



GOV. MSG. NO. **671**

EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

July 6, 2010

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fifth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

I am transmitting herewith SB2473 SD1 HD2 CD1, without my approval, and with the statement of objections relating to the measure.

SB2473 SD1 HD2 CD1

A BILL FOR AN ACT
RELATING TO HOUSING.

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Lingle".

LINDA LINGLE

EXECUTIVE CHAMBERS

HONOLULU

July 6, 2010

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 2473

Honorable Members
Twenty-Fifth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 2473, entitled "A Bill for an Act Relating to Housing."

The purpose of this bill is to allow grandparents residing in State-operated elderly housing projects to temporarily house their minor grandchildren for not more than three months in certain family crisis situations.

While I personally understand the importance of allowing grandparents to step in when family needs require their assistance, this bill is objectionable because it places additional liabilities on the State, could impact the State's coverage under the Federal Fair Housing Act, and addresses an issue that has been handled by the Hawaii Public Housing Authority through its procedures.

The Federal Fair Housing Act exempts public elderly housing if the State meets specified admission rules, population requirements, and demonstrates clear intent to limit these facilities to elderly only. Enactment of this bill could result in the Hawaii Public Housing Authority being placed in a situation where this exemption could be challenged.

The bill does not limit the number of grandchildren who are entitled to stay with a grandparent, which could conflict with occupancy limits established by building codes and other health and safety laws. Elderly housing projects are not designed to accommodate young children and do not have the safety

STATEMENT OF OBJECTIONS
SENATE BILL NO. 2473
Page 2

features family housing must abide by such as higher window heights and enclosed walkways and stairways.

Moreover, while the accommodation of grandchildren is intended as a temporary accommodation of not more than three months, without a clear provision in this bill to the contrary, entitlement to a larger unit may be an unintended consequence of this bill. This would create burdens on the HPHA to coordinate larger units within a limited inventory, and may expose the HPHA to further liability if a larger unit is not available.

I am pleased that the Hawaii Public Housing Authority has recognized the need to address this matter in a manner that allows a child in need to stay with a grandparent for a limited time until more appropriate accommodations can be found, while ensuring that public elderly housing remains available for those who meet the criteria of age 62 or older.

For the foregoing reasons, I am returning Senate Bill No. 2473 without my approval.

Respectfully,



LINDA LINGIE
Governor of Hawaii

A BILL FOR AN ACT

RELATING TO HOUSING.

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

1 SECTION 1. The legislature finds that many grandparents in
2 Hawaii raise their grandchildren when the parents of the child
3 are not able to provide for the child due to a family crisis
4 beyond the control of the grandparent. The legislature further
5 finds that elderly housing projects do not allow grandchildren
6 to reside with their grandparents, even during periods of family
7 crisis, and this situation has sometimes forced grandparents to
8 move out of their housing project units, resulting in
9 homelessness for both the grandparent and the grandchild.

10 The purpose of this Act is to:

- 11 (1) Allow grandparents residing in elderly housing
12 projects to temporarily raise their minor
13 grandchildren in their housing project units in
14 certain family crisis situations; and
- 15 (2) Afford elderly housing project residents who have been
16 evicted for raising minor grandchildren in their units
17 priority status for acceptance back into elderly



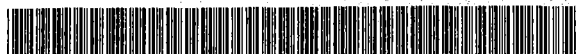
1 public housing projects after the family crisis has
2 abated.

3 SECTION 2. Section 356D-71, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "~~§~~356D-71~~§~~ Resident selection; dwelling units;
6 rentals. In the administration of elder or elderly housing, the
7 authority shall observe the following with regard to resident
8 selection, dwelling units, and rentals:

9 (1) Except as provided in this section, the authority
10 shall accept elder or elderly households as residents
11 in the housing projects;

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



1 resident therein upon the recovery of, or removal from
2 the project of, the elder;

3 (3) The authority shall, upon verification of a family
4 crisis, allow any minor who is the grandchild of a
5 tenant of an elderly housing project to temporarily
6 live with the tenant for no longer than three months
7 if, due to the family crisis, the minor would
8 otherwise be without appropriate care; provided that
9 the minor is younger than eighteen years of age while
10 residing with the tenant, the tenant is competent, the
11 tenant reports the presence of each minor in the
12 dwelling to the authority within seven days of
13 arrival, and the minor leaves the dwelling as soon as
14 the family crisis has abated.

15 A family crisis includes the following
16 situations:

17 (A) Imprisonment or arrest of the parent of the
18 minor;

19 (B) Criminal forfeiture of the dwelling of the parent
20 of the minor pursuant to chapter 712A that
21 results in the homelessness of the minor;



1 (C) Admission under chapter 334 to a psychiatric
2 facility or civil commitment of the parent of the
3 minor for mental health, mental illness, drug
4 addiction, or alcoholism;

5 (D) The minor is abused or neglected, as defined in
6 section 346-1, and the minor has been removed
7 under authority of law from the care of the
8 parent; or

9 (E) Abandonment of the minor by the parent for any
10 length of time and the absence of other relatives
11 able or willing to care for the minor.

12 The authority may use its discretion to determine if
13 other situations constitute a family crisis for the
14 purposes of this paragraph.

15 [~~3~~] (4) It may rent or lease to an elder a dwelling unit
16 consisting of any number of rooms as the authority
17 deems necessary or advisable to provide safe and
18 sanitary accommodations to the proposed resident or
19 residents without overcrowding;

20 [~~4~~] (5) Notwithstanding that the elder has no written
21 rental agreement or that the agreement has expired,
22 during hospitalization of the elder due to illness or



1 other disability so long as the elder continues to
2 tender the usual rent to the authority or proceeds to
3 tender receipts for rent lawfully withheld, no action
4 or proceeding to recover possession of the dwelling
5 unit may be maintained against the elder, nor shall
6 the authority otherwise cause the elder to quit the
7 dwelling unit involuntarily, demand an increase in
8 rent from the elder, or decrease the services to which
9 the elder has been entitled; and

10 ~~[(5)]~~ (6) Elder or elderly housing shall be subject to
11 chapter 521."

12 SECTION 3. The Hawaii public housing authority shall give
13 an elderly tenant who has been evicted solely because the tenant
14 allowed a minor grandchild or grandchildren to reside in the
15 tenant's unit due to a verified family crisis, first priority
16 for housing in elderly housing projects on the same island.

17 SECTION 4. Nothing in this Act shall be construed to in
18 any way diminish, amend, or abate the intent to retain elderly
19 housing projects and accommodate the elderly with proper housing
20 to the greatest extent possible.

21 SECTION 5. If any part of this Act is found to be in
22 conflict with federal requirements that are a prescribed



1 condition for the allocation of federal funds to the State, the
2 conflicting part of this Act is inoperative solely to the extent
3 of the conflict and with respect to the agencies directly
4 affected, and this finding does not affect the operation of the
5 remainder of this Act in its application to the agencies
6 concerned. Any rules adopted by the Hawaii public housing
7 authority to implement this Act shall meet the federal
8 requirements that are a necessary condition of the receipt of
9 federal funds by the State.

10 SECTION 6. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 7. This Act shall take effect on July 1, 2010.

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