

SB 90

Measure Title: RELATING TO PUBLIC HOUSING PROGRAM ADMINISTRATION.

Report Title: Public Housing; Administration of Federal Housing Programs

Description: Authorizes the Hawaii public housing authority to adopt policies, regulations, standards, procedures, and rental agreements for its federal programs in the manner prescribed by the federal government. Provides that federal regulation prevails in case of conflicts between state and federal regulations.

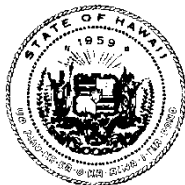
Companion:

Package: Housing and Homeless

Current Referral: HMS, JDL

Introducer(s): CHUN OAKLAND, GALUTERIA, RUDERMAN, Dela Cruz, Green, Nishihara, Shimabukuro, L. Thielen

NEIL ABERCROMBIE
GOVERNOR



HAKIM OUANSAFI
EXECUTIVE DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES
HAWAII PUBLIC HOUSING AUTHORITY
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BARBARA E. ARASHIRO
EXECUTIVE ASSISTANT

Statement of
Hakim Ouansafi
Hawaii Public Housing Authority
Before the

SENATE COMMITTEE ON HUMAN SERVICES

January 26, 2013 1:15 P.M.
Room 229, Hawaii State Capitol

In consideration of
Senate Bill 90
Relating to Public Housing Program Administration

Honorable Chair and Members of the Senate Committee on Human Services, thank you for the opportunity to provide you with comments regarding Senate Bill (S.B.) 90, relating to public housing program administration.

The Hawaii Public Housing Authority (HPHA) supports the enactment of this measure, which would authorize the HPHA to adopt policies, regulations, standards, procedures, and rental agreements for its federal programs in the manner prescribed by the federal government. This measure would also provide that federal regulation prevails in case of conflicts between state and federal regulations.

Section 356D-13, HRS, currently allows the HPHA to adopt administrative rules governing its federal programs. The HPHA's federal programs are additionally subject to extensive regulation by federal laws, rules, regulations, contracts, notices, memoranda, and other instruments issued by the United States Department of Housing and Urban Development (HUD). HUD regulations are applicable to all public housing agencies (PHAs) nationwide, and can require amendments to, adoption of, and repeal of any administrative policies and procedures of a PHA.

Of particular importance to the regulation of public housing and other federally assisted housing programs is the PHA 5-Year Plan and the Annual Plan (PHA Plan). The PHA Plan process was mandated on all PHAs over a certain size by the Quality Housing and Work Responsibility Act (QHWRA) of 1998, which significantly amended the Housing Act of 1937 (42 U.S.C. 1437c-1). HUD implemented the PHA Plan requirement at 24 C.F.R. Part 903, and according to 24 C.F.R. 903.3(b), the purpose of the PHA Plan is to provide a framework for local accountability. It is also intended to provide an "easily

identifiable source by which public housing residents, participants in the tenant-based assistance program, and other members of the public may locate basic PHA policies, rules and requirements concerning the PHA's operations, programs and services.” (24 C.F.R. 903.3(b)(2)).

HUD requires PHAs to submit a 5-Year Plan that covers the five PHA fiscal years immediately following its due date that addresses the PHA's mission, goals and objectives for the next 5 years and the progress the PHA has made in meeting the goals and objectives described in the PHA's previous 5-Year Plan. (24 C.F.R. 903.6(b)).

The PHA Annual Plan is an annual update of progress on the 5-Year Plan and any relevant information from the previously approved PHA Annual Plan. The Annual Plan must be submitted to HUD for approval on an annual basis and must include “the discretionary policies of the various plan components or elements (for example, rent policies) . . . The PHA's Annual Plan must be consistent with the goals and objectives of the PHA's 5-Year Plan.” (24 C.F.R. 903.7).

Specifically, the PHA Plan must include, but is not limited to, statements regarding deconcentration and other eligibility, selection, and admissions policies; waiting list procedures; other admissions policies, such as those that govern eligibility, selection and admissions for the PHA's public housing (ACOP, pursuant to 24 C.F.R. 960) and tenant-based assistance programs (pursuant to 24 C.F.R. 982); rent determination policies; operations and management; and anticipated capital improvement needs. (24 C.F.R. 903.7). If a PHA proposes to make substantial amendments or significant modifications to any of the enumerated policies in 24 C.F.R. 903.7, such changes must be developed and implemented through the PHA Plan process. The PHA Plan process requires intimate involvement of the Resident Advisory Board, which is tasked “to assist and make recommendations regarding the development of the PHA plan, and any significant amendment or modification to the PHA plan.” (24 C.F.R. 903.13(a)(1)). The PHA must also ensure that the PHA Annual Plan is consistent with other planning documents, such as the Consolidated Plan (24 C.F.R. 903.15) and must obtain public comment on 5-Year and the Annual Plan (24 C.F.R. 903.17).

In order to comply with the public comment requirement on the PHA Plan, the PHA must hold an open public meeting of the Board of Directors (24 C.F.R. 903.17(a)), make the proposed PHA Plan and all required documentation available for public inspection no less than 45 days prior to the hearing by published notice (24 C.F.R. 903.17(b)), and conduct reasonable outreach to encourage broad public participation (24 C.F.R. 903.17(c)). As stated, any “significant amendment or modification to a plan submitted to HUD is subject to the requirements of §§903.13, 903.15, and 903.17.” (24 C.F.R. 903.21).

As is evident, therefore, the process imposed on all PHAs more than adequately protects the interests of the public, encourages open accountability, and resident and public involvement whenever the HPHA proposes to adopt, amend, or modify program rules and regulations in the ACOP. As such, the HPHA should have the capacity to proceed with such actions exempt from Chapter 91. Otherwise, under the current process, described below, the HPHA must follow a longer, more onerous process that adds at least 6 months to the timeline for adoption of necessary regulations.

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The HPHA appreciates the opportunity to provide the Senate Committee on Human Services with the agency's position regarding S.B. 90. We respectfully request the Committee to pass this measure favorably, and we thank you very much for your dedicated support.



Dedicated to safe, responsible, humane and effective drug policies since 1993

January 26, 2013

To: Senator Suzanne Chun Oakland, Chair
Senator Josh Green, Vice Chair and
Members of the Committee on Human Services

From: Jeanne Ohta, Executive Director

RE: SB 90 Relating to Public Housing Program Administration
Hearing: Saturday, January 26, 2013, 1:15 p.m., Room 229

Position: Opposed

The Drug Policy Forum of Hawai'i (DPFH) writes in opposition to this measure which provides that federal regulation, rules, or laws would prevail in case of conflict between state and federal law.

DPFH is concerned that adopting such regulations may affect medical marijuana patients living in state public housing projects. Hawai'i law allows the use of marijuana for medical purposes, federal law does not. More than 11,000 patients are now registered with the Hawai'i Medical Use of Marijuana program. We know that there are patients currently living in state public housing projects and this measure could affect them.

We urge the committee to consider these patients and either amend the current proposal or defer it. Thank you for the opportunity to present testimony.