforce all contracts or
21 agreements which are necessary, convenient, or desirable for the



1 purposes of the performance of its duties in executing the
2 housing loan programs.

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

5 § -89 Housing loan programs; self-supporting. The
6 interest rate, fees, charges, premiums, and other terms of the
7 loans made under the housing loan programs shall be sufficient
8 to pay the cost of administering and maintaining the portion of
9 the specific housing loan programs for which the bonds have been
10 issued, and to assure payment of the principal of, and interest
11 on the bonds as they become due.

12 § -90 Housing loan program; fees. The corporation may
13 establish, revise, charge, and collect fees, premiums, and
14 charges as necessary, reasonable, or convenient, for its housing
15 loan programs. The fees, premiums, and charges shall be
16 deposited into the housing loan program revenue bond special
17 fund established for the particular housing loan program or part
18 thereof from which the fees, premiums, and charges are derived
19 as determined by the corporation.

20 § -91 Housing loan programs; evidence of eligible loan,
21 eligible improvement loans, or eligible project loan. (a) Each
22 mortgage lender who participates in any housing loan program



1 shall submit evidence, as deemed satisfactory by the
2 corporation, that eligible loans, eligible improvement loans, or
3 eligible project loans have been made from the proceeds of the
4 bonds.

5 (b) The corporation may inspect the books and records of
6 the mortgage lenders as necessary for the purposes of this
7 section.

8 § -92 Loans to lenders program. (a) The corporation
9 may make loans to mortgage lenders under terms and conditions
10 requiring that the loan proceeds be used within a time period
11 prescribed by the corporation to make eligible loans, eligible
12 improvement loans, and eligible project loans in an aggregate
13 principal amount substantially equal to the amount of the loan.

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

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

17 (1) Bear a date or dates;

18 (2) Mature at a time or times;

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

21 (4) Be subject to prepayment; and

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



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

7 **§ -93 Loan to lenders program; collateral security.** (a)
8 Loans made to mortgage lenders shall be additionally secured by
9 a pledge of a lien upon collateral security in an amount as the
10 corporation deems necessary to assure the payment of principal
11 of, and interest on the loans as they become due.

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

14 (c) A statement designating the collateral security
15 pledged, the mortgage lender pledging the collateral, and the
16 corporation's interest in the pledged collateral may be filed
17 with the bureau of conveyances. Where a statement has been
18 filed, no possession, further filing, or other action under any
19 state law shall be required to perfect any security interest
20 which may be deemed to have been created in favor of the
21 corporation. The mortgage lender shall be deemed the trustee of



1 an express trust for the benefit of the corporation in all
2 matters relating to the pledged collateral.

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

9 **§ -94 Purchase of existing loans program.** (a) The
10 corporation may contract with a mortgage lender to purchase, in
11 whole or in part, existing loans, whether or not eligible loans,
12 eligible improvement loans, or eligible project loans. The
13 contract may contain provisions as determined by the corporation
14 to be necessary or appropriate to provide security for its
15 bonds, including but not limited to provisions requiring the:

16 (1) Repurchase of the loans, in whole or in part, by
17 mortgage lenders at the option of the corporation;
18 (2) Payments of premiums, fees, charges, or other amounts
19 by mortgage lenders to provide a reserve or escrow
20 fund for the purposes of protecting against loan
21 defaults; and



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

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

11 § -95 Advance commitments program. (a) The corporation
12 may contract with a mortgage lender for the advance commitment
13 to purchase eligible loans, eligible improvement loans, or
14 eligible project loans.

15 (b) The contract may contain provisions, as determined by
16 the corporation, to be necessary or appropriate to provide
17 security for its bonds. Notwithstanding any other law to the
18 contrary, project loans may be made available for housing
19 projects on Hawaiian home lands pursuant to the Hawaiian Homes
20 Commission Act, 1920, as amended.

21 § -96 Loan funding programs. (a) The corporation may
22 contract with mortgage lenders to fund eligible loans and



1 eligible improvement loans and may directly make or contract
2 with mortgage lenders to fund eligible project loans.

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

6 § -97 Loans; service and custody. The corporation may
7 contract for the service and custody of its loans. The contract
8 may provide for the payment of fees or charges for the services
9 rendered; provided that the fees or charges shall not exceed the
10 usual, customary, and reasonable charges for the services
11 rendered.

12 § -98 Loans; sale, pledge, or assignment. (a) Subject
13 to any agreements with the holders of its revenue bonds, the
14 corporation may sell its loans at public or private sale at a
15 price and upon terms and conditions as it determines.

16 (b) Subject to any agreements with holders of its revenue
17 bonds, the corporation may pledge or assign its loans, other
18 agreements, notes, or property to secure the loans or
19 agreements.

20 § -99 Loans; insurance and guarantees. The corporation
21 may procure insurance or guarantees against any default of its



1 loans, in amounts and from insurers or guarantors, as it deems
2 necessary or desirable.

3 § -100 Loans; default. The corporation may renegotiate,
4 refinance, or foreclose any loan in default.

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

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

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

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

15 § -101 Additional powers. The powers conferred upon the
16 corporation by this subpart shall be in addition and
17 supplemental to the powers conferred upon it by any other law,
18 and nothing herein shall be construed as limiting any powers,
19 rights, privileges, or immunities so conferred upon it.

20 C. Rental Assistance Program

21 § -111 Purpose; findings and determinations. The
22 legislature finds and declares that the health and general



1 welfare of the people of the State require that the people of
2 this State have safe and sanitary rental housing accommodations
3 available at affordable rents; that a grave shortage in the
4 number of such accommodations affordable by families and
5 individuals of low and moderate income in the State exists; that
6 it is essential that owners of rental housing accommodations be
7 provided with appropriate additional means to assist in reducing
8 the cost of rental housing accommodations to the people of the
9 State.

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

18 It is the purpose of this subpart to:

- 19 (1) Assist owners in maintaining the rentals at levels
20 affordable by families and individuals of low and
21 moderate income by providing owners with rental
22 assistance payments which, with rentals received by



1 tenants of low and moderate income, will provide
 2 owners with limited but acceptable rates of return on
 3 their investments in rental housing accommodations;
 4 and that assisting owners by entering into contracts
 5 with them which provide for rental assistance payments
 6 is a valid public purpose and in the public interest;
 7 and

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

15 § -112 Definitions. The following words or terms as
 16 used in this subpart shall have the following meanings unless a
 17 different meaning clearly appears from the context:

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

19 (1) Is financed by the corporation pursuant to subpart B
 20 or E, or the corporation determines will require
 21 rental assistance to make it financially feasible;



- 1 (2) Is subject to a regulatory agreement with the
2 corporation;
- 3 (3) Maintains at least twenty per cent of its units for
4 eligible tenants; and
- 5 (4) Meets other qualifications as established by rules
6 adopted by the corporation.

7 Notwithstanding any provisions of law to the contrary,
8 "eligible project" may also include a rental housing project
9 which is financed by the corporation pursuant to part VI subpart
10 A.

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

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

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

20 "Rental assistance contract" means an agreement between an
21 owner and the corporation providing for periodic rental
22 assistance payment for units in an eligible project.



1 § -113 Rental assistance revolving fund. (a) There is
2 created a rental assistance revolving fund to be administered by
3 the corporation.

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

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

19 (1) Qualified sponsors who are private nonprofit or profit
20 entities; or

21 (2) The corporation, for the development of affordable
22 rental housing; provided further that the corporation,



1 in allotting interim construction financing moneys
2 pursuant to this part, shall give preference to rental
3 housing projects developed by qualified sponsors who
4 are private nonprofit or profit entities.

5 § -114 Rental assistance contracts. (a) The
6 corporation may enter into a rental assistance contract and a
7 regulatory agreement with the owner of an eligible project, when
8 the owner of an eligible project is other than the corporation.

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



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

15 (d) Each rental assistance contract shall set forth a
16 maximum annual rental assistance payment amount. The
17 corporation shall establish procedures for determining the
18 maximum annual rental assistance payment amount and may consider
19 the following:

- 20 (1) The cost of constructing the eligible project;
- 21 (2) The estimated annual operating cost of the eligible
22 project;



1 (3) The estimated maximum rentals which may be charged for
2 units in the eligible project;

3 (4) The amount of funds available for the funding of
4 rental assistance contracts;

5 (5) The number of eligible projects requiring assistance
6 under this part; and

7 (6) A restricted rate of return on equity to the owner,
8 which rate shall be established by the corporation by
9 rule adopted pursuant to chapter 91.

10 **§ -115 Rules, rental assistance program.** (a) Prior to
11 the execution of a rental assistance contract and annually
12 thereafter, the owner shall submit a proposed rental schedule to
13 the corporation for approval that shall list every rental unit
14 in the project and designate which units are to be maintained
15 for eligible tenants.

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

19 (1) The size of and number of bedrooms in the units
20 comprising the eligible project;

21 (2) The location of the project and its type (whether
22 high-rise, mid-rise, or low-rise);



1 (3) The percentage of units being maintained for eligible
2 tenants; and

3 (4) The rentals prevalent in the open market for
4 comparable units.

5 (c) Annually, following the approval of the rental
6 schedule submitted pursuant to the preceding section, the
7 corporation shall determine the amount of rental assistance
8 payments payable to the owner for the forthcoming year, which
9 shall under no circumstances exceed the maximum annual rental
10 assistance payment amount determined in accordance with section
11 -114. The amount determined pursuant to this subsection
12 shall take into account the estimated amount to be derived by
13 the owner from rentals to be charged for the forthcoming year
14 and the limited rate of return on equity permitted in accordance
15 with section -114(d)(6).

16 (d) The corporation shall establish standards and
17 requirements pursuant to rules adopted pursuant to chapter 91,
18 for:

19 (1) The awarding of rental assistance contracts and the
20 allocation of annual rental assistance payments;

21 (2) The form of lease to be utilized by the owner in
22 renting units in an eligible project;



- 1 (3) The marketing and tenant selection and admission
2 processes to be employed by the owner with respect to
3 an eligible project; and
- 4 (4) The maintenance and operation of eligible projects.
- 5 (e) The corporation shall establish procedures pursuant to
6 rules adopted pursuant to chapter 91, for:
- 7 (1) The annual review of rental schedules for eligible
8 projects;
- 9 (2) The periodic review of the income of tenants renting
10 units in eligible projects; and
- 11 (3) The periodic inspection of eligible projects to
12 monitor the owners' compliance with the terms and
13 conditions of their rental assistance contracts.
- 14 (f) When an eligible project is not owned by the
15 corporation, the corporation shall be entitled to share in the
16 appreciation in value of units maintained for eligible tenants
17 within an eligible project realized at the time of refinancing
18 or prepayment of the eligible project loan. The corporation's
19 share shall be calculated by multiplying the appreciation in
20 value of units maintained for eligible tenants realized upon
21 refinancing or prepayment by the ratio of the owner's equity to
22 the discounted value of the aggregate rental assistance



1 payments. The discount rate shall be established by rules
2 adopted by the corporation.

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

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

9 (A) At least sixty per cent of the project is
10 affordable to families earning one hundred per
11 cent or less of the applicable area median
12 income; and

13 (B) At least half of the foregoing sixty per cent is
14 affordable to families earning eighty per cent or
15 less of the applicable area median income; and

16 (2) The project from which the appreciation in value is
17 derived remains as affordable as it was prior to the
18 refinancing or prepayment of the eligible project
19 loan.

20 § -116 Benefits of program not exclusive. Nothing in
21 this subpart shall be construed to prohibit, with respect to an
22 eligible project, the operation of the rental assistance program



1 in conjunction with other state or federal programs including
2 the state rent supplements provided for in subpart D.

3 § -117 Additional powers. The powers conferred upon the
4 corporation by this subpart shall be in addition and
5 supplemental to the powers conferred by any other law, and
6 nothing herein shall be construed as limiting any powers,
7 rights, privileges, or immunities so conferred.

8 D. Taxable Mortgage Securities Programs

9 § -121 Definitions. Whenever used in this subpart,
10 unless the context otherwise requires:

11 "Eligible borrower" means:

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

14 (A) Is a citizen of the United States or a declarant
15 alien;

16 (B) Is a bona fide resident of the State;

17 (C) Is at least of legal age;

18 (D) Does not personally, or whose spouse if the
19 person is married, own a majority interest in any
20 residential property in the State; and

21 (E) Meets other qualifications as established by
22 rules adopted by the corporation; or



1 (2) A qualified sponsor of an affordable housing project
2 who meets the qualification requirements as
3 established by rules adopted by the corporation.

4 "Eligible loan" or "loan" means:

5 (1) A loan to an eligible borrower for the purchase of a
6 housing unit, including a condominium unit; provided
7 that the property financed is located in the State,
8 will be occupied as the principal place of residence
9 by the eligible borrower, and meets other requirements
10 as established by rules adopted by the corporation
11 pursuant to chapter 91; or

12 (2) An interim or permanent loan, which may be federally
13 insured or guaranteed, made to a qualified sponsor for
14 the financing of an affordable housing project, and
15 which meets other requirements as established by rules
16 adopted by the corporation.

17 "Housing loan programs" include all or any part of the loan
18 programs authorized in section -122.

19 § -122 Housing loan programs; authorization. (a) The
20 corporation may establish under this subpart one or more
21 eligible loan programs.



1 (b) The corporation may invest in, make, purchase, take
2 assignments of, or otherwise acquire or make commitments to
3 invest in, make, purchase, take assignments of, or otherwise
4 acquire any eligible loans or any partial interest or
5 participation therein held by or on behalf of the corporation.

6 (c) The corporation may sell, assign, or otherwise dispose
7 of or enter into commitments to sell, assign, or otherwise
8 dispose of any eligible loans or any partial interest or
9 participation therein held by or on behalf of the corporation.

10 (d) The corporation may acquire any obligation under
11 conditions which require the seller of the obligation to use the
12 proceeds of the sale for the purpose of financing eligible
13 loans.

14 **§ -123 Housing loan programs; procedures and**

15 **requirements.** (a) The corporation may establish procedures and
16 requirements for:

17 (1) The purchase of loans from mortgage lenders by
18 auction, invitation of tender, advance commitment, or
19 other negotiation;

20 (2) The making of loans through mortgage lenders to
21 eligible borrowers or qualified sponsors;



1 (3) The allocation to mortgage lenders of money made
2 available under this subpart; and

3 (4) The participation by mortgage lenders as originators
4 and processors of loans on behalf of the corporation
5 under this subpart.

6 (b) The corporation may adopt rules pursuant to chapter
7 91, necessary or convenient for the operation of the housing
8 loan programs established under this subpart.

9 **§ -124 Housing loan programs; general powers.** (a) The
10 corporation may make, enter into, and enforce all contracts or
11 agreements which are necessary, convenient, or desirable for the
12 purpose of the performance of its powers under this subpart.

13 (b) The corporation may establish, revise, charge, and
14 collect fees, premiums, and charges as necessary, reasonable, or
15 convenient in connection with its housing loan programs
16 established under this subpart. The fees, premiums, and charges
17 shall be deposited into funds as determined by the corporation.

18 (c) The corporation may contract for the servicing and
19 custody of any loans or other obligations acquired under this
20 subpart.

1 (d) The corporation may procure insurance against any
2 default of its loans from insurers in amounts deemed necessary
3 or desirable.

4 (e) Subject to any agreements with the holders of its
5 bonds, the corporation may renegotiate, refinance, or foreclose
6 any loan in default; and may commence any action to protect or
7 enforce any right conferred upon it by any law, or as provided
8 in any mortgage, insurance policy, contract, or other agreement;
9 and may bid for and purchase the property secured by the loan at
10 any foreclosure or other sale; or acquire, or take possession of
11 the property secured by the loan and may operate, manage, lease,
12 dispose of, or otherwise deal with the property securing the
13 loan.

14 § -125 Additional powers. The powers conferred upon the
15 corporation by this subpart shall be in addition and
16 supplemental to the powers conferred upon it by any other law,
17 and nothing herein shall be construed as limiting any powers,
18 rights, privileges, or immunities so conferred upon it.

19 **E. State Mortgage Guarantee Program**

20 § -131 State mortgage guarantee. (a) The corporation
21 may guarantee:



- 1 (1) Up to the top twenty-five per cent of the principal
2 balance of real property mortgage loans for the
3 purchase of qualified single-family or multifamily
4 housing units;
- 5 (2) A maximum of one hundred per cent of the principal
6 balance of real property mortgage loans of qualified
7 single-family housing under section 213 of the
8 Hawaiian Homes Commission Act; or
- 9 (3) Up to one hundred per cent of the principal balance of
10 real property mortgage loans of single-family or
11 multifamily housing developed under self-help or shell
12 housing programs;
- 13 plus the interest due thereon, made to qualified borrowers by
14 qualified private lenders; provided that at no time shall the
15 corporation's liability, contingent or otherwise, on these
16 guarantees exceed \$10,000,000.

17 For the purposes of this section, the term "self-help
18 housing program" means development or preservation of housing in
19 which prospective homeowners have contributed labor, materials,
20 or real property; provided that at least two-thirds of the
21 participating homeowners are qualified by income for assistance



1 under this subpart and that the program is carried out under the
2 sponsorship of a nonprofit community development organization.

3 For the purposes of this section, the term "shell housing
4 program" means development of housing which is habitable but
5 unfinished and can be completed or expanded; provided that at
6 least one hundred per cent of the participating homeowners are
7 qualified by income for assistance under this chapter and that
8 the program is carried out under the sponsorship of a public,
9 nonprofit, or private organization.

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

18 (c) Loans guaranteed under this section shall be in
19 accordance with rules adopted by the corporation pursuant to
20 chapter 91.

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



- 1 (1) A citizen of the United States or a resident alien;
2 (2) Qualified under the rules adopted by the corporation
3 pursuant to chapter 91; and
4 (3) In compliance with the rules as may be adopted
5 pursuant to chapter 91 by the corporation.

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

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

15 (f) In return for the corporation's guarantee, the private
16 lender shall remit out of monthly payments collected, an
17 insurance fee as established by the corporation. The funds
18 remitted shall be deposited to the credit of the state general
19 fund.

20 (g) When any installment of principal and interest has
21 been due for sixty days and has not been paid by the borrower,
22 the private lender may file a claim for the guaranteed portion



1 of the overdue payments with the corporation which may then
2 authorize vouchers for these payments, thereby acquiring a
3 division of interest in the collateral pledged by the borrower
4 in proportion to the amount of the payment. The corporation
5 shall be reimbursed for any amounts so paid plus the applicable
6 interest rate when payment is collected from the borrower.

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

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

18 (1) Extend no portion of the qualified borrower's loan for
19 purposes other than those sanctioned by the
20 corporation;

21 (2) Not sell or otherwise dispose of the mortgaged
22 property except upon the prior written consent of the



- 1 corporation and except upon any conditions that may be
2 prescribed in writing by the private lender;
- 3 (3) Undertake to pay when due all taxes, liens, judgments,
4 or assessments which may be lawfully assessed against
5 the property mortgaged, together with cost and expense
6 of any foreclosure of the mortgage;
- 7 (4) Keep insured to the satisfaction of the private lender
8 all improvements and other insurable property covered
9 by the mortgage. Insurance shall be made payable to
10 the mortgagee as its interest may appear at the time
11 of the loss. At the option of the private lender,
12 subject to the rules and standards of the corporation,
13 sums received may be used to pay for reconstruction of
14 the improvements destroyed, or for decreasing the
15 amount of the indebtedness;
- 16 (5) Keep the improvements in good repair; and
- 17 (6) The private lender may impose any other condition in
18 its mortgage; provided the form of the mortgage has
19 received the prior approval of the corporation.
- 20 All of the above conditions shall be held and construed to be
21 provisions of any mortgage executed by virtue of this section



1 regardless of whether or not they are expressly incorporated in
2 the mortgage document.

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

12 (k) All interest and fees collected under this subpart by
13 the corporation shall be deposited into the general fund. All
14 moneys necessary to guarantee payment of loans made under this
15 subpart and to carry on the operations of the corporation in
16 administering and granting loans under this subpart shall be
17 appropriated by the legislature out of the proceeds of the
18 general fund. The corporation shall include in its legislative
19 budgetary request for the upcoming fiscal period, the amounts
20 necessary to effectuate the purposes of this section.

21 § -132 Mortgage guaranty agreements. (a) To induce
22 appropriate officials of any agency or instrumentality of the



1 United States to commit to insure mortgages under the National
2 Housing Act, as amended, the corporation may enter into guaranty
3 agreements with the officials whenever:

4 (1) The purchaser-mortgagor in question is ineligible for
5 mortgage insurance purposes under the National Housing
6 Act because of credit standing, debt obligation, or
7 income characteristics;

8 (2) The purchaser-mortgagor in question is a "displaced
9 person" as defined in chapter 111 and the guaranty
10 agreement will enable the purchaser-mortgagor to
11 obtain suitable replacement housing in accordance with
12 that chapter; and

13 (3) The corporation finds that the purchaser-mortgagor
14 would be a satisfactory credit risk with ability to
15 repay the mortgage loan if the purchaser-mortgagor
16 were to receive budget, debt, management and related
17 counseling.

18 (b) Such guaranty agreements may obligate the corporation
19 to:

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

21 (2) Indemnify an agency or instrumentality of the United
22 States for a period not to exceed five years for any



1 loss sustained by the agency or instrumentality by
2 reason of insurance of a mortgage.

3 (c) The total of guaranties made pursuant to this section
4 and guaranties made pursuant to section -131 shall not exceed
5 \$10,000,000.

6 § -133 Additional powers. The powers conferred upon the
7 corporation by this subpart shall be in addition and
8 supplemental to the powers conferred by any other law, and
9 nothing herein shall be construed as limiting any powers,
10 rights, privileges, or immunities so conferred.

11 F. Downpayment Loan Program

12 § -141 Downpayment loans. (a) The corporation may make
13 direct downpayment loans to eligible borrowers. The downpayment
14 loan to any borrower shall not exceed thirty per cent of the
15 purchase price of the residential property or \$15,000, whichever
16 is less. The interest rate on the loans may range from zero per
17 cent to eight per cent, depending on the buyer's incomes.

18 (b) The repayment of every downpayment loan shall be
19 secured by a duly recorded second mortgage executed by the
20 borrower to the State on the residential property purchased with
21 the downpayment loan.



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

12 (d) The corporation may secure the services of the
13 mortgage lender who loans to the borrower the balance of the
14 purchase price of the residential property or the services of
15 any other mortgage lender doing business in the State to
16 collect, on behalf of the State, the principal and interest of
17 the downpayment loan and otherwise service the downpayment loan,
18 for a servicing fee not in excess of the prevailing loan
19 servicing fees.

20 (e) The corporation shall adopt rules pursuant to chapter
21 91 to carry out the purposes of this subpart.



1 § -142 Qualifications for downpayment loans. (a) No

2 person shall be qualified for a downpayment loan unless the

3 person:

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

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

6 (3) Is a bona fide resident of the State;

7 (4) Will physically reside in the residential property to

8 be purchased for the term of the loan;

9 (5) Is accepted by a mortgage lender as a person to whom

10 it is willing to lend money for the purchase of the

11 residential property; provided the required

12 downpayment is made; and

13 (6) Provides a portion of the downpayment which shall be

14 equal to at least three per cent of the sales price.

15 (b) No person who owns in fee simple or in leasehold any

16 other residential property within the State shall be eligible to

17 become a borrower under this section. A person shall be deemed

18 to own a residential property if the person, the person's

19 spouse, or both (unless separated and living apart under a

20 decree of a court of competent jurisdiction) own a majority

21 interest in a residential property.



- 1 § -143 Restrictions on borrower. Every loan made under
2 this subpart shall be subject to the following conditions:
- 3 (1) The borrower shall expend no portion of the borrower's
4 downpayment loan for purposes other than to make a
5 downpayment for the purchase of a residential
6 property;
- 7 (2) The residential property purchased with the
8 downpayment loan and mortgaged to the State to secure
9 the repayment of the loan shall not be sold or
10 assigned without the prior approval in writing of the
11 corporation and the first mortgage lender;
- 12 (3) The borrower shall pay, when due, all taxes, liens,
13 judgments, or assessments which may be lawfully levied
14 against the residential property and all costs and
15 expenses of any foreclosure of the mortgage made to
16 the State;
- 17 (4) The borrower shall maintain fire and casualty
18 insurance in amounts equal to the replacement value of
19 all improvements and insurable portions of the
20 residential property with an insurance company
21 authorized to do business in the State. All proceeds
22 of that insurance shall be made payable to the first



1 mortgage lender and the corporation as their
2 respective interests may appear at the time of any
3 loss or damage. Subject to the rules of the
4 corporation, in the event of any loss or damage to the
5 improvements or property covered by the insurance, the
6 proceeds receivable by the State shall be applied
7 toward the reconstruction of the improvements or
8 property destroyed or damaged, unless otherwise
9 determined by the corporation on behalf of the State;
10 and

11 (5) The borrower shall maintain the improvements in good
12 repair.

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

17 § -144 Default. If the borrower defaults in the payment
18 of any installment of principal or interest of the downpayment
19 loan, the corporation or mortgage lender shall take all
20 necessary action to collect the delinquent amounts and may take
21 all actions generally allowed holders of mortgages, including
22 the power to foreclose. Upon any foreclosure of the second



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

15 § -145 **Additional powers.** The powers conferred upon the
16 corporation by this subpart shall be in addition and
17 supplemental to the powers conferred by any other law, and
18 nothing herein shall be construed as limiting any powers,
19 rights, privileges, or immunities so conferred.

20 **G. Homebuyers' Club**

21 § -151 **Homebuyers' club program.** (a) The corporation
22 may establish a homebuyers' club program for participants who



1 are desirous of purchasing a home and who have adequate incomes
2 but lack sufficient funds for the downpayment and closing costs.
3 The primary focus of this program is to facilitate the purchase
4 of homes by providing participants with strategies to save
5 money, to resolve credit problems, and to educate participants
6 on how to shop for and purchase a home.

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

16 (c) The corporation may secure the services of another
17 public or private entity to carry out the purposes of this
18 section.

19 § -152 Additional powers. The powers conferred upon the
20 corporation by this subpart shall be in addition and
21 supplemental to the powers conferred by any other law, and



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

3 **H. Rent-to-Own Program**

4 **§ -161 Rent-to-own program.** (a) The corporation may
5 establish a rent-to-own program under which housing units that
6 are for sale may be rented to program participants. Under this
7 program, the corporation shall credit a portion of the rent
8 received toward the purchase of the unit.

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

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

21 **§ -162 Additional powers.** The powers conferred upon the
22 corporation by this subpart shall be in addition and



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

4 **I. Dwelling Unit Revolving Fund**

5 **§ -171 Dwelling unit revolving fund.** There is created a
6 dwelling unit revolving fund. The funds appropriated for the
7 purpose of the dwelling unit revolving fund and all moneys
8 received or collected by the corporation for the purpose of the
9 revolving fund shall be deposited in the revolving fund. The
10 proceeds in the revolving fund shall be used to reimburse the
11 general fund to pay the interest on general obligation bonds
12 issued for the purposes of the revolving fund, for the necessary
13 expenses in administering part III, and for carrying out the
14 purposes of part III, including but not limited to the expansion
15 of community facilities constructed in conjunction with housing
16 projects, permanent primary or secondary financing, and
17 supplementing building costs, federal guarantees required for
18 operational losses, and all things required by any federal
19 agency in the construction and receipt of federal funds or low-
20 income housing tax credits for housing projects.

21 **§ -172 Additional powers.** The powers conferred upon the
22 corporation by this subpart shall be in addition and



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

4 **J. Rental Housing Trust Fund**

5 **§ -181 Additional definitions.** As used in this subpart,
6 unless a different meaning is clearly required by the context:

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

17 "Fund" means the rental housing trust fund established in
18 this subpart.

19 **§ -182 Rental housing trust fund.** (a) There is hereby
20 established a rental housing trust fund to be placed within the
21 corporation.



1 (b) An amount from the fund, to be set by the corporation
2 and authorized by the legislature, may be used for
3 administrative expenses incurred by the corporation in
4 administering the fund; provided that fund moneys may not be
5 used to finance day-to-day administrative expenses of projects
6 allotted fund moneys.

7 (c) The following may be deposited into the fund:
8 appropriations made by the legislature, private contributions,
9 repayment of loans, interest, other returns, and moneys from
10 other sources.

11 (d) The fund shall be used to provide loans or grants for
12 the development, pre-development, construction, acquisition,
13 preservation, and substantial rehabilitation of rental housing
14 units. Permitted uses of the fund may include, but are not
15 limited to, planning, design, land acquisition, costs of
16 options, agreements of sale, downpayments, equity financing,
17 capacity building of nonprofit housing developers, or other
18 housing development services or activities as provided in rules
19 adopted by the corporation pursuant to chapter 91. The rules
20 may provide for a means of recapturing loans or grants made from
21 the fund if a rental housing project financed under the fund is
22 refinanced or sold at a later date. The rules may also provide



1 that moneys from the fund shall be leveraged with other
2 financial resources to the extent possible.

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

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

14 (A) At least fifty per cent of the available units
15 are for persons and families with incomes at or
16 below eighty per cent of the median family income
17 of which at least five per cent of the available
18 units are for persons and families with incomes
19 at or below thirty per cent of the median family
20 income; and

21 (B) The remaining units are for persons and families
22 with incomes at or below one hundred per cent of



1 the median family income; provided that the
2 corporation may establish rules pursuant to
3 chapter 91, to ensure full occupancy of fund
4 projects; and

5 (2) Mixed-income rental projects or units in a mixed-
6 income rental project wherein all of the available
7 units are for persons and families with incomes at or
8 below one hundred forty per cent of the median family
9 income.

10 (f) The corporation shall submit an annual report to the
11 legislature no later than twenty days prior to the convening of
12 each regular session describing the projects funded and, with
13 respect to rental housing projects targeted for persons and
14 families with incomes at or below thirty per cent of the median
15 family income, its efforts to develop those rental housing
16 projects, a description of proposals submitted for this target
17 group and action taken on the proposals, and any barriers to
18 developing housing units for this target group.

19 (g) For the purposes of this subpart, the applicable
20 median family income shall be the median family income for the
21 county or standard metropolitan statistical area in which the



1 project is located as determined by the United States Department
2 of Housing and Urban Development, as adjusted from time to time.

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

10 (i) For the period commencing July 1, 2006, through June
11 30, 2007, the fund may be used to provide grants for rental
12 units set aside for persons and families with incomes at or
13 below thirty per cent of the median family income in any project
14 financed in whole or in part by the fund in proportion of those
15 units to the total number of units in the project. At the
16 conclusion of the period described in this subsection, the
17 corporation shall report to the legislature on the number and
18 use of grants provided and whether the grants were an effective
19 use of the funds for purposes of developing rental housing for
20 families at or below thirty per cent of median family income.

21 § -183 Eligible applicants for funds. Eligible
22 applicants for funds shall include nonprofit and for-profit



1 corporations, limited liability companies, partnerships, and
2 government agencies, who are qualified in accordance with rules
3 adopted by the corporation pursuant to chapter 91.

4 § -184 Eligible projects. (a) Activities eligible for
5 assistance from the fund shall include, but not be limited to:

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

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

10 (3) Pre-development activity grants or loans to nonprofit
11 organizations; and

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

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

16 (1) Multifamily units;

17 (2) Attached single-family units;

18 (3) Apartments;

19 (4) Townhouses;

20 (5) Housing units above commercial or industrial space;

21 (6) Single room occupancy units;

22 (7) Accessory apartment units;



1 (8) Employee housing;

2 (9) United States Department of Housing and Urban
3 Development mixed finance development of public
4 housing units; and

5 (10) Other types of units meeting the criteria for
6 eligibility set forth in subsection (c).

7 (c) The corporation shall establish an application process
8 for fund allocation that gives preference to projects meeting
9 the criteria set forth below that are listed in descending order
10 of priority:

11 (1) Serve the original target group;

12 (2) Provide at least five per cent of the total number of
13 units for persons and families with incomes at or
14 below thirty per cent of the median family income;

15 (3) Provide maximum number of units for persons or
16 families with incomes at or below eighty per cent of
17 the median family income;

18 (4) Are committed to serving the target population over a
19 longer period of time;

20 (5) Increase the integration of income levels of the
21 immediate community area;



1 (6) Meet the geographic needs of the target population of
2 the proposed rental housing project, such as proximity
3 to employment centers and services; and

4 (7) Have favorable past performance in developing, owning,
5 managing, or maintaining affordable rental housing.

6 The corporation may include other criteria in the above
7 process as it deems necessary to carry out the purposes of this
8 part.

9 If the corporation, after applying the process described in
10 this subsection, finds a nonprofit project equally ranked with a
11 for-profit or government project, the corporation shall give
12 preference to the nonprofit project in allotting fund moneys.

13 § -185 Additional powers. The powers conferred upon the
14 corporation by this subpart shall be in addition and
15 supplemental to the powers conferred by any other law, and
16 nothing in this subpart shall be construed as limiting any
17 powers, rights, privileges, or immunities conferred upon the
18 corporation.

19 **PART IV. EXPENDITURES OF REVOLVING FUNDS UNDER THE**
20 **CORPORATION EXEMPT FROM APPROPRIATION AND ALLOTMENT**

21 § -191 Expenditures of revolving funds under the
22 corporation exempt from appropriation and allotment. Except as

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

14 § -192 Additional powers. The powers conferred upon the
15 corporation by this subpart shall be in addition and
16 supplemental to the powers conferred by any other law, and
17 nothing herein shall be construed as limiting any powers,
18 rights, privileges, or immunities so conferred."

19 PART II

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



1 "Chapter

2 HAWAII PUBLIC HOUSING AUTHORITY

3 PART I. GENERAL POWERS

4 § -1 Definitions. The following terms, wherever used or
5 referred to in this chapter shall have the following respective
6 meanings, unless a different meaning clearly appears from the
7 context:

8 "Authority" means the Hawaii public housing authority.

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

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

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

21 "Contract" means any agreement of the corporation with an
22 obligee or a trustee for the obligee, whether contained in a



1 resolution, trust indenture, mortgage, lease, bond, or other
2 instrument.

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

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

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

14 "Elder or elderly housing" means:

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

17 (2) Housing provided under any state or federal program
18 that the Secretary of the United States Department of
19 Housing and Urban Development determines is
20 specifically designed and operated to assist elder or
21 elderly persons, or if the Secretary makes a
22 determination, the project may also be occupied by



1 persons with disabilities who have reached the age of
2 majority.

3 "Executive director" means the executive director of the
4 Hawaii public housing authority.

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

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

11 "Household member" means a person who:

12 (1) Is a co-applicant; or

13 (2) Will reside in the dwelling unit leased or rented from
14 the authority.

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

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

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

21 (2) Is living in the unit solely to assist the elder or
22 elderly person in daily living activities including



1 bathing, meal preparation and delivery, medicinal
2 care, transportation, and physical activities;

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

5 (4) Is verified by the authority as meeting these
6 requirements.

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

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

21 (1) Is authorized to do business in the State;



1 (2) Customarily provides service or otherwise aids in the
2 financing of mortgages on single-family or multifamily
3 residential property; and

4 (3) Is a financial institution whose accounts are
5 federally insured or is an institution that is an
6 approved mortgagee for the Federal Housing
7 Administration, an approved lender for the Department
8 of Veterans Affairs or the United States Department of
9 Agriculture, or an approved mortgage loan servicer for
10 the Federal National Mortgage Association or the
11 Federal Home Loan Mortgage Corporation.

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

21 "Obligee of the authority" or "obligee" includes any
22 bondholder, trustee or trustees for any bondholders, any lessor



1 demising property to the authority used in connection with a
2 housing project, or any assignee or assignees of the lessor's
3 interest or any part thereof, and the United States, when it is
4 a party to any contract with the authority.

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

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

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

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



1 § -2 Hawaii public housing authority; establishment,
2 staff. (a) There is established the Hawaii public housing
3 authority to be placed within the department of human services
4 for administrative purposes only. The authority shall be a
5 public body and a body corporate and politic.

6 (b) The authority shall employ, exempt from chapter 76 and
7 section 26-35(a)(4), an executive director and an executive
8 assistant. The salary of the executive director and executive
9 assistant shall be set by the board of directors of the
10 authority with the approval of the governor. The authority may
11 employ, subject to chapter 76, technical experts and officers,
12 agents, and employees, permanent and temporary, as required.
13 The authority may also employ officers, agents, and employees;
14 prescribe their duties and qualifications; and fix their
15 salaries, not subject to chapter 76, when in the determination
16 of the authority, the services to be performed are unique and
17 essential to the execution of the functions of the authority.
18 The authority may call upon the attorney general for legal
19 services as it may require. The authority may delegate to one
20 or more of its agents or employees the powers and duties as it
21 deems proper.



1 § -3 Board; establishment, functions, duties. (a)
2 There is created a board consisting of nine members, of whom
3 eight shall be public members appointed by the governor as
4 provided in section 26-34. Public members shall be appointed
5 from each of the counties of Honolulu, Hawaii, Maui, and Kauai.
6 At least one public member shall be a person who is directly
7 assisted by the authority under the federal low-rent public
8 housing or federal section 8 tenant-based housing assistance
9 payments program while serving on the board. The public members
10 of the board shall serve four-year staggered terms; provided
11 that the initial appointments shall be as follows: three
12 members to be appointed for four years; two members to be
13 appointed for three years; and two members to be appointed for
14 two years. The director of human services, or a designated
15 representative, and a representative of the governor's office,
16 shall be ex officio voting members. The authority shall be
17 headed by the board.

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

22 § -4 General powers. (a) The authority may:



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

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

11 **§ -5 Resident advisory boards; establishment.** (a) The
12 authority may establish a resident advisory board or boards,
13 which shall be comprised of federal public housing residents or
14 section 8 tenant-based housing assistance recipients, to assist
15 and make recommendations to the authority regarding the
16 development of the public housing agency plan and any
17 significant amendments or modifications to it. The members of
18 the resident advisory board or boards shall adequately reflect
19 and represent residents of federal public housing projects and
20 recipients of section 8 tenant-based assistance administered by
21 the authority.



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

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

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

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

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

21 (3) Authorized members of the assisted household.



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

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

7 § -8 Acquisition, use, disposition of property. (a)
8 The authority may acquire any real or personal property or
9 interest therein by purchase, exchange, gift, grant, lease, or
10 other means from any person or government to provide public
11 housing. Exchange of real property shall be in accordance with
12 section 171-50.

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



1 the authority on its rents, fees, or revenues. The authority
2 and its property shall be exempt from all taxes and assessments.

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

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

11 § -9 Cooperative agreements with other governmental
12 agencies. (a) The authority may:

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

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



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

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

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

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

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



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



1 funds belonging to them or within their control,
2 including funds derived from the sale or furnishing of
3 property or facilities to the authority, in the
4 purchase of the bonds or other obligations of the
5 authority to the extent provided by section -21;
6 and exercise all the rights of any holder of the bonds
7 or other obligations;

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

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

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

19 For the purpose of aiding and cooperating in the planning,
20 construction, and operation of public housing projects, the
21 department of land and natural resources, the Hawaiian homes
22 commission, and any other agency of the State having power to



1 manage or dispose of its public lands, with the approval of the
2 governor and with or without consideration, may grant, sell,
3 convey, or lease for any period, any parts of public lands,
4 without limit as to area, to the authority or to the federal
5 government.

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

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

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

19 (c) The government of any county in which a public housing
20 project is located or is about to be located may make donations
21 or advances to the authority in sums as the county in its
22 discretion may determine. The advances or donations shall be



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

5 § -10 Agents, including corporations. The authority may
 6 exercise any or all of the powers conferred upon it, either
 7 generally or with respect to any specific public housing project
 8 through an agent that it may designate, including any
 9 corporation that is formed under the laws of this State, and for
 10 purposes the authority may cause one or more corporations to be
 11 formed under the laws of this State or may acquire the capital
 12 stock of any corporation. Any corporate agent, all of the stock
 13 of which shall be owned by the authority or its nominee, may to
 14 the extent permitted by law, exercise any of the powers
 15 conferred upon the authority herein.

16 § -11 Development of property. (a) The authority, in
 17 its own behalf or on behalf of any government, may:

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

21 (b) The authority may develop public land in an
 22 agricultural district subject to the prior approval of the land