

**CHAPTER 53**  
**URBAN RENEWAL LAW**

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### "PART I. URBAN REDEVELOPMENT ACT

**§53-1 Definitions.** The following terms wherever used or referred to in part I, part II and, unless specifically indicated otherwise therein, part III of this chapter have the following respective meanings, unless a different meaning clearly appears from the context:

"Agency", "local agency", or "local redevelopment agency" means a local redevelopment agency of the county in which a redevelopment project or the redevelopment project concerned is situated, created pursuant to this chapter. Each agency shall be designated by the name of the county followed by the words "redevelopment agency", e.g., "Maui redevelopment agency".

"Blighted area" means an area (including a slum area), whether it is improved or unimproved, in which conditions such as: the dilapidation, deterioration, age, or obsolescence of the buildings or improvements thereon; inadequate ventilation, light, sanitation, or open spaces, or other insanitary or unsafe conditions; high density of population and overcrowding; defective or inadequate street layout; faulty lot layout in relation to size, adequacy, accessibility, or usefulness; diversity of ownership; tax or special assessment delinquency exceeding the fair value of the land; defective or unusual conditions of title; improper subdivision or obsolete platting; existence of conditions which endanger life or property by fire or other causes; or any combination of these factors or conditions predominate, thus making the area an economic or social liability, or conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, or crime, or otherwise detrimental to the public health, safety, morals, and welfare.

"Bonds" means any bonds, notes, interim certificates, debenture, or other obligations.

"Council" means the county or city council of a county or of the county in which the redevelopment project concerned is situated.

"County" has the meaning set forth in section 1-22 and, where appropriate, means the county in which the redevelopment project concerned is situated.

"Hawaii housing finance and development corporation", "corporation", "government", "federal government", and "real property" have the respective meanings set forth for these terms in chapter 201H.

"Obligee" includes any bondholder, agents or trustees for any bondholders, or lessor demising to the agency property used in connection with a redevelopment project, or any assignee or assignees of the lessor's interest or any part thereof, and the federal government when it is a party to any contract with the agency.

"Planning commission" means the planning commission for the county established by or pursuant to any state law, or, if there is no planning commission, then the council of the county.

"Public notice" means notice stating generally the purpose and the time and place for the hearing or meeting to which the notice relates, or stating generally the information required to be covered by the notice, given at least once (unless a greater number is specifically required) in the county in which the hearing or meeting is to be held, or in which the redevelopment project concerned is situated. Unless otherwise specifically provided, the notice, or the first notice (if more than one), must be made at least three days prior to the date of the hearing or meeting to which it relates.

"Redevelopment" means the planning, development, replanning, redesign, clearance, reconstruction or rehabilitation, or any combination of these, of a redevelopment area or part thereof, and the provision of the residential, commercial, industrial, public, or other structures or spaces as may be appropriate or necessary in the interest of the general welfare, including recreational and other facilities incidental or appurtenant thereto. The term does not exclude the continuance of existing buildings or uses whose demolition and rebuilding or change of use are not deemed essential to the redevelopment and rehabilitation of the area. The term includes provision for open space types of use, such as streets and other public grounds and space around buildings, as well as buildings, structures, and improvements, public or private, and improvements of recreation areas, public or private, and other public grounds.

"Redevelopment area" means all or a portion of an area in a county which the planning commission thereof has determined to be a blighted area and whose redevelopment is necessary to effectuate the public purposes declared in this chapter.

"Redevelopment corporation" means a corporation created pursuant to section 53-23.

"Redevelopment plan" means a plan, together with any amendments thereto, for the redevelopment of all or any part of a blighted area.

"Redevelopment project" means a specific work or improvements to effectuate all or any part of a redevelopment plan.

"Resolution", unless specifically otherwise provided, means a resolution requiring no notice before, and only one reading for, its adoption.

"State" means the State of Hawaii.

"Urban area" means any closely settled community in a county. [L 1949, c 379, §3; am L 1951, c 244, §1; am L 1955, c 271, §1(d); RL 1955, §143-2; am L 1965, c 101, §1(a); HRS §53-1; am L 1974, c 123, §1; am L 1997, c 350, §8; am L 1998, c 2, §19; am L 2006, c 180, §13]

" **§53-2 Redevelopment agency; creation.** (a) The council of a county by resolution may create a local redevelopment agency for the county, which shall be a county agency and a public body, corporate and politic, and shall consist of five members, appointed by the mayor, with the approval of the council, who shall be outstanding and public-spirited citizens and who shall have resided in the county for at least three years immediately preceding their appointment. The members of the agency shall serve for terms of five years each; provided that upon the initial appointment of the members of the agency, one member shall be appointed for a term of one year, the second member for a term of two years, the third member for a term of three years, the fourth member for a term of four years and a fifth member for a term of five years. Each vacancy shall be filled by the appointing power for the remainder of the unexpired term. No more than three of the members shall belong to the same political party.

(b) The appointing power which appoints a member may appoint an acting member to serve during the absence or inability to serve of such member, and the acting member shall, while so acting, have all of the powers of the member in whose place the acting member is temporarily appointed. Members shall hold over until their respective successors are appointed and qualify. Members shall receive no remuneration for their services except actual expenses incurred in the performance of their duties. No member shall hold any elective or other appointive office or position of the member's county. Each member shall be required to give bond in the sum of \$15,000 for the faithful performance of the member's duties, and the agency may also require any of its subordinates to give bond, the premiums upon the bonds to be paid by the agency. [L 1949, c 379, pt of §4; am L 1951, c 244, §2; RL 1955, §143-3; am L 1957, c 64, §1; am imp L 1967, c 80, §1; HRS §53-2; gen ch 1985]

Redevelopment agencies are not "political subdivisions" within meaning of §103-53 and are not subject to tax clearance requirements. Att. Gen. Op. 62-14.

" **§53-3 Interest in project prohibited; disclosure of interest.** No member or employee of the redevelopment agency shall acquire any interest, direct or indirect, in any redevelopment project or in any property included or planned to be included in any such project, nor shall the member or employee have any interest, direct or indirect, in any contract or proposed contract, for materials or services to be furnished or used in connection with the project. If any member or employee owns or controls an interest, direct or indirect, in any property included or planned to be included in any redevelopment project, the member or employee shall immediately disclose the same in writing to the agency and the disclosure shall be entered upon the minutes of the agency. Failure to so disclose the interest shall constitute misconduct sufficient to warrant removal. [L 1949, c 379, pt of §4; am L 1955, c 271, pt of §1(e); RL 1955, §143-4; HRS §53-3; gen ch 1985]

" **§53-4 Removal of members.** Any member of a redevelopment agency may be removed for any inefficiency, neglect of duty, or misconduct in office by the mayor with the approval of the council. [L 1949, c 379, pt of §4; am L 1955, c 271, pt of §1(e); RL 1955, §143-5; am L 1957, c 64, §3; HRS §53-4]

" **§53-5 Powers and duties of agency.** The powers and duties of the redevelopment agency shall be as follows:

- (1) To undertake and carry out urban renewal projects and related activities authorized by this chapter; to make and execute contracts and other instruments necessary or convenient to exercise its powers under this chapter; to sue and be sued; to have a seal; and, subject to any limitations in this chapter contained, to exercise all powers necessary, incidental, or convenient to carry out and effectuate the purposes and provisions of this chapter.
- (2) To make, amend, and repeal rules and regulations not inconsistent with this part to carry into effect the powers and purposes thereof, which rules and regulations shall be subject to chapter 91.
- (3) To appoint a manager and a deputy manager who shall have such qualifications as the agency deems necessary and who shall hold their respective offices at the pleasure of the agency. The manager shall be exempt from the requirements of chapter 76 and shall receive

such salary as the agency may provide. The deputy manager shall be exempt from the requirements of chapter 76 but shall be subject to the position classification plan. The manager shall have full power to administer the affairs of the agency, subject to the direction and approval of the agency. The manager shall, subject to the approval of the agency, have power to appoint, suspend, and discharge such other employees, subordinates, and assistants as may be necessary for the proper conduct of the business of the agency. All the appointments, suspensions or discharges shall be made in conformity with the applicable provisions of chapter 76.

- (4) To make preliminary surveys, studies, and plans to identify redevelopment areas; provided that the studies and initial determination of what areas are blighted, within the meaning of this part, shall be made exclusively by the planning commission, and to make redevelopment plans for the areas, which plans shall be in conformity with the master plan for the development of the locality, and each plan shall show the outline of the area, character of existing development, proposed use of land, general character of new buildings and other general details of redevelopment, as well as the preliminary estimated cost thereof. Further, the plans shall give due consideration to the provision of adequate park and recreational areas and facilities that may be desirable for neighborhood improvement, with special consideration for the health, safety and welfare of children residing in the general vicinity of the site covered by the plans. In preparing redevelopment plans the agency shall utilize such assistance as can be given by employees of the government, but may also enter into contracts for professional services in connection therewith. Any council which is not otherwise authorized to establish a planning commission with power to prepare a master plan for the physical development of the locality, may prepare such a master plan for the purposes of initiating and carrying out a redevelopment project under this part.
- (5) To assist and cooperate with other local agencies within the State and to contract for professional services with the other local agencies in carrying out its duties.
- (6) To establish and operate a central relocation office which shall perform such functions and activities as

may be necessary and proper for the satisfactory relocation of families, individuals, businesses, and nonprofit organizations, incorporated and unincorporated, displaced by any governmental action to decent, safe, and sanitary locations at rents and prices within the financial means of the displaced families, individuals, businesses, and nonprofit organizations. To the extent that special funds are made available by the State or the county, the agency may authorize the central relocation office to make relocation payments for actual moving costs to families, individuals, businesses, and nonprofit organizations, incorporated or unincorporated, displaced from other than urban renewal projects; provided that the payments shall not exceed \$100 for each displaced family or individual and \$300 for each displaced business (including the operation of a farm) or nonprofit organization; provided further that the payments shall not be made to recipients of any other relocation payments made by any government or agency thereof for the same displacement. In the case of a business, the allowable expenses for transportation shall not exceed the cost of moving fifty miles from the point from which the business is being displaced. To prepare plans for and assist in the relocation of persons (including individuals, families, business concerns, nonprofit organizations and others) displaced from an urban renewal area, and to make relocation payments to or with respect to the persons from funds provided by the federal government.

- (7) To prepare a general neighborhood renewal plan for urban renewal areas which may be of such scope that urban renewal activities may have to be carried out in stages over an estimated period of up to ten years. The plan may include, but is not limited to, a preliminary plan which (A) outlines the urban renewal activities proposed for the area involved, (B) provides a framework for the preparation of urban renewal plans, and (C) indicates generally the land uses, population density, building coverage, prospective requirements for rehabilitation and improvement of property, and portions of the area contemplated for clearance and redevelopment. A general neighborhood renewal plan shall, in the determination of the local governing body, conform to the general plan of the locality as a whole and the workable program of the county. [L 1949, c 379, pt of



§4; am L 1951, c 244, pt of §3; am L 1953, c 209, §3; am L 1955, c 271, §1(f); RL 1955, §143-6; am L 1957, c 163, §1; am L 1959, c 33, §1; am L 1961, c 112, §1 and c 144, §1; am L 1963, c 66, §1; am L 1965, c 96, §89 and c 101, §1(b) to (e); HRS §53-5; am L 2000, c 253, §150]

" **§53-6 Initiation and approval of redevelopment plan.** (a) Before adopting a redevelopment plan, the redevelopment agency shall be assured that satisfactory housing facilities are available or that reasonable provisions will be made for the temporary housing of individuals and families displaced by the removal of living facilities from the redevelopment project. In making the determination the agency may confer with the Hawaii public housing authority with respect to the possible placement of displaced families in projects owned and operated by the authority.

(b) The agency shall submit the redevelopment plan to the planning commission for study and approval thereof. The planning commission may approve, amend and approve, or disapprove the plan. If the planning commission disapproves the plan or amends the plan and the amendment is not approved by the agency, the agency may submit the plan as disapproved or amended to the council which may nevertheless approve or amend and approve the plan by resolution, but only by the affirmative vote of at least five of its members, after holding a public hearing and subject to the procedure set forth in the next paragraph.

After the planning commission has approved a redevelopment plan, and upon acceptance thereof by the agency if amended, the agency shall submit the plan to the council which shall hold a public hearing thereon, after giving published notice thereof on three separate days, the first publication to be at least ten days before the date of the hearings, and may approve, amend and approve, or disapprove the plan by resolution; provided that the council shall not approve, or amend and approve, the plan unless it finds that the redevelopment project area is a blighted area within the urban limits of the county; and provided further that any amendment made by the council must be accepted by the agency before final approval by the council. If the council approves a redevelopment plan, published notice of the approval shall be given by at least three publications and further proceedings with respect to the redevelopment project covered by the plan shall be stayed for a period of thirty days after the first publication of the notice. Actions, suits, or proceedings to contest the validity of the proceedings prescribed by the foregoing provisions of this chapter or of the redevelopment plan shall be barred upon the expiration of the period of thirty

days, and no action thereafter commenced shall raise any question concerning the validity of the proceedings provided by the foregoing provisions of this chapter or of the redevelopment plan, and in all actions, suits, or proceedings commenced after the expiration of the period of thirty days, except as to matters affecting jurisdiction, the validity of the proceedings prescribed by the foregoing provisions of this chapter and of the plan shall be conclusively presumed. Upon the expiration of the thirty-day period, the agency may further proceed with the redevelopment project or projects covered by the redevelopment plan. Upon acquisition of the lands in the redevelopment project by the agency, the lands shall automatically be rezoned as to land use in conformance with provisions of the approved redevelopment plan.

(c) Hearings and trial upon any issue raised in any action, suit, or proceeding in any court involving the construction, interpretation, or validity of this chapter, or involving the legality or validity of any action taken or proposed to be taken under or pursuant to this chapter, whether by way of injunction, suit for declaratory judgment, submission on agreed statement of facts, or otherwise, shall be given precedence in the trial courts and, on appeal. An appeal to the intermediate appellate court, subject to chapter 602, shall lie from any decision of any trial court holding valid or invalid any provision of this chapter, or any contract made or proposed, or other action taken or proposed to be taken, under or pursuant to this chapter.

(d) Whenever the agency determines that a proposed redevelopment project or an auxiliary redevelopment project initiated pursuant to this chapter may be undertaken by the owners of project lands therein or by developers of the owners as effectively, expeditiously, and economically as if undertaken as a public undertaking by the agency itself, then the redevelopment plan for the project approved and adopted pursuant to this section shall include a provision for the execution of the project by an alternative method of private development thereof on the basis of an agreement between the agency and the owners or developers and imposing such requirements, restrictions, and sanctions as the agency may deem necessary to effectuate the basic purposes of this chapter and to assure the successful completion of the project by private development.

If at any time after the initial adoption of the redevelopment plan, the agency determines that a change in the plan is in the public interest and in furtherance of the purpose of redevelopment, the plan or any part thereof may be amended by following the same procedure as set forth above for the adoption of the original plan. [L 1949, c 379, pt of §4; am L 1951, c

244, pt of §3; am L 1955, c 271, §1(g); RL 1955, §143-7; am L 1959, c 63, §1 and c 214, §1; am L 1965, c 101, §1(f) and (g); HRS §53-6; am L 1987, c 337, §5(1); am L 1997, c 350, §14; am L 2004, c 202, §7; am L 2005, c 196, §26(a); am L 2006, c 180, §16; am L 2006, c 94, §1; am L 2010, c 109, §1]

" **§53-7 Urban renewal projects in disaster areas.**

Notwithstanding any other provisions of this chapter, where the council of a county certifies that an area within the county is in need of renewal, redevelopment, or rehabilitation as a result of a seismic wave, flood, fire, hurricane, earthquake, storm, volcanic activity, explosion, or other catastrophe, natural or of human origin (herein called "disaster area") respecting which the governor of the State has certified the need for disaster assistance under Public Law 875, Eighty-first Congress (64 Stat. 1109), or other federal law, the council of a county may approve an urban renewal plan and an urban renewal project with respect to the area without regard to:

- (1) The provisions of this chapter as follows: the definitions of "redevelopment area" and "urban area" in section 53-1; the proviso of the first sentence of paragraph (4) of section 53-5; the requirements for housing of displaced families, approval of the plan by planning commission, public hearings and findings required by the county council prior to the approval of the plan as contained in section 53-6, provided that the limitation of time in which to contest validity of the proceedings or of the renewal plan provided in section 53-6 in the case of an urban renewal project for disaster areas shall be twenty days instead of thirty days; the exceptions set forth in the second sentence of section 53-20; the proviso of the second sentence of section 53-21; and
- (2) Any of the provisions of this chapter requiring public hearings or requiring that the urban renewal plan conform to the master plan for the development of the county or locality as a whole, or that the urban renewal area be a slum area, or a blighted, deteriorated, or deteriorating area, or that the urban renewal area be predominantly residential in character or be developed or redeveloped for residential use.

In the preparation, planning, financing, acquisition, and disposal of real property, and the execution generally of an urban renewal project for disaster areas, a redevelopment agency shall have all of the rights, powers, privileges, and immunities conferred upon the agency by this chapter including any amendment thereof or addition thereto, or by any other law, in

the same manner as though all provisions of law relating to urban renewal projects were applicable to the redevelopment and renewal of the disaster areas as in this section provided, subject to the exceptions hereinabove set forth. [L Sp 1960, c 5, §1; Supp, §143-7.1; HRS §53-7; am L 1987, c 283, §5; am L 1999, c 18, §1]

" **§53-8 Acquisition of lands in redevelopment project.**

After the redevelopment plan is officially approved by the council, or after the thirty-day period has expired or, after the final dismissal or determination of any action, suit or proceeding, if filed (unless the determination holds that the proceedings with reference to the redevelopment plan or the plan are invalid), the redevelopment agency may proceed to acquire land in the redevelopment project.

Private real property in an area, needed for a redevelopment project, which is to be acquired pursuant to this part, may be acquired by the agency by condemnation or otherwise, including any property devoted to a public use, whether or not held in trust, notwithstanding that the property may have been previously acquired by condemnation or is owned by a public utility, it being hereby expressly determined that the public use in conformity with this part shall be deemed a superior public use; provided that real property belonging to a public utility may not be acquired without the approval of the public utilities commission or tribunal having regulatory power over the public utility.

The council may consent to the condemnation of property owned by the county, whether or not the property is held in trust, or may sell or lease to an agency any such property necessary or convenient for a redevelopment project, with or without right to assign or sublease and without public bidding, provided published notice of a meeting to consider the sale or lease is given and a public hearing is held by the council before the action. The term of any such lease shall not be limited by any provision of any other law limiting the period of time during which a lease or any renewal thereof may run.

An award of compensation shall not be increased by reason of any increase in the value of the real property caused by the assembly, clearance, or reconstruction, or proposed assembly, clearance or reconstruction for the purposes of this part of the real property in a redevelopment area.

A council, upon payment therefor or upon exchange for other lands, or without consideration, may convey to an agency land owned by the county in any street or public place which is duly closed or discontinued pursuant to the plan of a redevelopment project.

Public lands or lands owned by any other agency or instrumentality of the government, may, with the approval of the governor, be transferred to an agency by the officer, agency, or instrumentality authorized to convey the same upon payment therefor or upon exchange for other lands, or without consideration, notwithstanding any other law to the contrary.

The procedure upon condemnation by an agency shall be the same as that prescribed by the laws of the State for condemnation by a county except that the members of the agency shall be substituted for the council whenever mentioned in the laws, and that the proceeding shall be brought and title shall be acquired in the name of the agency.

In the event the improvements on any private real property located in any proposed redevelopment area (1) are destroyed by seismic wave, flood, fire, hurricane, earthquake, storm, volcanic activity, explosion, or other catastrophe, natural or of human origin, or (2) are declared by an appropriate state or local authority to be unsafe or unfit for human use or habitation, or (3) the owner or owners thereof are unable or unwilling to improve the property in accordance with the land uses in the proposed redevelopment plan and are willing to sell the property to the agency, the agency may, any provision of law to the contrary notwithstanding and in addition to any authority granted to it, acquire the private real property in the proposed redevelopment area by negotiated purchase from the owner or owners and undertake work thereon as provided in section 53-9, upon authorization from the council, by resolution of one reading to purchase the real property, regardless of the stage of development of the redevelopment plan therefor, whether or not the plan has been officially approved by the council or the period of thirty days following the approval has expired. The agency shall not sell, transfer, convey, or otherwise dispose of the real property, except in connection with first mortgages or other prior liens upon the real property to the federal government for the purpose of securing loans or advances of money made available to the agency, until the redevelopment plan is approved by the council, but if the plan is not approved by the council or is amended to exclude the acquired real property from the redevelopment area or the redevelopment plan is abandoned for any reason, the agency shall dispose of the real property, subject, however, to any first mortgage or other prior lien of the federal government upon the real property, by first offering the same to the former owner or owners for repurchase at the same price paid by the agency for the purchase thereof and if the owner or owners refuse or fail within a reasonable time to exercise the right of repurchase, then the same may be sold at public auction or in the manner provided by law.

Pursuant to section 101-5, the agency may take and acquire any right, interest, or estate less than a fee simple estate, which are necessary for the undertaking and execution of an urban redevelopment or renewal project and related activities under this chapter, including the acquisition of air space rights and the imposition of restrictions, covenants, and controls to assure the development of a continued use of project property in accordance with the redevelopment or renewal plan. [L 1949, c 379, pt of §4; am L 1951, c 244, pt of §3; RL 1955, §143-8; am L Sp 1960, c 5, §2; am L 1965, c 101, §1(h); HRS §53-8; gen ch 1993]

" **§53-9 Work on acquired areas; competitive contracts.** The redevelopment agency may, by letting of contracts therefor, or by using its own employees, clear the acquired areas and maintain and repair or rehabilitate, but not reconstruct or enlarge, any structure (except structures to be held and used by the government for public purposes); provided that any work, the estimated cost of which is in excess of \$1,000, shall be let only in accordance with chapter 103D. [L 1949, c 379, pt of §4; RL 1955, §143-9; HRS §53-9; am L Sp 1993, c 8, §54]

" **§53-10 Appraisal of lands of agency.** At any time after the approval of the redevelopment plan and before disposing of any of its lands or properties, the redevelopment agency shall appoint one or more, but not more than three competent persons to make independent appraisals of the value of its property, based upon the future use of the area under the redevelopment plan. The appraisals shall serve only as a guide for the agency in determining a fair price for the disposal of its land and property but need not be adhered to in making the disposal, and shall become a public record and subject to examination by any interested person after the disposal. [L 1949, c 379, pt of §4; am L 1951, c 244, pt of §3; am L 1953, c 210, §3; RL 1955, §143-10; HRS §53-10]

" **§53-11 Government instrumentalities to cooperate with agency.** For the purpose of aiding and cooperating in the planning, undertaking, construction, or operation of redevelopment projects located within the area in which it is authorized to act, any instrumentality of the government, may upon such terms, with or without consideration, as it may determine:

- (1) Dedicate, sell, convey, or lease any of its property to a redevelopment agency;
- (2) Cause parks, playgrounds, recreational, community, educational, water, sewer, or drainage facilities or

- any other works which it is otherwise empowered to undertake, to be furnished adjacent to or in connection with redevelopment projects;
- (3) Furnish, dedicate, close, pave, install, grade, regrade, plan or replan streets, roads, roadways, alleys, sidewalks, or other places which it is otherwise empowered to undertake;
  - (4) Enter into agreements (which may extend over any period, notwithstanding any provision or rule of law to the contrary) with the federal government or any other public body or bodies respecting action to be taken pursuant to any of the powers granted by this part, including the furnishing of funds or other assistance in connection with projects being or to be undertaken pursuant to this part;
  - (5) Purchase or legally invest in any of the bonds of an agency and exercise all of the rights of any holder of the bonds;
  - (6) Reimburse the agency for lands acquired and transferred or dedicated by the agency for public purposes. [L 1949, c 379, pt of §4; am L 1955, c 271, §1(h); RL 1955, §143-11; HRS §53-11]

" **§53-12 Sale and lease of acquired lands; preference.** The redevelopment agency shall sell or lease real property acquired by it for a redevelopment project at its fair value for use in accordance with the redevelopment plan notwithstanding the value may be less than the cost of acquiring and preparing the property for redevelopment. The property may be sold or leased to one or more individuals, corporations, or public bodies or to a redevelopment corporation under such limitations, restrictions, requirements, or covenants as will insure its being developed and continued in use in accordance with the redevelopment plan, and in a manner that will best promote the interests and welfare of the urban area in which the project is situated; provided that where a redevelopment corporation is the purchaser or lessee, the contract or conveyance shall include a statement of the tax exemption, if any, which will be allowable under section 53-38, and any other terms necessary to carry into effect the provisions of this part relating to redevelopment corporations; provided further that before making a contract to sell land in a project area planned for single family residential development, the agency shall give published notice of intention so to contract, or to sell the property, and within sixty days after the first publication of the notice, any individual or individuals, who owned land in the project area immediately before acquisition thereof by the agency, shall be

entitled to preference in the purchase of one residential homesite therein; and provided further that if the agency decides to lease any of the acquired property, the following requirements and limitations shall apply:

- (1) The minimum size of the lots to be leased shall be five thousand square feet.
- (2) The lease term shall not be more than seventy-five years, and in the case of leases for single or multiple residential sites involving federal financial assistance, for such longer term as may be required.
- (3) The lessee shall be given an option to purchase the leased property during the first twenty years of the lease. During the balance of the term of the lease, the lessee shall have the first right of refusal to purchase the leased property, provided that the leased property shall not be sold by the agency to any person or corporation except to the lessee during the first twenty years of the lease. In the event that the lessee shall not exercise the first right of refusal as set forth above, the agency may sell the leased property to any person or corporation at fair value subject to the lease.
- (4) The agency shall notify the council of its decision to lease the property. Within thirty days of the notification, the council may disapprove the agency's decision to lease by an affirmative vote of five of its members.

The agency shall enforce the limitations, restrictions, requirements, and covenants throughout their duration by injunction, or other action at law or in equity, or by any other appropriate means. The limitations, restrictions, requirements, or covenants shall have the effect of covenants running with the land for such period and with such exceptions as may be provided in the deeds or contracts relating to such sale or leasing. In making the sale or lease the agency shall impose and require among other things a reasonable time limit for initiating construction of the redevelopment project. [L 1949, c 379, pt of §4; am L 1951, c 244, pt of §3; RL 1955, §143-12; am L 1959, c 44, §2; am L 1965, c 101, §1(i); HRS §53-12]

#### **Rules of Court**

One form of action, see HRCF rules 1, 2, 81(i).

" **§53-13 New constructions by agency.** The redevelopment agency may not erect new structures upon any of its property (except structures to be held and used by the government for



public purposes), but, if it will promote the realization of the redevelopment plan, it may grade, drain, construct streets, and install necessary utilities such as sewers, water, and lights. [L 1949, c 379, pt of §4; RL 1955, §143-13; HRS §53-13]

" **§53-14 Agency exempt from real property taxes.** The redevelopment agency shall be exempt from real property taxes upon any of its land or buildings so long as title is held by it, but not exceeding two years from the date of their acquisition; provided that the tax exemption shall not apply to any land or structure from which the agency is receiving an income. [L 1949, c 379, pt of §4; RL 1955, §143-14; HRS §53-14]

" **§53-15 Financial assistance of agency and office of urban renewal coordinator; redevelopment fund.** The redevelopment agency may borrow and apply for and accept advances, loans, grants, contributions, and any other form of financial assistance from the federal, state, or county governments or other public body, or from any sources, public or private, for purposes of this part, and may give such security as may be required and may enter into and carry out contracts in connection therewith. In the event that any contract for federal assistance or any federal law or regulations applicable thereto requires any action, practice, procedure, or remedy to be undertaken by the agency in any urban renewal project that is contrary to or conflicts with any state or local law, then the federal requirements or provisions shall govern and prevail over any provision of state or local law to the contrary. The foregoing provision shall be liberally applied and construed as to any case of conflicting federal and local requirements to the end that federal financial assistance for any urban renewal project shall not be hindered, impaired, or jeopardized. In fulfilling its duties the agency may expend funds legally loaned, appropriated, or granted to it by any agency of the government, funds received as gifts or contributions, and funds received from the sale or use of its properties. All moneys received by any agency shall be paid into the treasury of the county to be held in a redevelopment fund, hereby created, to the credit of the agency and shall be disbursed upon warrants of the director of finance, based upon vouchers signed by the chairperson or acting chairperson of the agency or any subordinate of the agency duly authorized by it to sign the vouchers.

The office of urban renewal coordinator shall submit in its budget estimates of amount required for administrative expenses and other costs of operation of the office of the urban renewal coordinator to be appropriated from the redevelopment fund;

provided the amount to be appropriated for the purposes for any one year shall not exceed the sum of \$200,000; and provided further that the estimates for the office of urban renewal coordinator shall have first been approved by the mayor and the council. [L 1949, c 379, pt of §4; am L 1951, c 244, pt of §3; RL 1955, §143-15; am L 1957, c 163, §2; am L 1959, c 226, §1; am L 1961, c 112, §2 and c 143, §1; HRS §53-15; gen ch 1993]

### Cross References

Urban renewal coordinator, generally, see §§53-55 to 53-59.

" **§53-16 Bonds of agency.** (a) A redevelopment agency may issue bonds from time to time in its discretion for any of its corporate purposes including the payment of principal and interest upon any advances for surveys and plans for redevelopment projects. An agency may also issue refunding bonds for the purpose of paying or retiring or in exchange for bonds previously issued by it. An agency may issue such types of bonds as it may determine, including (without limiting the generality of the foregoing) bonds on which the principal and interest are payable:

- (1) Exclusively from the income, proceeds, and revenues of the redevelopment project financed with the proceeds of the bonds; or
- (2) Exclusively from the income, proceeds, and revenues of any of its redevelopment projects whether or not they are financed in whole or in part with the proceeds of the bonds; provided that the bonds may be additionally secured by a pledge of any loan, grant, or contributions, or parts thereof, from the federal government or other source, or a mortgage of any redevelopment project or projects of the agency.

(b) Neither the members of an agency nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof. The bonds and other obligations of the agency (and such bonds and obligations shall so state on their face) shall not be a debt of the county or the State and neither the county nor the State shall be liable thereon, nor in any event shall such bonds or obligations be payable out of any county or state funds or properties other than those of the agency acquired for the purposes of this part. The bonds shall not constitute an indebtedness within the meaning of any debt limitation or restriction. Bonds of an agency are declared to be issued for an essential public and governmental purpose and to be public instrumentalities and, together with interest thereon and income therefrom, shall be exempt from all taxes.

(c) Bonds of an agency shall be authorized by its resolution and may be issued in one or more series and shall bear such date or dates, be payable upon demand or mature at such time or times, bear interest at such rate or rates, as established by the legislative bodies of the counties, be in such denomination or denominations, be in such form either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms or redemption (with or without premium) as the resolution, its trust indenture, or mortgage may provide.

(d) The bonds shall be sold at not less than par at public sale held after public notice given once at least ten days prior to the sale in the county; provided that the bonds may be sold to the federal government at private sale at not less than par, and, in the event less than all of the bonds authorized in connection with any project or projects are sold to the federal government, the balance of the bonds may be sold at private sale at not less than par at an interest cost to the agency of not to exceed the interest cost to the agency of the portion of the bonds sold to the federal government.

(e) In case any of the members or officers of the agency whose signatures appear on any bonds or coupons cease to be members or officers before the delivery of the bonds, the signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if the members or officers had remained in office until the delivery. Any provision of any law to the contrary notwithstanding, any bonds issued pursuant to this part shall be fully negotiable.

(f) In any suit, action, or proceedings involving the validity or enforceability of any bond of an agency or the security therefor, any bond reciting in substance that it has been issued by the agency to aid in financing a redevelopment project, as herein defined, shall be conclusively deemed to have been issued for the purpose and the project shall be conclusively deemed to have been planned, located, and carried out in accordance with the purposes of this part.

(g) In connection with the issuance of bonds and in order to secure the payment of the bonds or obligations, an agency, in addition to its other powers, may:

- (1) Pledge all or any part of its gross or net rents, fees, or revenues to which its right then exists or may thereafter come into existence;
- (2) Mortgage all or any part of its real or personal property, then owned or thereafter acquired;

- (3) Covenant against pledging all or any part of its rents, fees, and revenues, or against mortgaging all or any part of its real or personal property, to which its right or title then exists or may thereafter come into existence or against permitting or suffering any lien on the revenues or property; covenant with respect to limitations on its right to sell, or otherwise dispose of any redevelopment project or any part thereof; and covenant as to what other, or additional debts or obligations may be incurred by it;
- (4) Covenant as to the bonds to be issued and as to the issuance of the bonds in escrow or otherwise, and as to the use and disposition of the proceeds thereof; provide for the replacement of lost, destroyed, or mutilated bonds; covenant against extending the time for the payment of its bonds or interest thereon; and covenant for the redemption of the bonds and provide the terms and conditions thereof;
- (5) Covenant (subject to the limitations contained in this part) as to the amount of revenues to be raised each year or other period of time by fees and other revenues, and as to the use and disposition to be made thereof; create or authorize the creation of special funds for moneys held for operating costs, debt service, reserves, or other purposes, and covenant as to the use and disposition of the moneys held in the funds;
- (6) Prescribe the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which the consent may be given;
- (7) Covenant as to the use, maintenance, and replacement of any or all of its real or personal property, the insurance to be carried thereon, and the use and disposition of insurance moneys, and warrant its title to the property;
- (8) Covenant as to the rights, liabilities, powers, and duties arising upon the breach by it of any covenant, condition, or obligation; and covenant and prescribe as to events of default and terms and conditions upon which any or all of its bonds or obligations shall become or may be declared due before maturity, and as to the terms and conditions upon which the declaration and its consequences may be waived;
- (9) Vest in any obligees of the agency the right to enforce the payment of the bonds or any covenants

securing or relating to the bonds; vest in any obligee or obligees holding a specified amount in bonds the right, in the event of a default by the agency, to take possession of and use, operate and manage any redevelopment project or any part thereof, title to which is in the agency, or any funds connected therewith, and collect the rents and revenues arising therefrom and dispose of the moneys in accordance with the agreement of the agency with the obligees; provide for the powers and duties of the obligees and limit the liabilities thereof; and provide the terms and conditions upon which the obligees may enforce any covenant or rights securing or relating to the bonds;

- (10) Exercise all or any part or combination of the powers herein granted; make the covenants (other than and in addition to the covenants herein expressly authorized) and do any and all such acts and things as may be necessary or convenient or desirable in order to secure its bonds, or, in the absolute discretion of the agency, as will tend to make the bonds more marketable notwithstanding that the covenants, acts, or things may not be enumerated herein.

(h) An agency may by its resolution, trust indenture, mortgage, or other contract confer upon any obligee holding or representing a specified amount in bonds, the right (in addition to all rights that may otherwise be conferred), upon the happening of an event of default as defined in the resolution or instrument, by suit, action, or proceeding in any court of competent jurisdiction:

- (1) To cause possession of any redevelopment project or any part thereof, title to which is in the agency, to be surrendered to the obligee;
- (2) To obtain the appointment of a receiver of any redevelopment project of the agency or any part thereof, title to which is in the agency, and of the rents and profits therefrom. If the receiver is appointed, the receiver may enter and take possession of, carry out, operate, and maintain the project or any part thereof and collect and receive all fees, rents, revenues, or other charges thereafter arising therefrom, and shall keep the moneys in a separate account or accounts and apply the same in accordance with the obligations of the agency as the court shall direct; and
- (3) To require the agency and the commissioners, officers, agents, and employees thereof to account as if it and they were the trustees of an express trust.

(i) An obligee of an agency shall have the right in addition to all other rights which may be conferred on the obligee, subject only to any contractual restrictions binding upon the obligee:

- (1) By appropriate action to compel the agency and the members, officers, agents, or employees thereof to perform each and every term, provision, and covenant contained in any contract of the agency with or for the benefit of the obligee, and to require the carrying out of any or all the covenants and agreements of the agency and the fulfillment of all duties imposed upon the agency by this part; and
- (2) By appropriate action to enjoin any acts or things which may be unlawful, or the violation of any of the rights of the obligee of the agency. [L 1949, c 379, pt of §4; am L 1951, c 244, pt of §3; RL 1955, §143-16; HRS §53-16; am L 1968, c 43, §2; am L 1981, c 79, §1; gen ch 1985; am L 1998, c 2, §20]

#### Case Notes

Mentioned: 903 F. Supp. 2d 1037 (2012).

" **§53-17 Bonds of agency to be legal investments.** Bonds issued by a redevelopment agency in connection with one or more redevelopment plans or redevelopment projects pursuant to this part shall be legal investments and security for public deposits to the same extent and for the same public officers and bodies, political subdivisions, persons, companies, corporations, associations, banks, institutions, and fiduciaries as bonds or obligations issued by the Hawaii housing finance and development corporation under chapter 201H in connection with slum clearance and housing projects. [L 1949, c 379, pt of §4; RL 1955, §143-17; HRS §53-17; am L 1987, c 337, §5(2); am L 2005, c 196, §26(b); am L 2006, c 180, §16; am L 2007, c 249, §10]

" **§53-18 Investment of funds.** A redevelopment agency may invest any of its funds not required for immediate disbursement in securities which constitute legal investments under state laws relating to investment of trust funds by trust companies, including those authorized by article 8 of chapter 412. [L 1949, c 379, pt of §4; RL 1955, §143-18; HRS §53-18; am L 1993, c 350, §2]

" **§53-19 Report.** Each redevelopment agency shall make an annual report of its receipts, expenditures, and activities, and of its proposed program and estimated cost thereof for the

ensuing year to the council of its county, before August 1 as of the end of the preceding fiscal year. [L 1949, c 379, pt of §4; am L 1955, c 271, §1(i); RL 1955, §143-19; am imp L 1965, c 166, §§1, 2; HRS §53-19]

" **§53-20 Auxiliary redevelopment area.** Where a redevelopment agency finds:

- (1) That there is a shortage of decent, safe, and sanitary housing in the county;
- (2) That the provision of decent, safe, and sanitary dwelling accommodations on undeveloped vacant land, not within a blighted area, is necessary to accomplish the relocation of families to be displaced from blighted areas which are to be redeveloped or displaced from disaster areas as defined in this chapter; and
- (3) That the acquisition of a particularly described area of the undeveloped vacant land (hereinafter called an "auxiliary redevelopment area"), suitable for development for predominantly residential uses and so characterized in the master plan, is essential to the proper clearance or redevelopment of blighted or disaster areas or a necessary part of the general program for clearance or redevelopment of blighted or disaster areas in the county;

then, subject to the conditions hereinafter stated, the acquisition, planning, preparation for development, or disposal of such auxiliary redevelopment area shall constitute a redevelopment project which may be undertaken by the agency in the manner provided by this part. The procedure for the preparation, submission, and the final approval, amendment and approval, or disapproval, of the redevelopment project, and subsequent proceedings with respect thereto, shall be the same, as nearly as may be, as in the case of other redevelopment projects, except that:

- (1) The council shall not approve such plan or project unless it shall by resolution, concur in every finding of the agency required by this section and also find that the auxiliary redevelopment area will be developed for predominantly residential uses; and
- (2) The requirement of a finding that the redevelopment project is in a blighted area prescribed by section 53-6 shall not be applicable. [L 1951, c 244, pt of §3; RL 1955, §143-20; am L Sp 1960, c 5, §3; am L 1965, c 101, §1(j); HRS §53-20]

" **§53-21 Auxiliary redevelopment area; displaced persons.**

Where the redevelopment agency of a county finds:

- (1) That there is a shortage of decent, safe, and sanitary housing in the county;
- (2) That the provision of decent, safe, and sanitary housing for rent or dwelling units for sale is necessary to accomplish the relocation of families displaced or to be displaced from areas acquired by governmental agencies for public purposes or displaced from disaster areas as defined by this chapter; and
- (3) That the acquisition of a fee or leasehold interest of a particularly described area in a county (hereinafter also called an auxiliary redevelopment project), suitable for development for predominantly residential uses and so characterized in the master plan, is essential to provide for the development of housing facilities at rents the displaced families can afford or of dwelling units at prices the displaced families can pay,

then the planning, acquisition, preparation for development or disposal of the auxiliary redevelopment area shall constitute a redevelopment project which may be undertaken by the agency in the manner provided by this chapter.

The procedure and exceptions set forth in section 53-20 shall apply to any projects; provided that pursuant to section 101-5, the agency may take and acquire any estate less than a fee simple estate in lands whenever it appears that the purposes of this section shall be best achieved and promoted by the taking.

Where the redevelopment plan for the project makes provision for the development of housing facilities for rent, the agency shall sell, lease, or sublease the land or the completed development to qualified developers or nonprofit sponsors for use in accordance with the redevelopment plan. The sale, lease, or sublease shall be made at a fair value reflecting the restrictions imposed on developers and covenants running with the project land, including restrictions on rent ceilings and modification thereof which the agency may impose by regulation for a period up to thirty years for the development in order to achieve private ownership and operation of the properties at a reasonable profit while providing for rentals which displaced families can afford.

Where the redevelopment plan for the project makes provision for the subdivision and development of the land for single family dwelling units for sale to the displaced families, the agency shall sell the land or the completed development to qualified developers or nonprofit sponsors for development and



use in accordance with the redevelopment plan. The sale shall be made at a fair value reflecting the restrictions imposed on developers and covenants running with the project lands to limit the price of sale thereof, the prices which displaced families can afford while permitting developers a reasonable profit therefrom, and preventing speculative resale thereof by purchasers and their assigns.

All developers of auxiliary redevelopment projects authorized by this section shall be entitled to claim exemption or relief from taxes as provided by section 53-38 for all project lands and improvements providing for housing facilities for rent to families displaced from public projects or from disaster areas. [L 1957, c 101, §1; am L 1959, c 45, §1; am L Sp 1960, c 5, §4; am 1965, c 101, §1(k); Supp, §143-20.1; am L 1967, c 168, §1; HRS §53-21; am L 1974, c 137, §1]

" **§53-22 Governmental advances, donations, and other appropriations.** (a) The governor shall submit to the legislature at each regular session in an odd-numbered year, estimates of the amount reasonably required in the governor's judgment for administrative expenses and overhead of agencies concerned with the administration of this part, together with other amounts deemed necessary by the governor for state contributions for redevelopment projects, for the succeeding fiscal biennium, so that the legislature may make appropriations therefor if it deems the action advisable.

(b) Any county within which a redevelopment project is located or is about to be located may from time to time make loans, donations, or advances to the local redevelopment agency of such sums as in its discretion it may determine, the loans, advances, or donations to be made for the purpose of aiding or cooperating in the prosecution of the redevelopment project. The local agency, when it has money available therefor, shall reimburse the county for all advances made by way of a loan to it. For the purpose of raising funds for donation to an agency, any county within which a redevelopment project is located may issue and sell its bonds. Any bonds to be issued by the county pursuant to this section shall be issued in the manner and within the limitation prescribed by the laws of the State for the issuance and authorization of bonds for public purposes generally.

(c) In order to qualify for the allotment and expenditure of funds appropriated by the State under this section, for any redevelopment project or for assistance to a local redevelopment agency, the county shall make funds available to the agency in amounts at least equal to the funds granted or contributed, or to be granted or contributed, by the State. The council may

make funds available for any of the purposes (including studies by the planning commission to determine and recommend for redevelopment blighted areas, and other activities of the planning commission under this part) of this part (whether or not state funds shall be available for any of such purposes) out of any moneys in the general fund of the county, and may include necessary amounts therefor in determining the real property tax rate for the county. The amount which, pursuant to this subsection, is included in determining the real property tax rate for the county, shall be paid into the redevelopment fund of the county for expenditure by the agency for the purposes of this part.

(d) All state appropriations made under this section shall be allocated to the respective redevelopment agencies upon the basis of actual need therefor, or as otherwise provided by law.

(e) The governor shall submit to the legislature at each regular session in an odd-numbered year, estimates of the amount of additional appropriation necessary in the governor's judgment for use by the Hawaii housing finance and development corporation in the succeeding fiscal biennium, in providing living facilities necessary to care for families displaced or to be displaced by redevelopment projects, so that the legislature may make appropriations therefor if it deems the action advisable. [L 1949, c 379, §5; am L 1951, c 244, §4; am L 1955, c 271, §1(j); RL 1955, §143-21; am L Sp 1957, c 1, §15(b); am L Sp 1959 1st, c 13, §2; am L 1963, c 142, §10 and c 193, §39; HRS §53-22; am L 1979, c 105, §8; gen ch 1985; am L 1987, c 337, §5(3); am L 1997, c 350, §14; am L 2005, c 196, §26(b); am L 2006, c 180, §16]

" **§53-23 Redevelopment corporations; how created.** A redevelopment corporation may be created in the manner provided by the general corporation laws with the following additional requirements and special limitations to be included in the articles of association:

- (1) The name of the proposed corporation, which name shall include the words "redevelopment corporation" or "redevelopment company."
- (2) The purposes for which it is to be formed which shall include the following: To acquire by purchase one or more areas under a plan or plans, and to construct, own, maintain, operate, sell, and convey projects pursuant to the terms and provisions of the Urban Redevelopment Act.
- (3) The amount of the capital stock, and if any is preferred stock, the preference thereof.

- (4) The number of shares of which the capital shall consist, all of which shall have a par value.
- (5) The county and locality therein in which its principal business office is to be located.
- (6) Its duration, which shall not be less than thirty-five years.
- (7) The number of directors, which shall not be less than three and who need not be stockholders.
- (8) The names and post office addresses of the directors for the first year.
- (9) The names and post office addresses of the subscribers to the capital stock and a statement of the number of shares of stock which each agrees to take in the redevelopment corporation.
- (10) A provision that if income debenture certificates are issued by the redevelopment corporation the owners thereof may be given the same right to vote as they would have if possessed of certificates of stock of the amount and par value of the income debenture certificates held by them. If provision is made for the issuance of income debenture certificates, interest shall be paid by the redevelopment corporation on income debenture certificates only out of net earnings of the corporation that would be applicable to payment of dividends if there were no income debentures.
- (11) A provision that, so long as the provisions of this part regulating redevelopment corporations remain applicable to any project of the redevelopment corporation, the real property of the corporation shall not be sold, transferred, leased, mortgaged, assigned, or otherwise disposed of, except as permitted by the terms and provisions of this part.
- (12) A declaration that the redevelopment corporation has been organized to serve a public purpose and that it shall be and remain subject to the supervision and control of the agency except as provided in this part, so long as the provisions of this part regulating redevelopment corporations remain applicable to any project of the redevelopment corporation; that all real and personal property acquired by it and all structures erected by it, shall be deemed to be acquired or created for the promotion of the purposes of this part.
- (13) A declaration that, after providing for all expenses, taxes, and assessments, there shall be paid annually out of the earnings of the redevelopment corporation,

after providing for all expenses, taxes, assessments, and depreciation on improvements, or, in the case of a lease, for amortization, a sum equal to but not exceeding eight per cent of the total actual final cost of the projects as defined by [paragraph] (2) of section 53-32; that the obligation in respect of the payments shall be cumulative, and any deficiency in interest, amortization, depreciation, and dividends in any year shall be paid from the first available earnings in subsequent years; and that any cash surplus derived from earnings remaining in the treasury of the redevelopment corporation in excess of the amount necessary to provide the cumulative annual sums shall, upon dissolution of the corporation, be paid into the redevelopment fund of the agency.

(14) A declaration that, upon the dissolution of the corporation pursuant to subsection (a) of section 53-36, the property may be conveyed in fee as provided in the subsection.

(15) A declaration that mortgage indebtedness, income debenture certificates, and stock of the redevelopment corporation may be retired if, as, and when there shall be funds available for amortization purposes in the treasury of the redevelopment corporation. [L 1949, c 379, §6; am L 1951, c 244, §5; am L 1955, c 271, §1(k), (l); RL 1955, §143-22; HRS §53-23; am L 1983, c 167, §17; am L 1985, c 270, §4]

" **§53-24 Consent of agency to incorporation of redevelopment corporations.** If any articles of association of a redevelopment corporation are presented to the state director of commerce and consumer affairs, the director shall not file the articles unless a certificate of the consent of the redevelopment agency accompanies the same. No certificate of amendment of the articles of association, or certificate of increase or decrease or change in par value of the capital stock, of a development corporation shall be filed by the director unless a certificate of the consent of the agency of the county in which the project is located accompanies the same. [L 1949, c 379, §7; RL 1955, §143-23; am L Sp 1959 2d, c 1, §15; am L 1963, c 114, §3; HRS §53-24; am L 1982, c 204, §8; am L 1983, c 124, §17; gen ch 1985]

" **§53-25 Application of other corporation laws.** All provisions of the general corporation laws, not inapplicable and not inconsistent with the provisions of this part shall apply to redevelopment corporations. If any action with respect to which

the holders of income debentures shall have the right to vote is proposed to be taken, then notice of any meeting at which the action is proposed to be taken shall be given to the holders in the same manner and to the same extent as if they were stockholders entitled to notice of and to vote at the meeting, and any certificate filed pursuant to law with the state director of commerce and consumer affairs with respect to any action, whether taken with or without meeting, and any affidavit required by law to be annexed to the certificate, shall contain the same statements or recitals and the certificate shall be subscribed and acknowledged, and the affidavit shall be made, in the same manner as if the holders were stockholders holding shares of an additional class of stock entitled to vote on the action or with respect to the proceedings provided for in the certificate. [L 1949, c 379, §8; RL 1955, §143-24; am L Sp 1959 2d, c 1, §15; am L 1963, c 114, §3; HRS §53-25; am L 1982, c 204, §8; am L 1983, c 124, §17]

" **§53-26 Powers of redevelopment corporations.** Each redevelopment corporation shall have and may exercise such of the powers conferred by the general corporation laws as are necessary in conducting the business of a redevelopment corporation and consistent with this part. [L 1949, c 379, §9; RL 1955, §143-25; HRS §53-26]

" **§53-27 Limited return on investment.** Subject to section 53-36, there shall be paid annually out of the earnings of the redevelopment corporation, after providing for all expenses, taxes, assessments, and depreciation in improvements, or, in the case of a lease, for amortization, a sum for interest and dividends not exceeding eight per cent of the total actual final cost of the project as defined by [paragraph] (2) of section 53-32. The obligation in respect of the payments shall be cumulative, and any deficiency in interest and dividends in any year shall be paid from the first available earnings in subsequent years; and any cash surplus derived from earnings remaining in the treasury of the redevelopment corporation in excess of the amount necessary to provide the cumulative annual sums shall, upon dissolution of the corporation, be paid into the redevelopment fund of the county in which the project lies. [L 1949, c 379, §10; am L 1951, c 244, §6; RL 1955, §143-26; am L 1959, c 44, §3; HRS §53-27]

" **§53-28 Consideration for issuance of stocks and bonds.** No redevelopment corporation shall issue stock, bonds, or income debenture certificates except for money or property actually received for the use and lawful purposes of the redevelopment

corporation. No stock, bonds, or income debenture certificates shall be issued for property except upon a valuation approved by the redevelopment agency and the valuation shall be used in computing actual or estimated cost. [L 1949, c 379, §11; RL 1955, §143-27; HRS §53-28]

" **§53-29 Minimum amount of stock and debentures.** Except as provided in this section the stock and income debenture certificates issued by the redevelopment corporation shall in no event be less than the total of ten per cent of the total actual final cost, as defined in [paragraph] (2) of section 53-32, of any project or projects undertaken pursuant to this part. The redevelopment agency may permit stock or income debenture certificates to be issued for working capital to be used in connection with the project to an amount not exceeding five per cent of the estimated cost, or five per cent of the total actual final cost, if that should exceed the estimated cost of a project. [L 1949, c 379, §12; RL 1955, §143-28; am L 1959, c 96, §1; HRS §53-29]

" **§53-30 Income debentures.** With the approval of the redevelopment agency, the articles of association, or amended articles, may authorize the issuance of income debenture certificates bearing no greater interest than six per cent a year. The income debenture certificates and any instrument under which they are issued may contain other provisions, including provisions for amortization by serial maturities, through the operation of a sinking fund or otherwise, which may be approved by the agency. [L 1949, c 379, §13; RL 1955, §143-29; HRS §53-30]

" **§53-31 Mortgages and mortgage bonds.** Any redevelopment corporation, subject to the approval of the redevelopment agency, may borrow funds and secure the repayment thereof by bond and mortgage or by an issue of bonds under a trust indenture. Each mortgage or issue of bonds of a redevelopment corporation shall relate only to a single specified project and to no other and the bonds shall be secured by mortgage upon all of the real property of which the project consists. First lien bonds of the redevelopment corporation when secured by a mortgage not exceeding ninety per cent of the estimated cost prior to the completion of the project, or ninety per cent of the appraised value or actual cost, but in no event, in excess of ninety per cent of the total actual final cost, after the completion, as certified by the agency, are hereby declared securities in which all public officers and bodies of the State, all political subdivisions of the State, all insurance companies

and associations, all savings banks and savings institutions, including savings and loan associations, personal representatives, guardians, trustees, and all other persons and fiduciaries in the State may properly and legally invest the funds within their control and available for investment under other provisions of law. The bonds so issued and secured and the mortgage or trust indenture relating thereto, may create a first or senior lien and a second or junior lien upon the real property embraced in any project; provided that the total mortgage liens shall not exceed ninety per cent of the estimated cost prior to the completion of the project, or ninety per cent of the appraised value or actual cost, but in no event in excess of ninety per cent of the total actual final cost after the completion, as certified by the agency. Where there are first and second mortgage liens upon the property embraced in a project, only the first or senior lien thereon shall be deemed a security in which the officer, bodies, subdivisions, corporations, associations, and fiduciaries, may invest the funds within their control. The bonds and mortgages may contain such other clauses and provisions as are approved by the agency, including the right to assignment of rents and entry into possession in case of default; but the operation of the redevelopment project in the event of the entry by mortgage or receiver shall be subject to regulations promulgated by the agency. Provisions for the amortization of the bonded indebtedness of corporations formed under this part shall be subject to the approval of the agency. So long as funds made available by the federal government or by instrumentality thereof or any mortgage or mortgage bonds, insured by the federal housing administrator or any other instrumentality of the federal government are used in financing, in whole or in part, any project under this part, the proportionate amount of the cost of the lands and improvements to be represented by mortgages or bonds shall be entirely in the discretion of the agency, and all restrictions as to the amounts to be represented by mortgages or bonds shall be inapplicable to the projects or to redevelopment corporations undertaking the projects, except that the bonds and mortgages covering any project shall not exceed the total actual final cost of such project as defined in [paragraph] (2) of section 53-32.

Interest rates on mortgage indebtedness shall not exceed such rates to be approved by the agency. [L 1949, c 379, §14; RL 1955, §143-30; am L 1959, c 96, §2; HRS §53-31; am L 1976, c 200, pt of §1]

" **§53-32 Limitations.** In addition to limitations prescribed by this part a redevelopment corporation shall not have power to:

- (1) Acquire any real property or interest therein for a project or projects unless the redevelopment agency determines as provided in this part that the acquisition is necessary or convenient for the public purpose defined in this part.
- (2) Issue its stock, debentures, and bonds covering any project undertaken by it in an amount greater in the aggregate than the total actual final cost of the project. The actual cost of the project shall include the cost of the lands and improvements constituting the project and charges for planning, financing, and supervision approved by the supervising agency, condemnation charges and interest and other carrying charges during the period of acquisition and of construction. The total actual final cost shall be deemed to be an amount equal to the actual cost plus an allowance for working capital. The allowance for working capital shall not exceed an amount equal to five per cent of the estimated cost or of the total actual final cost of the project if that shall be greater than the estimated cost.
- (3) Enter into contracts for the payment of salaries to officers or employees, or for the construction or for the substantial repair, improvement, or operation of projects, except subject to the approval of the agency. [L 1949, c 379, §15; RL 1955, §143-31; HRS §53-32]

" **§53-33 Advances by redevelopment corporation.** A redevelopment agency may enter into a contract with a redevelopment corporation at any time after approval of a redevelopment plan whereby the corporation will pay or agree to pay an agreed sum or sums, or such sums as may be necessary, to be expended by the agency in the acquisition or clearing, or both, of real property for a redevelopment project, under such terms as are satisfactory to the agency; provided that no contract may obligate the agency to refund any portion of the sums so paid except such portion as may remain unexpended after the acquisition or clearing, or both. The contract may include an agreement to sell or lease property subject to sale or lease covered by the redevelopment project to the redevelopment corporation after acquisition and clearing of the land in the project. [L 1949, c 379, §16; am L 1951, c 244, §7; RL 1955, §143-32; am L 1959, c 44, §4; HRS §53-33]



" **§53-34 Regulation of redevelopment corporations.** The redevelopment agency shall examine each redevelopment corporation and keep informed as to its general condition, its capitalization, and the manner in which its property is constructed, leased, operated, or managed with respect to its compliance with all provisions of law and orders of the agency.

The agency may:

- (1) Either itself or through its inspectors or employees, duly authorized by it, enter in or upon and inspect the property, equipment, buildings, plants, offices, apparatus, and devices of any redevelopment corporation; examine all books, contracts, records, documents, and papers of any redevelopment corporation and by subpoena duces tecum compel the production thereof. At the request of the agency the state commissioner of financial institutions shall assist in examination of the books, contracts, records, documents, and papers and report thereon to the agency;
- (2) In its discretion, prescribe uniform methods and forms of keeping accounts, records, and books to be observed by redevelopment corporations, and after a hearing prescribe by order accounts in which particular outlays and receipts shall be entered, charged, or credited;
- (3) Require specific answers to questions upon which it may desire information and require the filing of periodic reports in the form, covering the period, and at the time prescribed by it;
- (4) In the deed or contract selling or leasing property in a redevelopment project to any other person or corporation, reserve such of the powers hereinabove mentioned as are appropriate and necessary or proper to effectuate the requirements of this chapter. [L 1949, c 379, §17; am L 1951, c 244, §8; RL 1955, §143-33; am L 1959, c 44, §5; HRS §53-34; am L 1985, c 269, §55]

" **§53-35 Transfer of title or foreclosure of project.** Until the expiration of thirty-five years from the date of acquisition of property of or in a redevelopment project by a redevelopment corporation, it shall not have power to sell the property or any interest therein without the consent of the redevelopment agency. Upon acquisition of the project by any person, firm, or corporation other than another redevelopment corporation, by lease or sale, or upon the initiation of foreclosure proceedings

any tax exemption or partial tax exemption granted to the project shall immediately terminate. [L 1949, c 379, §18; RL 1955, §143-34; HRS §53-35]

" **§53-36 Dissolution.** (a) After termination of any tax exemption granted pursuant to section 53-38, whether by expiration or by any other cause, or if prior thereto the redevelopment corporation elects to pay to the county the total of (1) all accrued taxes for which the exemption was granted and received, (2) interest at the rate of five per cent a year thereon, and (3) any additional amount with or without interest, not exceeding five per cent a year, prescribed in the contract between the redevelopment agency and the corporation as a condition precedent to the enjoyments of the privileges granted by this section, the redevelopment corporation may voluntarily dissolve, and title to the project may be conveyed in fee to the owner or owners of its capital stock or to any corporation designated by it or them for the purpose, or the redevelopment corporation may be dissolved and reconstituted pursuant to appropriate laws relating to the formation and conduct of corporations, after providing, in any case, for the payment of all current operating expenses, taxes, indebtedness and all accrued interest thereon, and the par value of and accrued dividends on the outstanding stock of the redevelopment corporation. If, after making the provision and after the conveyance of the project, a cash surplus remains in the treasury of the redevelopment corporation, the cash surplus shall, upon dissolution, be paid into the redevelopment fund of the county. After the dissolution and conveyance or the reconstitution, any tax exemption granted to the redevelopment corporation pursuant to section 53-38 shall cease and terminate, and the provisions of this part regulating redevelopment corporations only shall become and be inapplicable to the project.

(b) If prior to the expiration of the thirty-five-year period the project is sold for any reason, the redevelopment corporation shall dissolve and any tax exemption granted to the redevelopment corporation pursuant to section 53-38 shall cease and terminate. In such case the stockholders and income debenture certificate holders shall in no event receive more than the par value of their stock and the face value of their income debenture certificates with accrued and unpaid dividends or interest upon such stock and income debenture certificates, and any remaining surplus shall be paid into the redevelopment fund of the agency.

(c) In no event shall a redevelopment corporation be voluntarily dissolved unless provision is made for the payment

in full of the remaining balance of principal and interest due or unpaid upon any mortgage on its property or any part thereof, but any project may, with the consent of the agency, be conveyed and transferred to the agency subject to the mortgage and accrued interest.

(d) Unless the agency consents to the voluntary dissolution of a redevelopment corporation, the corporation shall not dissolve except in accordance with subsections (a) and (b) of this section or upon the expiration of the period of corporate existence as fixed by its articles.

(e) The contract with the agency may contain such other provisions for the dissolution of the redevelopment corporation as may be deemed advisable, not inconsistent with the provisions of this section.

(f) Upon dissolution as provided in this section, the provisions of this part regulating redevelopment corporations only shall become and be inapplicable to the project and its owner or owners.

(g) Nothing in this section shall have the effect of releasing the successors in interest of the redevelopment corporation from covenants, conditions, restrictions, and limitations running with the land and not appropriate solely to a redevelopment corporation. [L 1949, c 379, §19; RL 1955, §143-35; HRS §53-36]

" **§53-37 Participation by certain corporations.** One or more insurance companies may organize, or cause to be organized, a redevelopment corporation formed pursuant to the provisions of this part, and purchase for cash or receive and hold in exchange for property, and own and control, the stock or the income debenture certificates or both of any redevelopment corporation and may also invest, singly or jointly, in a bond and first mortgage or in an issue of bonds secured by mortgage or trust indenture constituting a first lien upon any project as provided in this part. An insurance company, however, which owns stock or income debenture certificates of a redevelopment corporation and also owns bonds or a bond and mortgage or an interest in a bond and mortgage of the same redevelopment corporation shall not, without the consent of the agency, sell all or any part of the bonds or the bond and mortgage or of its interest in the bond or mortgage unless it shall simultaneously sell the stock and the income debenture certificates owned by it.

Notwithstanding any other provisions of law, an insurance company owning all or a part of the stock of a redevelopment corporation may enter into contracts contemplated by this part and agree by contract with the redevelopment agency not to sell, assign, or otherwise transfer the stock, income debentures, or

mortgage bonds of the redevelopment corporation during the period of tax exemption provided for by the contract pursuant to this part without the consent of the agency. The insurance company may make such capital contributions to the redevelopment corporation, in cash or by cancellation of securities or otherwise, as may be necessary to enable the redevelopment corporation to comply with all conditions precedent to its dissolution and conveyance of its property in accordance with subsection (a) of section 53-36, and upon dissolution of the redevelopment corporation, acquire the project and own and operate the same as a permanent investment for such period as it or they may deem desirable either directly or through acquisition and ownership of the capital stock of any corporation which may acquire title to the project pursuant to subsection (a) of section 53-36.

Except as specifically provided herein this part shall not be deemed to limit or restrict any power or authority granted to insurance companies or to any other corporation or to any fiduciary by any other provision of law. [L 1949, c 379, §20; RL 1955, §143-36; HRS §53-37]

" **§53-38 Tax exemption.** Where and so long as the major portion of a redevelopment project of a redevelopment corporation is composed of residential units and the rents for the residential units are reasonable as compared with prevailing rental levels for comparable accommodations, the land and improvements in the project shall be exempted (1) for ten years from the date of acquisition of such project by the redevelopment corporation, from real property taxes, other than assessments for local improvements in excess of the total real property taxes paid upon the land and improvements for the year prior to the commencement of proceedings by the agency for the acquisition of the lands and improvements; and (2) for the next succeeding fifteen-year period following such ten-year period, from real property taxes on fifty per cent of the assessed valuation of the property and improvements; provided that:

- (A) Where the cost of acquisition of the land and improvements in the redevelopment project by the redevelopment corporation is at least ninety per cent of the cost of acquisition, clearing and improvement of the land and improvements by the redevelopment agency, the tax exemption granted under clause (1) of this section shall be for fifteen years from the date of acquisition of the project by the redevelopment corporation, with no further exemption thereafter, except that, if the net earnings from the project for the last five of the fifteen-year period, above

expenses, taxes, assessments, and depreciation or amortization (as provided in section 53-27), available for payment of interest and dividends, shall be less than three per cent of the total actual final cost of the project (as defined by [paragraph] (2) of section 53-32), then the tax exemption granted under this proviso (A) shall be extended for an additional ten years; and

- (B) No such tax exemption shall be allowed for any land and improvements which are used for commercial, industrial, or any other nonresidential purposes. [L 1949, c 379, §21; am L 1951, c 244, §9; am L 1955, c 271, §1(m); RL 1955, §143-37; am L 1959, c 44, §6; HRS §53-38]

" **§53-39 No limitation of provisions by implication.** No provision in this part applicable specially or only to a redevelopment corporation shall be construed to limit by implication the applicability of this part or any other provision thereof to any other person or corporation. [L 1949, c 379, §23; RL 1955, §143-38; HRS §53-39]

## "PART II. URBAN RENEWAL

**§53-51 Urban renewal projects.** In addition to its authority under any other section of this chapter, a redevelopment agency may plan and undertake urban renewal projects within urban areas. As used in this chapter, an urban renewal project may include undertakings and activities for the elimination (and for the prevention of the development or spread) of slums, or other blighted, or deteriorated, or deteriorating areas and may involve any work or undertaking for the purpose constituting a redevelopment project or any rehabilitation or conservation work or a program of code enforcement, or any combination of such undertaking or work. For this purpose, "rehabilitation or conservation work" may include (1) carrying out plans for a program of voluntary or compulsory repair and rehabilitation of buildings or other improvements; (2) acquisition of real property and demolition, removal, or rehabilitation of buildings and improvements thereon where necessary to eliminate unhealthful, unsanitary, or unsafe conditions, lessen density, reduce traffic hazards, eliminate obsolete or other uses detrimental to the public welfare, or to otherwise remove or prevent the spread of blight or deterioration, or to provide land for needed public facilities; (3) installation, construction, or reconstruction of streets, utilities, parks, playgrounds, and other improvements necessary

for carrying out the objectives of the urban renewal project; and (4) the disposition, for uses in accordance with the objectives of the urban renewal project of any property or part thereof acquired in the area of the project; provided that the disposition shall be in the manner prescribed in this chapter for the disposition of property in a redevelopment project area under part I. [L 1955, c 271, pt of §1; RL 1955, §143-51; am L 1965, c 101, §1(m); HRS §53-51]

" **§53-52 Urban renewal plan.** Any urban renewal project undertaken pursuant to section 53-51 shall be undertaken in accordance with an urban renewal plan for the area of the project. As used in this chapter, an "urban renewal plan" means a plan, as it exists from time to time, for an urban renewal project, which plan (1) shall conform to the master plan for the county as a whole; or if there is no master plan for the county as a whole, then to the master plan for the urban area as a whole of which the urban renewal project area constitutes a part; and (2) shall be sufficiently complete to indicate such land acquisition, demolition, and removal of structures, redevelopment, improvements, and rehabilitation as may be proposed to be carried out in the area of the urban renewal project, zoning and planning changes, if any, land uses, maximum densities, building requirements, and the plan's relationship to definite local objectives respecting appropriate land uses; improved traffic, public transportation, public utilities, recreational and community facilities, and other public improvements. An urban renewal plan shall be prepared and approved pursuant to the same procedure as provided in this chapter with respect to a redevelopment plan, except as specifically provided in this part. [L 1955, c 271, pt of §1; RL 1955, §143-52; HRS §53-52]

" **§53-53 Powers with respect to urban renewal.** A redevelopment agency shall have all the powers necessary or convenient to undertake and carry out all urban renewal plans and urban renewal projects, including the authority to acquire and dispose of property, to issue bonds and other obligations, to borrow and accept grants from the federal government or any other source, and to exercise the other powers which this chapter confers on an agency with respect to redevelopment projects. For the purposes of this part in connection with the planning and undertaking of any urban renewal plan or urban renewal project, the agency, the county, and all public and private officers, agencies, and bodies shall have all the rights, powers, privileges, and immunities which they have with respect to a redevelopment plan or redevelopment project, in the

same manner as though all of the provisions of part I of this chapter applicable to a redevelopment plan or redevelopment project were therein expressly made applicable to an urban renewal plan or urban renewal project; and for such purposes as used in part I and in this part elsewhere than in this section, except where the context clearly indicates such meaning to be inappropriate or as otherwise expressly provided in this section:

- (1) The word "redevelopment" (elsewhere than in section 53-1) means "urban renewal";
- (2) The word "slum" and the word "blighted" (elsewhere than in section 53-1) mean "blighted, deteriorated, or deteriorating";

provided (A) that nothing in this part shall be deemed to change the meaning of the terms "local redevelopment agency" or "agency," or the corporate name of any local redevelopment agency; and (B) that the finding by the council that the project area is a blighted area prescribed by section 53-6 shall not be required.

In addition to the surveys and plans which an agency otherwise may make, an agency may make (1) plans for carrying out a program of voluntary repair and rehabilitation of buildings and improvements, and (2) plans for the enforcement of laws, codes, and regulations relating to the use of land and the use and occupancy of buildings and improvements, and to the compulsory repair, rehabilitation, demolition, or removal of buildings and improvements. The agency may develop, test, and report methods and techniques, and carry out demonstrations and other activities, for the prevention and the elimination of slums and other urban blight. [L 1955, c 271, pt of §1; RL 1955, §143-53; HRS §53-53; am L 1999, c 18, §2]

### **Cross References**

For definition of "agency, the county" in first paragraph, see §53-83(17).

" **§53-54 Assistance to urban renewal by counties and other public bodies.** Any county or other public body may (without limiting any provision in section 53-53) do any and all things necessary to aid and cooperate in the planning and undertaking of an urban renewal project in the area in which the county or public body is authorized to act, including the furnishing of such financial and other assistance as the county or public body is authorized by this chapter to furnish for or in connection with a redevelopment plan or redevelopment project. A redevelopment agency may delegate to a county or other public

body any of the powers or functions of the agency with respect to the planning or undertaking of an urban renewal project in the area in which the county or public body is authorized to act, and the county or public body may carry out or perform such powers or functions for the agency. Any public body may enter into agreements (which may extend over any period, notwithstanding any provision or rule of law to the contrary) with any other public body or bodies respecting action to be taken pursuant to any of the powers granted by this part, including the furnishing of funds or other assistance in connection with an urban renewal plan or urban renewal project. [L 1955, c 271, pt of §1; RL 1955, §143-54; HRS §53-54]

" **§53-55 Urban redevelopment coordinator, office created.** In any county which shall, by resolution adopted in the manner required by law for an ordinance, announce its intention to devise and adopt a "workable program" for urban renewal, pursuant to this chapter, the county may by ordinance create the office of urban renewal coordinator. [L 1955, c 271, pt of §1; RL 1955, §143-55; HRS §53-55]

" **§53-56 Workable program, definition.** "Workable program" means a program (including an official plan of action, as it exists from time to time for effectively dealing with the problem of urban slums and other blighted, deteriorated, or deteriorating areas within the community and for the establishment and preservation of a well-planned community with well-organized residential neighborhoods of decent homes and suitable living environment for adequate family life) for utilizing appropriate private and public resources to eliminate, and prevent the development or spread of, slums and other urban blight and deterioration, to encourage needed urban rehabilitation, to provide for the redevelopment of slum or other blighted, or deteriorated, or deteriorating areas or to undertake such of these activities or other feasible activities as may be suitably employed to achieve the objectives of the program. [L 1955, c 271, pt of §1; RL 1955, §143-56; HRS §53-56]

" **§53-57 Coordinator, appointment, term, removal.** The urban renewal coordinator, hereinafter called the "coordinator" shall be appointed by the mayor of the county, with the approval of the council for a term of four years, at a salary fixed by ordinance but not less than the lowest compensation paid any of the county cabinet officers provided for by the Honolulu Charter, in the case of the city and county of Honolulu, or by section 62-1, in the case of any other county. The office of coordinator shall not be subject to any law relating to civil



service or classification. The coordinator shall be removed only for cause by the mayor of the county with the approval of the council, after a hearing at which the coordinator shall be afforded a reasonable opportunity to be heard. [L 1955, c 271, pt of §1; RL 1955, §143-57; HRS §53-57; gen ch 1985]

#### **Note**

Section 62-1 referred to in text is repealed.

" **§53-58 Coordinator, qualifications.** In order to be qualified for appointment as coordinator, the appointee:

- (1) Shall be a citizen of the State with at least three years' residence in the county of the appointee's appointment;
- (2) Shall have at least five years of high level administrative experience;
- (3) Shall have a minimum of five years, or have professional status, in a technical field related directly to urban renewal activities (such as experience in city planning; public administration, real estate brokerage, salesmanship, or management; housing research or surveys; the practice of law or engineering involving a very substantial experience in matters relating to land, and the like);
- (4) Shall have a good working knowledge of local governmental programs relating to the improvement of housing and neighborhood conditions;
- (5) Shall be a person of good reputation and proven ability in maintaining harmonious relations with people. [L 1955, c 271, pt of §1; RL 1955, §143-58; HRS §53-58; gen ch 1985]

" **§53-59 Coordinator, duties and powers.** The coordinator shall among other things:

- (1) Prepare and submit to the council data and recommendations necessary or proper to enable the council to adopt a workable program best calculated to meet the requirements of this chapter and the needs of the county in relation to the workable program.
- (2) Prepare and submit to the council from time to time additional data and recommendations for improving and rendering more effective and efficient the workable program and its operation.
- (3) Consult with any department, board, commission, agency, entity, or officer of the State or any political subdivision thereof, or of the government of

the United States, and with any other persons, firms, corporations, or private entities which might be affected by the workable program, or might contribute to the successful operation of the same, and make recommendations to the council and to them for coordinating their functions and operations to the extent feasible in order to integrate all related activities into a unified program best calculated to achieve the objectives of urban renewal as set forth in this chapter and in the laws of the United States relating to urban renewal.

- (4) Perform such functions and activities as may be necessary or proper for coordinating the activities or carrying out the workable program as adopted or amended from time to time by the council, and perform such other related functions and activities as may be granted or authorized to be delegated to the coordinator by the council pursuant to this chapter.

Notwithstanding any other provision of law to the contrary, the council may grant to the coordinator duties and powers concurrent with those of other county departments, boards, commissions, agencies, or officers, necessary or proper, in the judgment of the council, to enable the coordinator to achieve the most effective coordination of the activities in the operation of the workable program; but nothing in this chapter shall be deemed to impair or reduce the authority or jurisdiction of any existing department, board, commission, agency, or officer. [L 1955, c 271, pt of §1; RL 1955, §143-59; am L 1959, c 226, §2; am L 1961, c 112, §3; HRS §53-59; gen ch 1985]

" **§53-60 Ordinance relating to repair, closing, and demolition of dwellings unfit for human habitation.** (a)

Whenever any county finds that there exists in urban areas in the county dwellings which are unfit for human habitation due to dilapidation, defects increasing the hazards of fire, accidents, or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions, including those set forth in subsection (c) hereof, rendering the dwelling unsafe or unsanitary, or dangerous or detrimental to the health, safety, or welfare, or otherwise inimical to the welfare of the residents of the county, power is hereby conferred upon the county to require or cause the repair, closing or demolition or removal of the dwellings in the manner herein provided. A "dwelling" means any building, or structure, or part thereof, used and occupied for human habitation or intended to be so

used, and includes any appurtenances belonging thereto or usually enjoyed therewith.

(b) Upon the adoption of an ordinance finding that dwelling conditions of the character described in subsection (a) hereof exist within a county, the council may adopt ordinances relating to the dwellings within the county which are unfit for human habitation. The ordinances shall include the following provisions except as otherwise provided by chapter 91:

- (1) That a public officer be designated or appointed to exercise powers prescribed in the ordinance, and that a board of appeals be created to conduct hearings prescribed hereinafter and setting forth the qualifications, the manner of appointment and term of office of its members.
- (2) That whenever a petition is filed with the public officer by at least five residents of the county charging that any dwelling is unfit for human habitation or whenever it appears to the public officer (on the public officer's own motion) that any dwelling is unfit for human habitation, the public officer shall, if the public officer's preliminary investigation discloses a basis for the charges, issue and cause to be served upon the owner, every mortgagee of record, and all parties in interest in the dwelling (including persons in possession) a complaint stating the charges in that respect. Such complaint shall contain a notice that a hearing will be held before the board of appeals at a place therein fixed not less than ten days nor more than thirty days after the serving of the complaint; that the owner, mortgagee, and parties in interest shall be given the right to file an answer to the complaint and to appear in person or otherwise, and give testimony at the place and time fixed in the complaint; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the board of appeals.
- (3) That the board of appeals may administer oaths, affirmations, examine witnesses and receive evidence, and that if, after such notice and hearing, the board of appeals determines that the dwelling under consideration is unfit for human habitation it shall state in writing its findings of fact in support of the determination and shall issue and cause to be served upon the owner thereof an order which,
  - (A) If the repair, alteration, or improvement of the dwelling can be made at a reasonable cost in

relation to the value of the dwelling (the ordinance of the county shall fix a certain percentage of the cost as being reasonable for the purpose), requires the owner, within the time specified in the order, to repair, alter, or improve the dwelling to render it fit for human habitation or to vacate and close the dwelling as a human habitation; or

(B) If the repair, alteration, or improvement of the dwelling cannot be made at a reasonable cost in relation to the value of the dwelling (the ordinance of the county shall fix a certain percentage of the cost as being reasonable for the purpose), requires the owner, within the time specified in the order, to remove or demolish the dwelling.

(4) That, if the owner fails to comply with an order to repair, alter, or improve or to vacate and close the dwelling, the public officer may cause the dwelling to be repaired, altered, or improved, or to be vacated and closed.

(5) That, if the owner fails to comply with an order to remove or demolish the dwelling, the public officer may cause the dwelling to be removed or demolished.

(6) That the amount of the cost of the repairs, alterations, or improvements, or vacating and closing, or removal or demolition by the public officer shall be a lien against the real property upon which the cost was incurred. If the dwelling is removed or demolished by the public officer the public officer shall sell the materials of the dwelling and shall credit the proceeds of the sale against the cost of the removal or demolition and any balance remaining shall be deposited with the clerk of the circuit court of the circuit in which the county is situated, by the public officer, shall be secured in such manner as may be directed by the court, and shall be disbursed by the court to the persons found to be entitled thereto by final order or decree of the court.

(c) An ordinance adopted by a county pursuant to this section shall provide that the public officer or the board of appeals may determine that a dwelling is unfit for human habitation if it is found that conditions in such dwelling which are dangerous or injurious to the health, safety, or welfare of the occupants of such dwelling, the occupants of neighboring dwellings, or other residents of such county, or which have a blighting influence on properties in the area. The conditions

may include the following, without limitation: defects therein increasing the hazards of fire, accident or other calamities; lack of adequate ventilation, light, or sanitary facilities; dilapidation; disrepair; structural defects; uncleanliness; overcrowding; inadequate ingress and egress; inadequate drainage; or any violation of health, fire, building or zoning regulations, or any other laws or regulations relating to the use of land and the use and occupancy of buildings and improvement. Such ordinance may provide additional standards to guide the public officer or the public officer's agents or employees or the board of appeals in determining the fitness of a dwelling for human habitation.

(d) Complaints or orders issued pursuant to an ordinance adopted under this section shall be served upon persons either personally or by registered mail, but if the whereabouts of the persons is unknown and the same cannot be ascertained by the public officer in the exercise of reasonable diligence, and the public officer makes an affidavit to that effect, then the serving of the complaint or order upon the persons may be made by publishing the same once each week for two consecutive weeks in a newspaper printed and published in the county, or, in the absence of such newspaper, in one printed and published in the State and circulating in the county in which the dwellings are located. A copy of the complaint or order shall be posted in a conspicuous place on the premises affected by the complaint or order. A copy of the complaint or order shall also be filed with the registrar of conveyances or, in the case of registered land (but excluding a leasehold time share interest), with the assistant registrar of the land court as provided in section 501-136, and the filing of the complaint or order shall have the same force and effect as other lis pendens notices provided by law.

(e) Any person affected by an order issued by the board of appeals may petition the circuit court for an injunction restraining the public officer from carrying out the provisions of the order and the court may, upon such petition, issue a temporary injunction restraining the public officer pending the final disposition of the cause, provided that the petition is filed within sixty days after the posting and service of the order of the board of appeals. Hearings shall be held by the court on such petitions within twenty days, or as soon thereafter as possible, and shall be given preference over other matters on the court's calendar. The court shall hear and determine the issues raised and shall enter a final order or decree in the proceeding. In all the proceedings the findings of the board of appeals as to the facts, if supported by evidence shall be conclusive. Costs shall be in the discretion

of the court. Except as otherwise provided in chapter 91, the remedies herein provided shall be exclusive remedies and no person affected by an order of the board of appeals shall be entitled to recover any damages for action taken pursuant to any order of the board of appeals, or because of compliance by the person with any order of the board of appeals.

(f) An ordinance adopted by the council may authorize the public officer to exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this section, including the following powers in addition to others herein granted:

- (1) To investigate the dwelling conditions in the county in order to determine which dwellings therein are unfit for human habitation;
- (2) To enter upon premises for the purpose of making examinations, provided that the entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession, and to obtain an order for this purpose from a court of competent jurisdiction in the event entry is denied or resisted;
- (3) To appoint and fix the duties of such officers, agents, and employees as the public officer deems necessary to carry out the purposes of such ordinance;
- (4) To delegate any of the public officer's functions and powers under the ordinance to such officers, agents, and employees as the public officer may designate.

(g) The council adopting an ordinance under this section shall as soon as possible thereafter prepare an estimate of the annual expenses or costs to provide the equipment, personnel, and supplies necessary for periodic examinations and investigations of the dwellings in the county for the purpose of determining the fitness of the dwellings for human habitation, and for the enforcement and administration of its ordinance or ordinances adopted under this section.

(h) Nothing in this section shall be construed to abrogate or impair the powers of the courts or of any department of any county or the State to enforce any provisions of its charter or its ordinances or regulations, nor to prevent or punish violations thereof; and the powers conferred by this section shall be in addition and supplemental to the powers conferred by any other law.

(i) Nothing in this section shall be construed to impair or limit in any way the power of the county or of the department of health of the State to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise. [L 1955, c 271, pt of §1; RL 1955, §143-60; am L Sp

1959 2d, c 1, §19; am L 1965, c 96, §90; HRS §53-60; am L 1970, c 55, §1; gen ch 1985; am L 1998, c 219, §2]

### **Cross References**

Service by certified mail, see §1-28.

### **Case Notes**

Notice of hearing must be given to person in possession. 61 H. 156, 598 P.2d 168.

" **§53-61 REPEALED.** L 1968, c 56, §4.

### **"[PART III.] EXERCISE OF URBAN RENEWAL POWERS BY A COUNTY DIRECTLY**

**[§53-81] County may exercise urban renewal powers directly.** As an alternative to either the creation under section 53-2 of an agency in a county or the continued existence of an agency theretofore created in the county under said section, a county, rather than through such agency, may directly exercise as provided in this part the powers conferred upon an agency by parts I and II of this chapter. In the event that an agency does not then exist in the county, the determination by a county to exercise such powers directly rather than through such an agency shall be made by ordinance of the council. In the event that an agency does then exist in the county, the charter of the county shall provide for the abolition of the agency and for the transfer of the powers, duties and functions of the agency to an officer or department of the county, and the agency shall stand abolished as provided in the charter. Upon such determination or abolition, as the case may be, the county shall then possess all powers granted to a county by this part. [L 1974, c 123, pt of §2]

" **[§53-82] Abolition of existing agency.** In the event of the abolition of an agency in the county, the county upon such abolition shall succeed to all the powers, rights, duties, functions, funds, properties and obligations of the agency. However, as to any obligations of the agency existing at the time of the abolition, the county shall not incur any greater liability than that of the agency at the time of such abolition. The county shall not be liable for such obligations out of any funds or properties of the county other than those funds and properties which would have been required to be applied to the

satisfaction of such obligations had such abolition not occurred.

If any of the obligations of the agency constitute bonds or other indebtedness of the agency, the county shall carry out and perform all promises, covenants, contracts and agreements of the agency contained in such bonds or other indebtedness or in the resolution, trust agreement, mortgage or other proceeding or instrument providing for the issuance, payment and security of such bonds or other indebtedness, and shall maintain such funds and accounts as are required for such purpose or as are required by such bonds, other indebtedness, resolution, trust agreement, mortgage, proceeding or instrument. The provisions of the last paragraph of section 53-85 shall be applicable to such bonds or other indebtedness. [L 1974, c 123, pt of §2]

" **[§53-83] Powers of county.** Any county which pursuant to section 53-81 shall directly rather than through an agency exercise the powers conferred upon an agency by parts I and II of this chapter shall have all powers granted to an agency under such parts, and the provisions of such parts shall be applicable to the county in the exercise of such powers as though the county constituted an agency thereunder. However, the preceding provisions of this paragraph shall be subject to the following:

- (1) The county shall exercise such powers in its own name and shall not be required to use the words "redevelopment agency" in such exercise.
- (2) The provisions of section 53-2, being inappropriate where the county directly carries out the purposes of this chapter, shall not be applicable.
- (3) The provisions of section 53-3 shall apply to the members of the council and to the elected and appointed officials and the employees of the county administering or performing the functions of the county under this part or responsible for such administration or performance.
- (4) The provisions of section 53-4 shall not be applicable to the county. In lieu thereof removal of members of the council and of the elected and appointed officials and the employees of the county administering or performing any of the functions of the county under this part shall be as provided in the charter of the county or in other laws.
- (5) The provisions of paragraph (3) of section 53-5 shall not apply to the county. In lieu thereof the county shall appoint such personnel as provided by or in accordance with the charter of the county or other laws.



- (6) The words "redevelopment agency" and "agency" where used in the first and second paragraphs and the first sentence of the third paragraph of section 53-6 shall mean the officer or department of the county to which or whom is assigned the performance of the duties and functions of the county under this part, and amendments made pursuant to said section by the board to a redevelopment plan shall not be required to be approved by such officer or department.
- (7) The provisions of the third, fifth and seventh paragraphs of section 53-8, being inappropriate to the carrying out by the county directly of the purposes of this chapter, shall not be applicable.
- (8) The county shall possess all powers granted by section 53-11 to an instrumentality of the government with the same force and effect as though the county were not directly performing the functions of an agency under this chapter.
- (9) The bonds referred to in paragraph (5) of section 53-11 shall include bonds issued by the county to carry out the purposes of this chapter.
- (10) Any lease proposed to be entered into under the provisions of section 53-12 which has been authorized by the council need not thereafter be submitted to the council for its approval or disapproval.
- (11) The provisions of section 53-14 shall be inapplicable. The county may provide for payments to the county in lieu of taxes or for the supplying by the county of governmental services.
- (12) Borrowings by the county pursuant to section 53-15 and the issuance by the county of bonds pursuant to section 53-16 shall be subject to the provisions of section 53-84.
- (13) The provisions of section 53-18 shall not be applicable. In lieu thereof any funds of the county arising out of the exercise of its functions under this part shall be invested in accordance with the provisions of law applicable to the investment of other moneys of the county.
- (14) The provisions of section 53-19 shall not be applicable. In lieu thereof the county shall include in its annual financial report a report of its receipts, expenditures and activities under this chapter for the year to which such annual report pertains, and shall include in its annual budget or budgets its proposed program under this chapter and

- the estimated cost thereof for the year to which such budget or budgets pertain.
- (15) The approval by the council of any plan or project authorized in section 53-20 shall not require any concurrency, including by the officer or department administering or performing the functions of the county under this part.
  - (16) The provisions of [subsection] (b) of section 53-22 shall be inapplicable; provided that nothing in this subparagraph shall be deemed to prohibit the county from advancing for the purposes of this part moneys other than redevelopment moneys or funds, or from reimbursing itself from redevelopment moneys or funds so advanced, or from issuing its bonds as provided in this part.
  - (17) The words the "agency, the county" where used in the second sentence of section 53-53 shall mean and refer to the county.
  - (18) The second sentence of section 53-54 shall be construed as meaning that the county may delegate to any other public body any of the powers or functions of the county with respect to the planning or undertaking of an urban renewal project in the area in which such public body is authorized to act, and such other public body may carry out or perform such powers or functions for the county. [L 1974, c 123, pt of §2]

#### **Revision Note**

"Section 53-84" in paragraph (12) substituted for "the next section of this part".

" **§53-84 Incurring of indebtedness by the county.** For the purpose of carrying out its powers, duties, and functions under this part, including for the payment of principal and interest upon any advances for moneys and plans for redevelopment projects, the county may:

- (1) Borrow and apply for and accept advances and loans; provided that unless the obligation of the county to repay such advances or satisfy such loans is limited to the revenues derived by the county from an undertaking as defined in section 53-85, the incurring by the county of any such indebtedness shall be carried out under and pursuant to chapter 47;
- (2) Issue its bonds under and pursuant to chapter 47, including, without limiting the foregoing, for the refunding of bonds issued by an agency of the county

abolished as provided in section 53-81 and the refunding of bonds issued by the county under paragraph (3); and

- (3) Issue its bonds under and pursuant to section 53-16, all of the provisions of which shall be applicable to such bonds and to the county in the issuance thereof except as follows:
  - (A) Such bonds shall be issued only for the purpose of carrying out the powers, duties, and functions of the county under this part, including, without limiting the foregoing, the refunding of bonds issued by the county under this paragraph or paragraphs (1) and (2) or the refunding of bonds issued by an agency of the county abolished as provided in section 53-81;
  - (B) The principal of and interest on such bonds shall be payable and secured solely as provided in section 53-16(a)(1) and (2), and in no event shall be payable from the general fund of the county or from taxes or from any other funds or properties of the county other than those referred to in such paragraphs (1) and (2), nor shall such bonds be secured by the full faith and credit of the county or the general fund or the taxing power of the county;
  - (C) Neither the council nor any officer or employee of the county nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof;
  - (D) The bonds shall be limited obligations of the county payable and secured solely as provided in subparagraph (B) and shall so state on their face;
  - (E) The words "members" or "officers" where used in section 53-16(e) shall mean members of the council and officers of the county; and
  - (F) The words "rents", "fees", and "revenues" where used in section 53-16(g) shall mean and include only those rents, fees, and revenues derived by the county from its activities under this part; the words "real or personal property" and "property" where used in section 53-16(g) shall mean only the real or personal property held by the county for the purposes of this chapter and shall not include real or personal property held for other public uses and purposes, such as streets, parks, public buildings, publicly-owned

utilities, and the like; and the word "bonds" where used in section 53-16(g) shall mean bonds of the county issued under section 53-16(g) as incorporated into this part and the bonds of any agency of the county abolished as provided in section 53-81. [L 1974, c 123, pt of §2; am L 1987, c 283, §6; am L 1988, c 141, §8]

" **[§53-85] Projects to constitute "undertakings"; revenues to include certain federal moneys; imposition of rates and charges.** In the event of the exercise by a county of the powers granted in this part, each redevelopment project of the county, two or more redevelopment projects of the county if administered as a single project, or all of the redevelopment projects of the county if administered as an entity, shall constitute an undertaking of the county. For all purposes of this part and of chapters 47 and 47C, the term "revenues" shall mean the moneys derived from the rates and charges imposed for the use and services of the undertaking or otherwise derived by the county from its ownership or operation of the undertaking, exclusive of taxes and payments made to the county for services separate and apart from this chapter but inclusive of amounts paid by the federal government for payment, or reimbursement of payment by the county, of costs of operation, maintenance and repair of an undertaking, for payment, or reimbursement of payment by the county, of principal of or interest on bonds issued for an undertaking, or for any other purpose connected with an undertaking.

Whenever and for so long as there shall be outstanding bonds issued by the county under section 53-16 as incorporated in this part or issued under said section by an agency of the county abolished as provided in this part, the county shall impose rates and charges for the use and services of the undertaking, from the revenues derived from which such bonds are payable or for which such bonds were issued, sufficient to pay the costs of operation, maintenance and repair of the undertaking and to pay the principal of and interest on such bonds. The county shall deposit such revenues in a special fund and apply the same to such payments in the amount necessary therefor. [L 1974, c 123, pt of §2]