

JAN 28 2009

A BILL FOR AN ACT

RELATING TO PUBLIC HOUSING.

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

1 SECTION 1. The legislature finds that there is a serious
2 concern as to whether the State of Hawaii's public housing
3 programs are being managed in accordance with state and federal
4 law.

5 The Hawaii public housing authority is a public entity
6 created by the legislature. The State oversees the Hawaii
7 public housing authority through its department of human
8 services. The Hawaii public housing authority is charged with
9 managing federal and state public housing programs, and senior
10 housing. It administers and is responsible for ensuring
11 compliance with federal disability nondiscrimination laws at
12 these facilities, including Title II of the Americans with
13 Disabilities Act, the Rehabilitation Act, and the Fair Housing
14 Act. The Hawaii public housing authority is also obligated to
15 comply with the United States Housing Act and other federal and
16 state laws and regulations that establish standards for the
17 maintenance and conditions of public housing.



1 The Hawaii public housing authority has a long history of
2 failing to comply with United States Department of Housing and
3 Urban Development standards for public housing agencies. In
4 2003, after several years of finding the Hawaii public housing
5 authority's performance inadequate and issuing corrective action
6 orders, the United States Department of Housing and Urban
7 Development commissioned an independent assessment of the
8 agency. The independent assessment found that the Hawaii public
9 housing authority suffers from a number of organizational,
10 structural, procedural, and management weaknesses.

11 Following the independent assessment, in late 2003 and
12 2004, the federal Department of Housing and Urban Development
13 conducted an on-site confirmatory review of the Hawaii public
14 housing authority, using its public housing assessment system; a
15 system that the Department of Housing and Urban Development uses
16 to score a public housing agency's performance. Because of the
17 Hawaii public housing authority's failing score, the Department
18 of Housing and Urban Development designated it as a troubled or
19 substandard agency. In its review, the Department of Housing
20 and Urban Development identified several areas of great concern
21 including: inadequate staffing, lack of internal controls,
22 widespread lack of training, lack of a comprehensive maintenance



1 plan, use of outdated physical inspection standards, high rates
2 of uncorrected work orders, and difficulties with financial
3 tracking and accounting. As a result of the Hawaii public
4 housing authority's troubled status, and in accordance with the
5 Department of Housing and Urban Development regulations, the
6 Department of Housing and Urban Development and the Hawaii
7 public housing authority entered into a memorandum of
8 understanding which included performance targets, oversight, and
9 monitoring of the Hawaii public housing authority's performance.
10 Despite the memorandum of understanding, the Hawaii public
11 housing authority has failed to take appropriate corrective
12 actions to remedy its violations of state and federal laws.

13 For example, the Hawaii public housing authority has failed
14 to take affirmative effective action to remedy the
15 discriminatory barriers at many of the public housing sites. It
16 has failed to provide basic program access to disabled
17 residents, to create any effective system for responding to
18 requests for reasonable modifications, or to implement those
19 accommodations.

20 In addition to problems with accessibility for persons with
21 disabilities, there are also serious deficiencies in the
22 conditions at many public housing projects. Many public housing



1 facilities in the State of Hawaii are characterized by leaking
2 and bursting plumbing, lack of hot water, rat and roach
3 infestations, nonfunctioning and dangerous elevators,
4 overflowing and burning trash piles, toxic air filled with soot
5 and other noxious particulate, a lack of basic fire safety
6 equipment such as alarms, sprinklers, or fire extinguishers, and
7 other hazardous conditions.

8 The conditions at Kuhio Park Terrace and Kuhio Homes are
9 well known examples of the Hawaii public housing authority's
10 failure to provide safe, sanitary, and disability accessible
11 housing. In the Department of Housing and Urban Development's
12 February 2008 inspection, Kuhio Park Terrace received a failing
13 score of forty out of a possible one hundred points. Nineteen
14 points were deducted for health and safety violations. Since at
15 least 1998, the Department of Housing and Urban Development
16 inspection reports show that Kuhio Park Terrace's building
17 exteriors and common areas are inaccessible to persons with
18 mobility impairments, with accessibility routes either missing
19 or obstructed. Kuhio Homes has also consistently received a
20 failing Department of Housing and Urban Development score of
21 below sixty out of a possible one hundred points.



1 Title II of the federal Americans with Disabilities Act
2 prohibits disability discrimination by state and local
3 governments under 42 U.S.C. section 12132. Under Title II, "[a]
4 public entity shall operate each service, program, or activity
5 so that the service, program, or activity, when viewed in its
6 entirety, is readily accessible to and usable by individuals
7 with disabilities." 28 C.F.R. section 35.150(a). As necessary
8 to achieve program access, structural and other changes are
9 required. See 28 C.F.R. section 35.150(a)(1), (b)(1), (c).
10 Structural changes were to be completed "within three years of
11 January 26, 1992, but in any event as expeditiously as
12 possible." See 28 C.F.R. section 35.150(c). For public
13 entities employing fifty or more persons, a transition plan
14 setting forth the steps necessary to complete the structural
15 changes was due "within six months of January 26, 1992[.]" See
16 28 C.F.R. section 35.150(d)(1) and 28 C.F.R. section
17 35.150(d)(3). Further, by January 26, 1992, a public entity
18 must "evaluate its current services, policies, and practices,
19 and the effects thereof, that do not or may not meet the
20 requirements of this part and, to the extent modification of any
21 such services, policies, and practices is required, the public
22 entity shall proceed to make the necessary modifications." 28



1 C.F.R. section 35.105(a). The Hawaii public housing authority
2 has failed to meet these and other deadlines for providing
3 housing accessible to persons with disabilities.

4 The legislature finds that great concerns exist as to
5 whether the Hawaii public housing authority is complying with
6 state and federal law. Federal law requires that at least five
7 per cent of the units at each public housing project be
8 accessible to persons with disabilities. According to the
9 Hawaii public housing authority's own data, less than five per
10 cent of these units are in fact accessible.

11 The purpose of this Act, therefore, is to appropriate funds
12 to the Hawaii public housing authority to make necessary
13 repairs, improvements, or upgrades to the public housing
14 projects within its jurisdiction so that the projects will be in
15 compliance with federal and state law.

16 SECTION 2. There is appropriated out of the general
17 revenues of the State of Hawaii the sum of \$ or so
18 much thereof as may be necessary for fiscal year 2009-2010 and
19 the same sum or so much thereof as may be necessary for fiscal
20 year 2010-2011 for the purpose of required repairs and
21 renovations at public housing facilities to ensure compliance
22 with state and federal law.



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

3 SECTION 3. This Act shall take effect on July 1, 2009.

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INTRODUCED BY: _____

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By Request



Report Title:

Hawaii Public Housing Authority; Appropriation

Description:

Appropriates funds for the purpose of expenditures by the Hawaii public housing authority to make required repairs and renovations at public housing facilities to ensure compliance with state and federal law.

