

CHAPTER 356D
HAWAII PUBLIC HOUSING AUTHORITY

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"PART I. GENERAL POWERS

§356D-1 Definitions. The following terms, wherever used or referred to in this chapter shall have the following respective meanings, unless a different meaning clearly appears from the context:

"Authority" means the Hawaii public housing authority.

"Board" means the board of directors of the Hawaii public housing authority.

"Bonds" means any bonds, interim certificates, notes, debentures, participation certificates, pass-through certificates, mortgage-backed obligations, or other evidences of indebtedness of the authority issued pursuant to this chapter.

"Community facilities" includes real and personal property; buildings, equipment, lands, and grounds for recreational or social assemblies, and for educational, health, or welfare purposes; and necessary or convenient utilities, when designed primarily for the benefit and use of the authority or the occupants of the dwelling units.

"Contract" means any agreement of the authority with an obligee or a trustee for the obligee, whether contained in a resolution, trust indenture, mortgage, lease, bond, or other instrument.

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

"Elder" or "elderly" means a person who is a resident of the State and has attained the age of sixty-two years.

"Elder or elderly households" means households in which at least one member is sixty-two years of age, the spouse or partner has attained eighteen years of age, and the remaining members have attained the age of fifty-five years at the time of application to the project.

"Elder or elderly housing" means:

- (1) A housing project intended for and occupied by elder or elderly households; or
- (2) Housing provided under any state or federal program that the Secretary of the United States Department of Housing and Urban Development determines is specifically designed and operated to assist elder or elderly persons, or if the Secretary makes a determination, the project may also be occupied by persons with disabilities who have reached eighteen years of age.

"Executive director" means the executive director of the Hawaii public housing authority.

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

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

"Household member" means a person who:

- (1) Is a co-applicant; or
- (2) Will reside in the dwelling unit leased or rented from the authority.

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

"Live-in aide" means a person who:

- (1) Is eighteen years of age or older;
- (2) Is living in the unit solely to assist the elder or elderly person in daily living activities including bathing, meal preparation and delivery, medicinal care, transportation, and physical activities;
- (3) Is not legally obligated to support the elder or elderly person; and
- (4) Is verified by the authority as meeting these requirements.

"Mortgage holder" includes the United States Department of Housing and Urban Development, Federal Housing Administration, the United States Department of Agriculture, or other federal or state agency engaged in housing activity, United States Department of Veterans Affairs, Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation, private mortgage lender, private mortgage insurer, and their successors, grantees, and assigns.

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

- (1) Is authorized to do business in the State;
- (2) Customarily provides service or otherwise aids in the financing of mortgages on single-family or multifamily residential property; and
- (3) Is a financial institution whose accounts are federally insured or is an institution that is an approved mortgagee for the Federal Housing Administration, an approved lender for the United States Department of Veterans Affairs or the United

States Department of Agriculture, or an approved mortgage loan servicer for the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation.

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

"Obligee of the authority" or "obligee" includes any bondholder, trustee or trustees for any bondholders, any lessor demising property to the authority used in connection with a housing project, or any assignee or assignees of the lessor's interest or any part thereof, and the United States, when it is a party to any contract with the authority.

"Public housing project", "housing project", or "complex" means a housing project directly controlled, owned, developed, or managed by the authority pursuant to any federally assisted housing as defined in title 24 Code of Federal Regulations section 5.100, but does not include state low-income housing projects as defined in section 356D-51.

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

"Tenant" means any person occupying a dwelling unit or living quarters in any public housing project, under or by virtue of any tenancy lease or rental agreement under or from the authority.

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

"Trust indenture" means an agreement by and between the authority and the trustee, that sets forth the duties of the trustee with respect to the bonds, the security therefor, and other provisions as deemed necessary or convenient by the authority to secure the bonds. [L 2006, c 180, pt of §2; am L 2007, c 193, §3; am L 2013, c 149, §1]

" **§356D-2 Hawaii public housing authority; establishment, staff.** (a) There is established the Hawaii public housing authority to be placed within the department of human services

for administrative purposes only. The authority shall be a public body and a body corporate and politic.

(b) The authority shall employ, exempt from chapter 76 and section 26-35(a)(4), an executive director, an executive assistant, a chief financial management advisor, a property management branch chief, a chief planner, and a redevelopment officer, whose salaries shall be set by the board established under section 356D-3; provided that no salary shall exceed the governor's salary. The authority may employ, subject to chapter 76, technical experts and officers, agents, and employees, permanent or temporary, as required. The authority may also employ officers, agents, and employees; prescribe their duties and qualifications; and fix their salaries, not subject to chapter 76, when in the determination of the authority, the services to be performed are unique and essential to the execution of the functions of the authority; provided that if the authority hires an officer, agent, or employee in a capacity not subject to chapter 76, the authority shall include in an annual report to the legislature, to be submitted not later than twenty days prior to the convening of each regular session, the position descriptions and reasons for hiring the personnel in a civil service exempt capacity. The authority may call upon the attorney general for legal services as it may require. The authority may delegate to one or more of its agents or employees the powers and duties it deems proper. [L 2006, c 180, pt of §2; am L 2013, c 152, §1]

" **§356D-3 Board; establishment, functions, duties.** (a) There is created a board of directors consisting of eleven members, of whom nine shall be public members appointed by the governor as provided in section 26-34. Public members shall be appointed from each of the counties of Honolulu, Hawaii, Maui, and Kauai. At least one public member shall be a person who is directly assisted by the authority under the federal low-rent public housing or federal section 8 tenant-based housing assistance payments program while serving on the board. One public member shall be an advocate for low-income or homeless persons. One public member shall be a person with a disability or an advocate for persons with disabilities. The public members of the board shall serve four-year staggered terms; provided that the initial appointments shall be as follows: four members shall be appointed for four years; three members shall be appointed for three years; and two members shall be appointed for two years. The director of human services, or a designated representative, and a representative of the governor's office, shall be ex officio[,] voting members. The authority shall be headed by the board.

(b) The board of directors shall select a chairperson and vice-chairperson from among its members. The director of human services and the governor's representative shall be ineligible to serve as chairperson of the board.

(c) Six members shall constitute a quorum, whose affirmative vote shall be necessary for all actions by the authority. The members shall receive no compensation for services, but shall be entitled to necessary expenses, including travel expenses, incurred in the performance of their duties. [L 2006, c 180, pt of §2; am L 2007, c 249, §34; am L 2010, c 48, §2]

" **§356D-4 General powers of the authority.** (a) The authority may:

- (1) Sue and be sued;
- (2) Have a seal and alter the same at pleasure;
- (3) Make and execute contracts and other instruments necessary or convenient to the exercise of its powers;
- (4) Adopt bylaws and rules in accordance with chapter 91 for its organization, internal management, and to carry into effect its purposes, powers, and programs;
- (5) Sell, lease, rent, hold, maintain, use, and operate any property, real, personal, or mixed, tangible or intangible, in support of its purposes, powers, and programs; provided that the sale of real property shall be subject to legislative approval;
- (6) Receive by gift, grant, devise, bequest, or otherwise from any source, any property, real, personal, or mixed, intangible or tangible, absolutely or in trust, to be used and disposed of, either the principal or the income thereof, for the benefit only of the residents assisted by its programs; provided that no gift to the authority that has an estimated value of \$1,000 or more shall be accepted unless approved or confirmed by the board; and
- (7) Engage the services of volunteers as deemed appropriate by the authority without regard to chapter 76, 89, 90, 103, or 103D.

(b) In addition to other powers conferred upon it, the authority may do all things necessary and convenient to carry out the powers expressly provided in this chapter. [L 2006, c 180, pt of §2; am L 2013, c 148, §1]

" **[§356D-5] Resident advisory boards; establishment.** (a) The authority may establish a resident advisory board or boards, which shall be comprised of federal public housing residents or section 8 tenant-based housing assistance recipients, to assist

and make recommendations to the authority regarding the development of the public housing agency plan and any significant amendments or modifications to it. The members of the resident advisory board or boards shall adequately reflect and represent residents of federal public housing projects and recipients of section 8 tenant-based assistance administered by the authority.

(b) The members of the resident advisory board shall not be compensated for their services but shall be reimbursed for necessary expenses, including travel expenses, incurred while engaged in business for the resident advisory board.

(c) The authority may adopt rules in accordance with chapter 91 with respect to the establishment of the resident advisory board or boards, including rules concerning the composition, eligibility, selection, and term of members. This section shall not apply if it conflicts with any federal law. [L 2006, c 180, pt of §2]

" **§356D-6 Nomination of resident board member.** (a) If a vacancy occurs for the resident member seat on the board, the resident advisory board shall compile a list of no less than three but no more than five individuals for the governor's consideration for appointment to the board; provided the nominees to the board shall be:

- (1) Participants who are directly assisted by the authority under the federal public housing or section 8 tenant-based programs and who need not be members of the resident advisory board;
- (2) At least eighteen years of age; and
- (3) Authorized members of the assisted household.

(b) Any individual satisfying the requirements of subsection (a) may also submit that individual's name for the governor's consideration for appointment to the board of directors. [L 2006, c 180, pt of §2; am L 2012, c 19, §2]

" **[§356D-6.5] Prohibition on smoking in and around public housing; designated smoking areas.** (a) Smoking shall be prohibited in any public housing project, elder or elderly household, as defined in section 356D-1, or state low-income housing project, as defined in section 356D-51, within:

- (1) Each individual housing unit;
- (2) All common areas;
- (3) Community facilities; and
- (4) Twenty feet from each individual building of the public housing project or state low-income housing project, and from any entrance, exit, window, and

ventilation intake that serves an enclosed or partially enclosed area.

(b) Notwithstanding subsection (a), the authority may designate one or more permissible smoking areas at least twenty feet away from any residential or other building, or any greater distance away as may ensure that the secondhand smoke does not infiltrate any dwelling unit.

(c) The authority shall place and maintain "No smoking" signage at all entrances and exits of the property. The authority may display additional "No smoking" signage at residential and community facilities at their entrances and exits, offices, and in or at enclosed, partially enclosed, or open common areas for the purpose of conspicuous notice.

(d) The authority may adopt rules pursuant to chapter 91 to effectuate the purposes of this section.

(e) For purposes of this section:

"Common areas" means roofs, halls, sidewalks, corridors, lobbies, stairs, stairways, fire escapes, entrances and exits of the building or buildings, basements, yards, gardens, recreational facilities, parking areas, storage spaces, and other parts of the project or household normally in common use or other areas designated by the authority.

"Smoking" means inhaling, exhaling, burning, or carrying any lighted or heated tobacco product or plant product intended for inhalation in any manner or in any form. [L 2014, c 91, §1]

" **[\$356D-7] Fair housing law to apply.** Notwithstanding any law to the contrary, chapter 515 shall apply in administering this chapter. [L 2006, c 180, pt of §2]

" **[\$356D-7.5] Exemption from tax on income and obligations.** Income earned and obligations issued by a nonprofit entity determined to be a "public housing agency" pursuant to section 3(b)(6) of the United States Housing Act of 1937, as amended, and which income and obligations are declared by the United States Department of Housing and Urban Development to be exempt from all taxation imposed by the United States pursuant to section 11(b) of the Act, shall be exempt from all taxation now or hereafter imposed by the State. [L 2013, c 146, §1]

" **[\$356D-8] Acquisition, use, and disposition of property.**
(a) The authority may acquire any real or personal property or interest therein by purchase, exchange, gift, grant, lease, or other means from any person or government to provide public housing. Exchange of real property shall be in accordance with section 171-50.

(b) The authority may own or hold real property. All real property owned or held by the authority shall be exempt from mechanics' or materialmen's liens and also from levy and sale by virtue of an execution, and no execution or other judicial process shall issue against the property of the authority nor shall any judgment against the authority be a charge or lien upon its real property; provided that this subsection shall not apply to nor limit the right of obligees to foreclose or otherwise enforce any mortgage of the authority or the right of obligees to pursue any remedies for the enforcement of any pledge or lien given by the authority on its rents, fees, or revenues. The authority and its property shall be exempt from all taxes and assessments.

(c) The authority may lease or rent all or a portion of any public housing project and establish and revise the rents or charges therefor. The authority may sell, exchange, transfer, assign, or pledge any property, real or personal, or any interest therein to any person or government.

(d) The authority may insure or provide for the insurance of its property or operations against risks as it deems advisable. [L 2006, c 180, pt of §2]

" **[§356D-9] Cooperative agreements with other government agencies.** (a) The authority may:

- (1) Obtain the aid and cooperation of other government agencies in the planning, construction, and operation of public housing projects and enter into agreements and arrangements as it deems advisable to obtain aid and cooperation;
- (2) Arrange or enter into agreements with any government agency for the acquisition by that agency of property, options, or property rights; for the furnishing, installing, opening, or closing of streets, roads, alleys, sidewalks, or other places; for the furnishing of property, services, parks, sewage, water, and other facilities in connection with public housing projects; or for the changing of the map of a political subdivision or the planning, replanning, zoning, or rezoning of any part of a political subdivision;
- (3) Procure insurance or guarantees from any government agency for the payment of any debts or parts thereof incurred by the authority, including the power to pay premiums on any such insurance; and
- (4) Agree to make payments to the state or county government, if the government is authorized to accept payments, as the authority deems consistent with the

maintenance of the character of public housing projects or the purposes of this chapter.

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

- (1) Dedicate, grant, sell, convey, or lease any of its property, or grant easements, licenses, or any other rights or privileges therein to the authority or to the federal government;
- (2) To the extent that it is within the scope of each of their respective functions:
 - (A) Cause the services customarily provided by each of them to be rendered for the benefit of public housing projects and the occupants thereof;
 - (B) Provide and maintain parks; and sewage, water, lights, and other facilities adjacent to or in connection with public housing projects;
 - (C) Open, close, pave, install, or change the grade of streets, roads, roadways, alleys, sidewalks, or other related facilities; and
 - (D) Change the map of a political subdivision or plan, replan, zone, or rezone any part of a political subdivision;
- (3) Enter into agreements with the authority with respect to the exercise of the State or county's powers relating to the repair, closing, or demolition of unsafe, unsanitary, or unfit dwellings;
- (4) Employ, notwithstanding any other law as to what constitutes legal investments, any available funds belonging to them or within their control, including funds derived from the sale or furnishing of property or facilities to the authority, in the purchase of the bonds or other obligations of the authority, and exercise all the rights of any holder of the bonds or other obligations;
- (5) Do any and all things necessary or convenient to aid and cooperate in the planning, undertaking, and construction of public housing projects; and
- (6) Enter into contracts with the authority or the federal government for any period agreeing to exercise any of the powers conferred by this subsection or to take any other action in aid of public housing projects.

In connection with the exercise of the powers conferred by this subsection, any political subdivision may incur the entire expense of any public improvements located within its

territorial boundaries without assessment against abutting property owners.

For the purpose of aiding and cooperating in the planning, construction, and operation of public housing projects, the department of land and natural resources, the Hawaiian homes commission, and any other agency of the State having power to manage or dispose of its public lands, with the approval of the governor and with or without consideration, may grant, sell, convey, or lease for any period, any parts of such public lands, without limit as to area, to the authority or to the federal government.

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

If at any time title to, or possession of, any public housing project is held by any government authorized by law to engage in the development or administration of low-income housing or slum clearance projects, any agreement made under this section relating to the project shall inure to the benefit of and may be enforced by that government.

Insofar as this subsection is inconsistent with the provisions of any other law, this subsection shall control.

(c) Any county in which a public housing project is located or is about to be located may make donations or advances to the authority in sums as the county in its discretion may determine. The advances or donations shall be made for the purpose of aiding or cooperating in the construction and operation of the public housing project. The authority, when it has money available therefor, shall reimburse the county for all advances made by way of a loan to it. [L 2006, c 180, pt of §2]

" **[§356D-10] Agents, including corporations.** The authority may exercise any or all of the powers conferred upon it, either generally or with respect to any specific public housing project through an agent that it may designate, including any corporation that is formed under the laws of this State, and for those purposes the authority may cause one or more corporations to be formed under the laws of this State or may acquire the capital stock of any corporation. Any corporate agent, all of the stock of which shall be owned by the authority or its nominee, may to the extent permitted by law, exercise any of the powers conferred upon the authority in this chapter. [L 2006, c 180, pt of §2]

" **§356D-11 Development of property.** (a) The authority, in its own behalf or on behalf of any government, may:

- (1) Clear, improve, and rehabilitate property; and
- (2) Plan, develop, construct, and finance public housing projects.

(b) The authority may develop public land in an agricultural district subject to the prior approval of the land use commission when developing lands greater than five acres in size. The authority shall not develop state monuments, historical sites, or parks. When the authority proposes to develop public land, it shall file with the department of land and natural resources a petition setting forth such purpose. The petition shall be conclusive proof that the intended use is a public use superior to that to which the land had been appropriated.

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

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

(e) The authority may contract or sponsor with any county, housing authority, or person, subject to the availability of funds, an experimental or demonstration housing project designed to meet the needs of elders, disabled, displaced or homeless persons, low- and moderate-income persons, government employees, teachers, or university and college students and faculty.

(f) The authority may enter into contracts with eligible developers to develop public housing projects in exchange for mixed use development rights. Eligibility of a developer for an exchange pursuant to this subsection shall be determined pursuant to rules adopted by the authority in accordance with chapter 91.

As used in this subsection, "mixed use development rights" means the right to develop a portion of a public housing project for commercial use.

(g) The authority may develop, with an eligible developer, or may assist under a government assistance program in the development of, public housing projects. The land planning activities of the authority shall be coordinated with the county planning departments and the county land use plans, policies, and ordinances.

Any person, if qualified, may act simultaneously as developer and contractor.

In selecting eligible developers or in contracting any services or materials for the purposes of this subsection, the

authority shall be subject to all federal procurement laws and regulations.

For purposes of this subsection, "government assistance program" means a public housing program qualified by the authority and administered or operated by the authority or the United States or any of their political subdivisions, agencies, or instrumentalities, corporate or otherwise.

(h) In connection with the development of any public housing dwelling units under this chapter, the authority may also develop commercial and industrial properties and sell or lease other properties if it determines that the uses will be an integral part of the public housing development or a benefit to the community in which the properties are situated. The authority may designate any portions of the public housing development for commercial, industrial, or other use and shall have all the powers granted under this chapter with respect thereto. The authority may use any funding authorized under this chapter to implement this subsection.

The net proceeds of all sales or leases, less costs to the authority, shall be deposited in the public housing revolving fund established by section 356D-28. [L 2006, c 180, pt of §2; am L 2011, c 90, §1; am L 2013, c 151, §1]

" **[\$356D-12] Development of property; additional powers.** Notwithstanding any other law to the contrary, whenever the bids submitted for the development or rehabilitation of any public housing project authorized pursuant to this chapter exceed the amount of funds available for that project, the authority, with the approval of the governor, may disregard the bids and enter into an agreement to carry out the project, undertake the project, or participate in the project under the agreement; provided that:

- (1) The total cost of the agreement and the authority's participation, if any, shall not exceed the amount of funds available for the project; and
- (2) If the agreement is with a nonbidder, the scope of the project under agreement shall remain the same as that for which bids were originally requested. [L 2006, c 180, pt of §2]

" **[\$356D-12.5] Development of property; partnership or development agreement.** (a) Any public housing project may be developed under sections 356D-11 and 356D-12 by the authority in partnership or under a development agreement with a private party; provided that a written partnership or development agreement is executed by the authority. At a minimum, the partnership or development agreement shall provide for:

- (1) A determination by the authority that the partnership or development agreement is for a public purpose; and
- (2) Final approval by the authority of the plans and specifications for the public housing project.

(b) For the development of public housing projects pursuant to subsection (a), except as provided by federal law or regulation, the authority shall not be subject to chapters 103 and 103D or any and all other requirements of law for competitive bidding for partnership or development agreements, construction contracts, or other contracts; provided that the authority shall develop internal policies and procedures for the procurement of goods, services, and construction, consistent with the goals of public accountability and public procurement practices.

(c) The authority shall submit an annual report to the legislature, no later than twenty days prior to the convening of each regular session, on the status of all public housing projects being developed using partnership or development agreements pursuant to subsection (a).

(d) The authority may adopt rules pursuant to chapter 91 necessary for the purposes of this section. [L 2012, c 164, §2]

" **[§356D-13] Administration of federal programs.** (a) The authority may carry out federal programs designated to be carried out by a public housing agency, or entity designated by the authority.

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

(c) All fees collected for administering the program may be deposited into an appropriate special fund of the authority and may be used to cover the administrative expenses of the authority. [L 2006, c 180, pt of §2]

" **[§356D-13.5] Housing choice voucher program administration.** Any housing choice voucher program voucher issued by the authority shall automatically be returned to the authority upon the death or removal from assistance of the last original household member; provided that, where the original head or co-head of the household is survived by a minor who was subsequently added to the household by birth, adoption, or court order and the family properly reported the birth, adoption, or court order to the authority, the household may retain the voucher until the youngest minor added to the household reaches the age of twenty-one, or reaches the age of twenty-three if the youngest minor is a full-time student at a business school,

technical school, college, community college, or university. No legal guardian shall be added to the household to care for the minor or minors unless the legal guardian is also eligible for participation in the housing choice voucher program; provided further that any legal guardian added to the household shall not retain the voucher after the youngest minor has reached the age of twenty-one, or has reached the age of twenty-three if the youngest minor is a full-time student at a business school, technical school, college, community college, or university. [L 2014, c 178, §2]

" **[§356D-14] Federal funds outside of state treasury.** Notwithstanding chapter 38, the authority may establish and manage federal funds outside of the state treasury to be used for federal housing programs. The authority shall invest the funds in permitted investments in accordance with chapter 36. [L 2006, c 180, pt of §2]

" **[§356D-15] Eminent domain, exchange, or use of public property.** (a) The authority may acquire any real property, including fixtures and improvements, or interest therein, through:

- (1) Voluntary negotiation;
- (2) Exchange of land in accordance with section 171-50, provided that the public land to be exchanged need not be of like use to that of the private land; or
- (3) By the exercise of the power of eminent domain which it deems necessary by the adoption of a resolution declaring that the acquisition of the property described therein is in the public interest and required for public use.

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

(b) The authority may acquire by the exercise of the power of eminent domain property already devoted to a public use; provided that no property belonging to any government may be acquired without its consent, and that no property belonging to a public utility may be acquired without the approval of the public utilities commission; and provided further that the acquisition is subject to legislative disapproval expressed in a

concurrent resolution adopted by majority vote of the senate and the house of representatives in the first regular or special session following the date of condemnation. [L 2006, c 180, pt of §2]

" **[\$356D-16] Contracts with the federal government.** (a)

The authority may:

- (1) Borrow money or accept grants from the federal government for or in aid of any public housing project that the authority is authorized to undertake;
- (2) Take over any land acquired by the federal government for the construction or operation of a public housing project;
- (3) Take over, lease, or manage any public housing project constructed or owned by the federal government, and to these ends, enter into contracts, mortgages, leases, or other agreements as the federal government may require, including agreements that the federal government shall have the right to supervise and approve the construction, maintenance, and operation of the public housing project;
- (4) Procure insurance or guarantees from the federal government for the payment of any debts or parts thereof secured by mortgages made or held by the authority on any property included in any public housing project;
- (5) Agree to any conditions attached to federal financial assistance relating to the determination of prevailing salaries or wages, payment of not less than prevailing salaries or wages, or compliance with labor standards, in the development or administration of public housing projects, and include in any construction contract let in connection with a project stipulations requiring that the contractor and any subcontractors comply with requirements as to minimum salaries or wages and maximum hours of labor;
- (6) Comply with any conditions required by the federal government in any contract for financial assistance; and
- (7) Execute contracts with the federal government.

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

The contract may provide further that if a conveyance occurs, the federal government may complete, operate, manage, lease, convey, or otherwise deal with the project in accordance with the terms of the contract; provided that the contract shall require that as soon as practicable after the federal government is satisfied that all defaults with respect to the project have been cured and that the project will thereafter be operated in accordance with the terms of the contract, the federal government shall reconvey to the authority the project as then constituted.

(c) It is the purpose and intent of this section to authorize the authority to do any and all things necessary to secure the financial aid and the cooperation of the federal government in the undertaking, construction, maintenance, and operation of any public housing project that the authority is empowered to undertake. [L 2006, c 180, pt of §2]

Case Notes

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

" **[\$356D-17] Public works contracts.** The authority may make, execute, and carry out contracts for, or in connection with, any public housing project in the manner provided in chapter 103D and section 103-53; and, with regard to the contracts, the term "procurement officer", as used in chapter 103D, shall mean the authority or officer authorized by the authority to act as its contracting officer. Unless made and executed in the name of the State, each contract made and executed as authorized in this section shall state therein that it is so made and executed. [L 2006, c 180, pt of §2]

" **[\$356D-18] Remedies of an obligee; mandamus; injunction; possessory action; receiver; accounting; etc.** An obligee of the authority shall have the right, in addition to all other rights that may be conferred on the obligee subject only to any contractual restrictions binding upon the obligee, and subject to the prior and superior rights of others:

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

- (2) By suit, action, or proceeding in equity to enjoin any acts or things which may be unlawful, or the violation of any of the rights of the obligee of the authority;
- (3) By suit, action, or proceeding in any court of competent jurisdiction to cause possession of any public housing project or any part thereof to be surrendered to any obligee having the right to possession pursuant to any contract of the authority;
- (4) By suit, action, or proceeding in any court of competent jurisdiction, upon the happening of an event of default (as defined in a contract of the authority), to obtain the appointment of a receiver for any public housing project of the authority or any part or parts thereof. If a receiver is appointed, the receiver may enter and take possession of the public housing project or any part or parts thereof, operate and maintain the project, and collect and receive all fees, rents, revenues, or other charges thereafter arising therefrom in the same manner as the authority itself might do and shall keep the moneys in a separate account or accounts and apply the moneys in accordance with the obligations of the authority as the court shall direct; and
- (5) By suit, action, or proceeding in any court of competent jurisdiction to require the authority and the members of the board thereof to account as if it and they were the trustees of an express trust. [L 2006, c 180, pt of §2]

" **[§356D-19] Subordination of mortgage to agreement with government.** The authority may agree in any mortgage made by it that the mortgage shall be subordinate to a contract for the supervision by a government agency of the operation and maintenance of the mortgaged property and the construction of improvements thereon. In that event, any purchaser or purchasers at a sale of the property of the authority pursuant to a foreclosure of the mortgage or any other remedy in connection therewith shall obtain title subject to the contract. [L 2006, c 180, pt of §2]

" **[§356D-20] Duty to make reports.** Except as otherwise provided by law, the authority shall be responsible for the following reports:

- (1) The authority shall file at least once a year with the governor a report of its activities for the preceding fiscal year;

- (2) The authority shall report to the comptroller on moneys deposited in depositories other than the state treasury under section 40-81, and rules adopted thereunder; and
- (3) The authority shall submit an annual report to the legislature on all program areas no later than twenty days prior to the convening of each regular session, that shall provide the following information on the status of its programs and finances:
 - (A) A financial audit and report conducted on an annual basis by a certified public accounting firm; and
 - (B) Recommendations with reference to any additional legislation or other action that may be necessary to carry out the purposes of this chapter. [L 2006, c 180, pt of §2]

" **[§356D-21] Bonds; authorization.** (a) The authority, with the approval of the governor, may issue from time to time bonds (including refunding bonds to pay, retire, or provide for the retirement of bonds previously issued by the authority) in amounts not exceeding the total amount of bonds authorized to be issued by the legislature for any of its corporate purposes.

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

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

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

- (1) Income and revenues derived from the public housing project or projects financed from the proceeds of bonds;
- (2) Receipts derived from any grant from the federal government made in aid of a public housing project or projects financed from the proceeds of bonds;
- (3) Income and revenues derived from a particular designated public housing project or projects whether or not financed, in whole or in part, from the proceeds of bonds;
- (4) Income and revenues of the authority generally; or
- (5) Any combination of paragraphs (1) through (4).

(e) Any pledge made by the authority shall create a perfected security interest in the revenues, moneys, or property so pledged and thereafter received by the authority from and

after the time that a financing statement with respect to the revenues, moneys, or property so pledged and thereafter received shall be filed with the bureau of conveyances. Upon the filing, the revenues, moneys, or property so pledged and thereafter received by the authority shall immediately be subject to the lien of the pledge without any physical delivery thereof or further act, and the lien of the pledge shall be prior to the lien of all parties having claims of any kind in tort, contract, or otherwise against the authority, irrespective of whether the parties have notice thereof. This section shall apply to any financing statement heretofore or hereafter filed with the bureau of conveyances with respect to any pledge made to secure revenue bonds issued under this part.

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

(g) Neither the members of the board nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof. [L 2006, c 180, pt of §2]

" **[§356D-22] Bonds; interest rate, price, and sale.** (a) The bonds shall bear interest at rates payable at times that the authority, with the approval of the governor, may determine except for deeply discounted bonds that are subject to redemption or retirement at their accreted value; provided that the discounted value of the bonds shall not exceed ten per cent of any issue; and provided further that no bonds may be issued without the approval of the director of finance and the governor. Notwithstanding any other law to the contrary, the authority may, subject to the approval of the director of finance and the governor, issue bonds pursuant to section 356D-21, in which the discounted value of the bonds exceeds ten per cent of the issue.

(b) The authority may include the costs of undertaking and maintaining any public housing project or projects for which the bonds are issued in determining the principal amount of bonds to be issued. In determining the cost of undertaking and maintaining the public housing project, the authority may include the cost of studies and surveys; insurance premiums; underwriting fees; financial consultant, legal, accounting, and other services incurred; reserve account, trustee, custodian, and rating agency fees; and interest on the bonds for a period determined by the authority. [L 2006, c 180, pt of §2]

" **§356D-23 Trustee; designation, duties.** (a) The authority may designate a trustee for each issue of bonds secured under the same trust indenture; provided that the trustee shall be approved by the director of finance.

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

(c) The trustee shall also be authorized by the authority to receive and receipt for, hold, and administer the revenues derived by the authority from any public housing project or projects for which the bonds are issued or the projects pledged to the payment of the bonds, and to apply the revenues to the payment of the cost of administering, operating, and maintaining the public housing project or projects, to pay the principal of and the interest on the bonds, to the establishment of reserves, and to other purposes as may be authorized in the proceedings providing for the issuance of the bonds.

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

- (1) The payment of the principal of and interest on the bonds; and
- (2) The purchase, registration, transfer, exchange, and redemption of the bonds.

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

(f) Nothing in this part shall limit or be construed to limit the powers granted to the director of finance in sections 36-3, 39-13, and 39-68(a), to appoint the trustee or others as fiscal agents, paying agents, and registrars for the bonds or to authorize and empower those fiscal agents, paying agents, and registrars to perform the functions referred to in those sections. [L 2006, c 180, pt of §2; am L 2016, c 42, §10]

" **[§356D-24] Trust indenture.** (a) A trust indenture may contain covenants and provisions authorized by part III of chapter 39, and as deemed necessary or convenient by the authority for the purposes of this part.

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

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

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

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

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

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

(e) A trust indenture may also contain provisions deemed necessary or desirable by the authority to obtain or permit, by grant, interest subsidy, or otherwise, the participation of the federal government in the public housing projects or in the financing of the costs of administering, operating, or maintaining the public housing projects. [L 2006, c 180, pt of §2]

" **[\$356D-25] Investment of reserves, etc.** The authority may invest any funds held in reserves or sinking funds or any funds not required for immediate disbursement, including the proceeds of bonds, in property or securities in which the director of finance may legally invest, as provided in section 36-21; provided that funds held outside the state treasury may be invested for terms not to exceed thirty-five years. No provisions with respect to the acquisition, operation, or disposition of property by other government agencies shall be applicable to the authority unless the legislature shall specifically so state. [L 2006, c 180, pt of §2]

" **[\$356D-26] Security for funds deposited by the authority.** The authority, by resolution, may provide that all moneys deposited by it shall be secured:

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

- (2) By an undertaking with sureties as are approved by the authority faithfully to keep and pay over upon the order of the authority any deposits and agreed interest thereon, and all banks and trust companies are authorized to give any such security for those deposits. [L 2006, c 180, pt of §2]

" **[§356D-27] Arbitrage provisions; interest rate.** (a) Notwithstanding any other law to the contrary, neither the authority nor the director of finance shall make loans or purchase mortgages with the proceeds of general obligation bonds of the State or from a revolving fund established or maintained from the proceeds of bonds, at a rate of interest or upon terms and conditions that would cause any general obligation bond of the State or any bond to be an "arbitrage bond" within the meaning of that term as defined in the Internal Revenue Code of 1986, as amended, and the regulations of the Internal Revenue Service adopted pursuant thereto.

(b) The rate of interest on loans made under this chapter from the proceeds of general obligation bonds of the State shall be established by the authority, with the approval of the director of finance, after each sale of general obligation bonds of the State, the proceeds of which are to be used for the purposes of making loans or purchasing mortgages under this chapter. If no sale of general obligation bonds of the State intervenes in a twelve-month period after the last rate fixing, the authority may review the then existing rates on loans or mortgages made under this chapter from the proceeds of general obligation bonds of the State and retain the existing rate or, with the approval of the director of finance, establish different rates.

(c) The director of finance shall approve those rates so as to produce up to, but not in excess of, the maximum yield to the State or the authority permitted under the Internal Revenue Code of 1986, as amended, and the regulations of the Internal Revenue Service adopted pursuant thereto, on the assumption that the general obligation bonds of the State, the proceeds of which have been or are to be used for the purposes of making loans or purchasing mortgages under this chapter, would otherwise be "arbitrage bonds" under the Internal Revenue Code of 1986, as amended, and the regulations of the Internal Revenue Service adopted pursuant thereto, were the maximum yield to be exceeded. The establishment of the rates of interest shall be exempt from chapter 91. [L 2006, c 180, pt of §2]

" **§356D-28 Public housing revolving fund.** (a) There is established the public housing revolving fund to be administered

by the authority. Notwithstanding section 36-21, the proceeds in the fund shall be used for long-term and other special financings of the authority and for necessary expenses in administering this chapter.

(b) All moneys received and collected by the authority, not otherwise pledged, obligated, or required by law to be placed in any other special fund, shall be deposited into the public housing revolving fund. [L 2006, c 180, pt of §2; am L 2016, c 42, §11]

" **[\$356D-29] Quitclaim deeds.** Unless otherwise provided by law, the authority shall issue quitclaim deeds and leases whenever it conveys, transfers, sells, or assigns any property developed, constructed, or sponsored under this chapter. [L 2006, c 180, pt of §2]

"PART II. FEDERAL LOW-INCOME HOUSING

§356D-31 Rentals and tenant selection. (a) In the operation or management of federal public housing projects, the authority (acting directly or by an agent or agents) at all times shall observe the following duties with respect to rentals and tenant selection:

- (1) It may establish maximum limits of annual net income for tenant selection in any public housing project, less such exemptions as may be authorized by federal regulations pertaining to public housing. The authority may agree to conditions as to tenant eligibility or preference required by the federal government pursuant to federal law in any contract for financial assistance with the authority; provided that not less than fifty per cent of available units shall be for applicants without preference and up to fifty per cent of available units shall be for applicants with preference;
- (2) It may rent or lease the dwelling units therein only at rentals within the financial reach of persons who lack the amount of income that it determines to be necessary to obtain safe, sanitary, and uncongested dwelling accommodations within the area of operation of the authority and to provide an adequate standard of living; and
- (3) It may rent or lease to a tenant a dwelling consisting of the number of rooms (but no greater number) that it deems necessary to provide safe and sanitary accommodations to the proposed occupants thereof, without overcrowding.

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

- (1) Vest in an obligee the right, in the event of a default by the authority, to take possession of a public housing project or cause the appointment of a receiver thereof, free from all the restrictions imposed by this part with respect to rentals, tenant selection, manner of operation, or otherwise; or
- (2) Vest in obligees the right, in the event of a default by the authority, to acquire title to a public housing project or the property mortgaged by the authority, free from all the restrictions imposed by this part. [L 2006, c 180, pt of §2; am L 2013, c 148, §2]

" **[§356D-32] Delinquent accounts.** (a) Notwithstanding section 40-82, the authority, with the approval of the attorney general, may delete from its accounts receivable records delinquent accounts for vacated units within federal low-income public housing projects that have been delinquent for at least ninety days.

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

(c) When the authority seeks eviction of a tenant due to delinquency in payment of rent, the authority shall comply with the procedures set forth in section 356D-92(b) before proceeding with the eviction hearing. [L 2006, c 180, pt of §2]

" **[§356D-33] Investigatory powers.** (a) The authority may:

- (1) Investigate living, dwelling, and housing conditions and the means and methods of improving the conditions;
- (2) Enter upon any building or property to conduct investigations or to make surveys or soundings;
- (3) Conduct examinations and investigations and hear testimony and take proof under oath at public or private hearings on any matter material for its information;
- (4) Issue subpoenas requiring the attendance of witnesses or the production of books and papers, and order the examination of witnesses who are unable to attend before the authority, are excused from attendance, or by leave of courts as provided by chapter 624, are out of the State; and
- (5) Make available to any government agency charged with the duty of abating or requiring the correction of nuisances or like conditions, or of demolishing unsafe or unsanitary structures within its territorial limits, its findings and recommendations with regard

to any building or property where conditions exist that are dangerous to the public health, morals, safety, or welfare.

(b) Investigations or examinations may be conducted by the authority, by a committee appointed by it consisting of one or more members of the board, or by counsel, or by an officer or employee specially authorized by the authority to conduct it. Any person designated by the authority to conduct an investigation or examination shall have the power to administer oaths, take affidavits, and issue subpoenas or orders for the taking of depositions. [L 2006, c 180, pt of §2]

" **§§356D-34 to 356D-39 Reserved.**

" **[§356D-40] Additional powers.** The powers conferred upon the authority by this part shall be in addition and supplemental to the powers conferred by any other law, and nothing in this part shall be construed as limiting any powers, rights, privileges, or immunities so conferred. [L 2006, c 180, pt of §2]

"PART III. STATE LOW-INCOME HOUSING

A. State Low-Income Housing; Administration

[§356D-41] Definitions. As used in this subpart, unless a different meaning clearly appears from the context:

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

"Veteran" includes any person who served in the military or naval forces of the United States during World War II and who has been discharged or released therefrom under conditions other than dishonorable. The term "veteran" also includes Filipino World War II veterans who served honorably in an active duty status under the command of the United States Armed Forces in the Far East (USAFFE), or within the Philippine Army, the Philippine Scouts, or recognized guerilla units. The Filipino World War II veterans must have: served at any time between September 1, 1939, and December 31, 1946; been born in the Philippines; and resided in the Philippines prior to the military service. [L 2006, c 180, pt of §2]

" **§356D-42 Housing; tenant selection.** (a) The authority shall select tenants upon the basis of those in greatest need

for the particular housing, subject to the following limitations and preferences:

- (1) The authority may limit the tenants of any state low-income housing project to classes of persons when required by federal law or regulation as a term or condition of obtaining assistance from the federal government; provided that not less than fifty per cent of available units shall be for applicants without preference and up to fifty per cent of available units shall be for applicants with preference;
- (2) Within the priorities established by the authority recognizing need, veterans with a permanent disability of ten per cent or more, as certified by the United States Department of Veterans Affairs, and their dependent parents, if any. The deceased veteran's widow or widower shall be given first preference. Parents of veterans shall not use the veteran status of their adult child as a basis for preference; and
- (3) Subject to any limitations set by federal law or regulation, the authority shall not select as a tenant, and may terminate the tenancy of, any person if the person or any household member owns or acquires a home within the State.

(b) The authority shall adopt rules pursuant to chapter 91 to carry out the purposes of this section. [L 2006, c 180, pt of §2; am L 2013, c 148, §3 and c 223, §1]

" **[§356D-43] Rentals.** (a) Notwithstanding any other law to the contrary, the authority shall fix the rates of the rentals for dwelling units and other facilities in state low-income housing projects provided for by this subpart, at rates that will produce revenues that will be sufficient to pay all expenses of management, operation, and maintenance, including the cost of insurance, a proportionate share of the administrative expenses of the authority to be fixed by it, and the costs of repairs, equipment, and improvements, to the end that the state low-income housing projects shall be and always remain self-supporting. The authority, in its discretion, may fix the rates in amounts as will produce additional revenues (in addition to the foregoing) sufficient to amortize the cost of the state low-income housing project or projects, including equipment, over a period or periods of time that the authority may deem advisable.

- (b) Notwithstanding any other law to the contrary, if:
 - (1) Any state low-income housing project or projects have been specified in any resolution of issuance adopted pursuant to part I;

- (2) The income or revenues from any project or projects have been pledged by the authority to the payment of any bonds issued under part I; or
- (3) Any of the property of any state low-income housing project or projects is security for the bonds, the authority shall fix the rates of the rentals for dwelling units and other facilities in the state low-income housing project or projects so specified or encumbered at increased rates that will produce the revenues required by subsection (a) and, in addition, those amounts that may be required by part I, by any resolution of issuance adopted under part I, and by any bonds or mortgage or other security issued or given under part I. [L 2006, c 180, pt of §2]

" **§356D-44 Administration of state low-income public housing projects and programs.** (a) The authority shall construct, develop, and administer property or housing for the purpose of state low-income public housing projects and programs.

(b) The authority shall offer any decommissioned low-income public housing project, except for federal housing projects, to nonprofit or for-profit organizations or government agencies for rehabilitation into emergency or transitional shelter facilities for the homeless or rehabilitation into rental units that set aside at least fifty per cent of the units to persons or families with incomes at or below fifty per cent of the area median family income; provided that:

- (1) The housing project is wholly owned by the State on either state-owned or ceded lands;
- (2) The authority has determined that the housing project is not eligible for rehabilitation using the authority's current resources; and
- (3) The nonprofit or for-profit organization or government agency demonstrates expertise in rehabilitation of housing projects and has community, public, and private resources to substantially pay for the rehabilitation.

The land and improvements may be leased to the nonprofit or for-profit organization or government agency for a period not to exceed ninety-nine years for a sum of \$1 per year.

(c) State low-income housing projects shall be subject to chapter 521.

(d) The authority shall adopt necessary rules in accordance with chapter 91, including the establishment and collection of reasonable fees for administering the state low-income housing projects or programs and to carry out any state program under subsection (a). [L 2006, c 180, pt of §2; am L 2007, c 249, §35]

" **[\$356D-45] State low-income housing revolving fund.** There is established a revolving fund to be known as the state low-income housing revolving fund. Notwithstanding any law to the contrary, moneys received by the authority under or pursuant to this subpart, including refunds, reimbursements, rentals, fees, and charges received from tenants, shall be deposited in the state low-income housing revolving fund. Except as otherwise provided in this chapter, the state low-income housing revolving fund may be expended by the authority for any and all of the purposes of this subpart, including without prejudice to the generality of the foregoing, the expenses of management, operation, and maintenance of state low-income housing projects, including but not limited to:

- (1) The cost of insurance, a proportionate share of the administrative expenses of the authority, and the cost of repairs, equipment, and improvement;
- (2) The acquisition, clearance, and improvement of property;
- (3) The construction and reconstruction of building sites;
- (4) The construction, reconstruction, repair, remodeling, extension, equipment, and furnishing of any state low-income housing project;
- (5) Administration and other expenses;
- (6) The payment of rentals; and
- (7) The development and administration of any state low-income housing project. [L 2006, c 180, pt of §2]

" **[\$356D-45.5] Delinquent accounts.** (a) Notwithstanding section 40-82, the authority, with the approval of the attorney general, may delete from its account receivable records delinquent accounts for vacated units within state low-income public housing projects that have been delinquent for at least 90 days.

(b) The delinquent accounts may be assigned to a collection agency. [L 2013, c 40, §1]

" **[\$356D-46] Investigatory powers.** (a) The authority may:

- (1) Investigate living, dwelling, and housing conditions and the means and methods of improving those conditions;
- (2) Enter upon any building or property to conduct investigations or to make surveys or soundings;
- (3) Conduct examinations and investigations, and hear testimony and take proof under oath at public or private hearings on any matter material for its information;

- (4) Issue subpoenas requiring the attendance of witnesses or the production of books and papers, and order the examination of witnesses who are unable to attend before the authority, are excused from attendance, or by leave of courts as provided by chapter 624, are out of the State; and
- (5) Make available to any government agency charged with the duty of abating or requiring the correction of nuisances or like conditions, or of demolishing unsafe or unsanitary structures within its jurisdictional limits, its findings and recommendations with regard to any building or property where conditions exist that are dangerous to the public health, safety, or welfare.

(b) Investigations or examinations may be conducted by the authority, or by a committee appointed by it consisting of one or more members of the board, or by counsel, or by an officer or employee specially authorized by the authority to conduct it. Any person designated by the authority to conduct an investigation or examination may administer oaths, take affidavits, and issue subpoenas or orders for the taking of depositions. [L 2006, c 180, pt of §2]

" **[§356D-47] Government aid; political subdivisions.** Any political subdivision may appropriate moneys for the purposes of meeting any local participation in housing costs or expenses required to obtain assistance from the federal government in the development and administration of state low-income housing projects and programs under this subpart, or of providing funds for use by the authority in developing and administering state low-income housing projects. [L 2006, c 180, pt of §2]

" **§§356D-48 and 356D-49 Reserved.**

" **[§356D-50] Additional powers.** The powers conferred upon the authority by this subpart shall be in addition and supplemental to the powers conferred by any other law, and nothing in this subpart shall be construed as limiting any powers, rights, privileges, or immunities conferred. [L 2006, c 180, pt of §2]

"B. State Low-Income Housing; Liens

[§356D-51] Definitions. As used in this subpart, unless a different meaning clearly appears from the context:

"State low-income housing project" means any state low-income housing project or projects owned, managed, administered, or operated by the authority.

"Tenant" includes any person occupying a room, dwelling unit, living quarters, or space in any state low-income housing project, under or by virtue of any tenancy lease, license, or permit under or from the authority. [L 2006, c 180, pt of §2]

" **[§356D-52] Lien on personalty for rent, etc.** (a) The authority shall have a statutory lien on all personal property, not exempt from execution, belonging to, or in the lawful possession of, every tenant while the personal property is in or upon any state low-income housing project, for the amount of its proper charges against the tenant for rent of a room, dwelling unit, living quarters, or space in the state low-income housing project, or for utilities, facilities, or services in the state low-income housing project. The lien shall commence with the tenancy or occupancy of the tenant and continue for one year after the charge or charges are due and owing to the authority.

(b) Whenever any tenant fails or refuses to pay the charge or charges after the same are so due and owing, the authority shall have the right and power, acting by its authorized agents or representatives, without process of law and without any liability for the taking, seizure, and retention of the personal property, to take and seize any of the personal property belonging to, or in the lawful possession of, the tenant that is found in or upon the public housing project. The authority may hold and retain the property as security for the payment of the charge or charges, until the amount of the charge or charges is paid and discharged. If the charge or charges, so due and owing, are not paid and discharged within thirty days after the taking and seizure, the authority may sell the personal property in the manner provided in section 356D-53. [L 2006, c 180, pt of §2]

" **[§356D-53] Foreclosure of lien, notice, etc.** (a) The lien of the authority upon personal property that has been taken and retained by it as provided in section 356D-52 may be foreclosed by the authority by selling the property at public auction:

- (1) After first mailing by United States mail, postage prepaid, a notice of the foreclosure addressed to the tenant who owns, or was in possession of, the personal property at the tenant's last address shown on the records of the authority. The notice shall state that, unless the charge or charges then due and owing from the tenant to the authority are paid within ten

days from the time of mailing the notice, the personal property will be sold at public auction; and

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

(b) If the tenant fails to pay to the authority within ten days after the mailing of the notice of foreclosure the charge or charges, the authority may sell the property at public auction at the time and place stated in the notice, or at a time or times or place or places to which the sale may be postponed or adjourned at the time and place stated in the notice, and may apply the proceeds thereof to the payment of the charge or charges and the expenses of notice and sale. The balance, if any remaining, shall be paid over to the tenant who formerly owned, or was in possession of, the property. If the balance is not claimed by the tenant within thirty days after the sale, then the balance shall be paid over to the director of finance and it shall be kept by the director in a special deposit for a period not to exceed six months. If claimed by the tenant during that period, it shall be paid to the tenant. If no claim is made during the period, the sum shall become a government realization and be paid into the general fund. [L 2006, c 180, pt of §2]

" **[§356D-54] Sheriff or police to assist.** The authority, in taking, seizing, holding, retaining, or selling any personal property pursuant to sections 356D-52 and 356D-53, may require the assistance of the sheriff or any authorized police officer of any county. Any sheriff or officer, when required, shall assist the authority. [L 2006, c 180, pt of §2]

" **[§356D-55] Existing contracts not impaired.** Sections 356D-52 and 356D-53 shall not be construed as to impair or affect the obligation of any contract existing on or before May 9, 1949. [L 2006, c 180, pt of §2]

" **§356D-56 REPEALED.** L 2013, c 147, §2.

" **[§356D-56.1] Disposition of abandoned or seized property.**

(a) The authority may sell, donate, or otherwise dispose of property abandoned or seized in or around any state low-income housing project upon compliance with the requirements of this section.

(b) The authority shall send notice by certified mail, at least five calendar days prior to disposition of the abandoned or seized property, to the address of the owner of the property abandoned or seized if the owner is known or can be determined. The notice shall apprise the owner of the identity and location of the property abandoned or seized and of the intent of the authority to sell, donate, or otherwise dispose of the property. If the identity or the address of the owner is unknown or cannot be determined, the notice shall be posted on the premises on which the property was abandoned or seized.

(c) If the abandoned or seized property has an estimated value of \$500 or more per item, the authority shall also give public notice of the disposition at least once statewide or in a publication of local circulation in the county in which the property was abandoned or seized; provided that the disposition shall not take place fewer than five days after the notice of intent to dispose of the property. The value of the items shall be estimated at the discretion of the authority.

(d) The sale of abandoned or seized property having an estimated value of \$500 or more per item as estimated at the discretion of the authority shall be by public auction through oral offers in the county in which the property was abandoned or seized. If no bid is received, the property may be disposed of as the authority deems appropriate.

(e) Any person entitled to the abandoned or seized property may repossess the property prior to its disposition upon proof of entitlement and payment of all unpaid rent, debts, charges, and fines owed to the authority and all handling, storage (not less than \$25 per day), appraisal, advertising, and any other expenses incurred in connection with the proposed disposition of the abandoned or seized property.

(f) The requirement of public notice and public auction pursuant to subsections (c) and (d) shall not apply when the value of the abandoned or seized property is less than \$500 per item. Such property may be disposed of as the authority deems appropriate.

(g) The proceeds of the sale of abandoned or seized property, after deduction of all unpaid rent, debts, charges, and fines owed to the authority, and all expenses of handling, storage, appraisal, advertising, and other sale expenses, shall

be first offset against any amounts owed by the owner to the State. Any amount remaining shall be held in trust for the owner of the property for thirty days, after which time the proceeds shall be paid into the authority's appropriate special fund.

(h) The State, its officers, employees, and agents shall not be liable to the owner of abandoned or seized property for actions taken pursuant to this section. [L 2013, c 147, §1]

" **[\$356D-57] Disposition of surplus proceeds.** After the sale, the authority shall apply the proceeds as provided in section 356D-56. The balance, if any remaining, shall be paid over to the former resident or occupant. If the balance is not claimed by the former resident or occupant within thirty days after the sale thereof, then the balance shall be paid over to the director of finance and shall be kept by the director in a special deposit for a period not to exceed six months. If claimed by the former resident or occupant during that period, it shall be paid to the former resident or occupant. If no claim is made during the period, the sum shall become a government realization and shall be paid into the general fund. [L 2006, c 180, pt of §2]

Note

Section 356D-56 referred to in text is repealed. For present provision, see §356D-56.1.

" **[\$356D-58] Lien attaches to personalty in possession.** Sections 356D-56 and 356D-57 shall also apply to any personal property which, before May 2, 1949, was left in or about any public housing project, and was taken into the possession of the authority or its predecessor in interest, as herein set forth and provided. [L 2006, c 180, pt of §2]

Note

Section 356D-56 referred to in text is repealed. For present provision, see §356D-56.1.

" **[\$356D-59] Priority of housing lien.** The statutory liens provided for in this subpart shall be preferred and have priority over all other liens or claims and over all attachments or other process. [L 2006, c 180, pt of §2]

" **§§356D-60 to 356D-69 Reserved.**

" **[\$356D-70] Rights and powers; supplemental.** The rights and powers conferred upon the authority by this subpart shall be in addition and supplemental to the rights and powers conferred upon the authority by any other law. [L 2006, c 180, pt of §2]

"PART IV. HOUSING FOR ELDERS AND TEACHERS

A. Housing for Elders

[\$356D-71] Resident selection; dwelling units; rentals. In the administration of elder or elderly housing, the authority shall observe the following with regard to resident selection, dwelling units, and rentals:

- (1) Except as provided in this section, the authority shall accept elder or elderly households as residents in the housing projects;
- (2) It may accept as residents in any dwelling unit one or more persons, related or unrelated by blood or marriage. It may also accept as a resident in any dwelling unit or in any housing project, in the case of illness or other disability of an elder who is a resident in the dwelling unit or in the project, a person designated by the elder as the elder's live-in aide whose qualifications as a live-in aide are verified by the authority, although the person is not an elder; provided that the person shall cease to be a resident therein upon the recovery of, or removal from the project of, the elder;
- (3) It may rent or lease to an elder a dwelling unit consisting of any number of rooms as the authority deems necessary or advisable to provide safe and sanitary accommodations to the proposed resident or residents without overcrowding;
- (4) Notwithstanding that the elder has no written rental agreement or that the agreement has expired, during hospitalization of the elder due to illness or other disability so long as the elder continues to tender the usual rent to the authority or proceeds to tender receipts for rent lawfully withheld, no action or proceeding to recover possession of the dwelling unit may be maintained against the elder, nor shall the authority otherwise cause the elder to quit the dwelling unit involuntarily, demand an increase in rent from the elder, or decrease the services to which the elder has been entitled; and
- (5) Elder or elderly housing shall be subject to chapter 521. [L 2006, c 180, pt of §2]

" **[§356D-72] Housing for elders revolving fund.** There is created a housing for elders revolving fund to be administered by the authority. Notwithstanding any law to the contrary, moneys received or collected by the authority pursuant to this subpart shall be deposited into the revolving fund. Revenues from the fund may be used to pay the expenses of management, operation, and maintenance of housing projects for elders, including but not limited to the cost of insurance, a proportionate share of the administrative expenses of the authority, and the costs of repairs, equipment, and improvements. [L 2006, c 180, pt of §2]

" **§§356D-73 to 356D-79 Reserved.**

" **[§356D-80] Additional powers.** The powers conferred upon the authority by this subpart shall be in addition and supplemental to the powers conferred by any other law, and nothing in this subpart shall be construed as limiting any powers, rights, privileges, or immunities so conferred. [L 2006, c 180, pt of §2]

"B. Housing for Teachers--Repealed

§§356D-81 to 356D-90 REPEALED. L 2006, c 180, §35.

Cross References

For similar provisions, see §§302A-832 to 302A-835.

"PART V. PUBLIC HOUSING; EVICTIONS

§356D-91 Definitions. As used in this part unless the context otherwise requires:

"Party" means each person or agency named or admitted as a party or properly seeking and entitled as of right to be admitted as a party in any court or agency proceeding.

"Public housing project" or "complex" means a low-income federally assisted housing project as established by the United States Housing Act of 1937, as amended, and controlled, owned, developed, or managed by the authority pursuant to the federal low-rent public housing program.

"Tenant" means any person occupying a dwelling accommodation or living quarters in any public housing project, under or by virtue of any tenancy, lease, or rental agreement under or from the authority. [L 2006, c 180, pt of §2; am L 2007, c 249, §36]

" **§356D-92 Termination and eviction.** (a) Except as otherwise provided, the authority may terminate any lease, rental agreement, permit, or license covering the use and occupation of any dwelling unit or other premises located within a public housing project and evict from any premises any tenant, licensee, or other occupant for any of the following reasons:

- (1) Failure to pay rent when due;
- (2) Violation of any of the provisions of a lease, rental agreement, permit, or license;
- (3) Violation of any of the rules of the authority;
- (4) Failure to maintain the dwelling unit in a clean, sanitary, and habitable condition;
- (5) Upon a third violation of section 356D-6.5; provided that a violation of any of these terms by a nonresident, a guest who is visiting a resident, or by any member of the resident's household shall be deemed a violation by the resident; or
- (6) The existence of any other circumstances giving rise to an immediate right to possession by the authority.

(b) When any tenant has been delinquent in payment of rent, the authority, either directly or through its managing agent, shall provide the tenant with a written notice in accordance with requirements imposed under federal law and regulation (24 C.F.R. part 966) that shall inform the tenant of the delinquency. [L 2006, c 180, pt of §2; am L 2007, c 193, §4 and c 249, §37; am L 2012, c 160, §1; am L 2014, c 91, §2]

" **§356D-93 Hearings.** (a) Where the authority proposes to terminate a lease or rental agreement and evict a tenant under section 356D-92, a hearing shall be held to determine whether cause exists for the action. The authority shall give written notice to the person concerned specifying the reason for which the eviction is proposed and fixing the date and place of hearing. The written notice shall further inform the tenant of the right to inspect and copy the tenant file at the tenant's expense before the hearing is held. The notice shall be given at least five days before the date set for the hearing. At the hearing, before final action is taken, the person concerned shall be entitled to be heard in person or through counsel, and shall be accorded a full and fair hearing in accordance with the requirements of a contested case hearing provided for under sections 91-9 and 91-10 to 91-13. This full and fair hearing shall be deemed to be a contested case hearing before the authority that is required pursuant to chapter 91.

(b) Hearings shall be conducted by an eviction board appointed by the authority. The eviction board shall consist of

not fewer than one person, and no more than three persons, of which one member shall be a tenant. If feasible, the eviction board may conduct hearings using video conferencing technology; provided that these hearings shall be conducted pursuant to chapter 91. The findings, conclusions, decision, and order of the eviction board shall be final unless an appeal is taken as hereinafter provided.

(c) The eviction board shall have the same powers respecting administering oaths, compelling the attendance of witnesses and the production of documentary evidence, and examining witnesses, as are possessed by circuit courts. In case of disobedience by any person of any order of the eviction board, or of any subpoena issued by the eviction board, or the refusal of any witness to testify to any matter regarding which the witness may lawfully be questioned, any circuit judge, on application by the eviction board, shall compel obedience as in the case of disobedience of the requirements of a subpoena issued by a circuit court, or a refusal to testify therein. [L 2006, c 180, pt of §2; am L 2012, c 160, §2]

" **[§356D-94] Eviction.** (a) If it is proven to the satisfaction of the eviction board that there is cause to terminate a lease or rental agreement and evict the tenant, the authority shall provide the tenant with a written notice of the authority's decision to terminate the tenancy. The notice shall inform the tenant that a writ of possession may be issued by the authority within ten business days. The notice shall also inform the tenant whether the grounds for eviction are considered curable and, if so, what the tenant must do to remedy the grounds, by when it must be done, and what the tenant must do to document for the authority that the grounds have been remedied.

(b) When the grounds for termination of the tenancy may be cured by the tenant, the tenant shall have ten business days from receipt of the notice provided for in subsection (a) to cure the grounds. If the grounds are cured within the ten-day period, no writ of possession may be issued. If the grounds are not cured within the ten-day period, the authority may issue a writ of possession forthwith.

(c) The authority may adopt rules pursuant to chapter 91 to define curable and noncurable grounds for eviction. The authority may consider a tenant's history in determining noncurable grounds for eviction. A tenant's history may include chronic or consistent delinquency, or repeated violations of the terms of the rental agreement.

(d) Enforcement of the order by a writ of possession shall be effected either by an officer appointed by the authority, who

shall have all of the powers of a police officer for all action in connection with the enforcement of the order, or by a sheriff or any other law enforcement officer of the State or any county, whose duty it shall be to carry out the order. The person enforcing the order shall remove all persons from the premises and put the authority in full possession thereof.

(e) Upon eviction, the household goods and personal effects of the person against whom the order is entered, and those of any persons using the premises incident to the person's holding, may be removed from the premises and stored by the authority. If the action is taken, the authority shall have a lien on the property so taken for the expenses incurred by it in moving and storing the same, and the authority is authorized to sell or otherwise dispose of the property if unclaimed after thirty days. [L 2006, c 180, pt of §2]

" **[§356D-95] Ex parte motion.** If a tenant cannot be served with an order of eviction or writ of possession, and the facts shall appear by affidavit to the authority, service to the tenant may be made according to the special order of the authority. The order shall require the officer to affix a certified copy of the order of eviction or writ of possession in a conspicuous place upon the premises such as the door or wall of the dwelling unit. [L 2006, c 180, pt of §2]

" **[§356D-96] Judicial review.** (a) Any person aggrieved by a final decision and order of the authority or by a preliminary ruling of the nature that deferral of review pending entry of a subsequent final decision would deprive the appellant of adequate relief is entitled to judicial review thereof under this part.

(b) Except as otherwise provided in this section, proceedings for review shall be instituted in the circuit court within thirty days after the preliminary ruling or within thirty days after service of the certified copy of the final decision and order of the authority pursuant to the rules of court, except where a statute provides for a direct appeal to the intermediate appellate court. In such cases, the appeal shall be treated in the same manner as an appeal from the circuit court, including payment of the fee prescribed by section 607-5 for filing the notice of appeal. The court in its discretion may permit other interested persons to intervene.

(c) The proceedings for review shall not stay enforcement of the decision of the authority; provided that the authority or the reviewing court may order a stay upon such terms as it deems proper.

(d) Within twenty days after the determination of the contents of the record on appeal in the manner provided by the rules of court, or within such further time as the court may allow, the authority shall transmit to the reviewing court the record of the proceeding under review. The court may require or permit subsequent corrections or additions to the record when deemed desirable.

(e) If, before the date set for hearing, application is made to the court for leave to present additional evidence and the evidence is material and good cause exists for the failure to present the evidence in the proceeding before the authority, the court may order the authority to hear the evidence upon the conditions as the court deems proper. The authority may modify its findings, decision, and order by reason of the additional evidence and shall file with the reviewing court, to become a part of the record, the additional evidence, together with any modification of its findings or decision.

(f) The review shall be conducted by the court without a jury and shall be confined to the record. In cases of alleged irregularities in procedure before the authority and not shown in the record, testimony thereon may be taken in court. The court, upon request by any party, may hear oral argument and receive written briefs.

(g) Upon review of the record, the court may affirm the decision of the authority or remand the case with instructions for further proceedings, or it may reverse or modify the decision and order if the substantial rights of the petitioners may have been prejudiced because the administrative findings, conclusions, decisions, or orders are:

- (1) In violation of constitutional or statutory provisions;
- (2) In excess of the statutory authority or jurisdiction of the authority;
- (3) Made upon unlawful procedure;
- (4) Affected by other error of law;
- (5) Clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or
- (6) Arbitrary, capricious, or characterized by abuse of discretion or clearly unwarranted exercise of discretion. [L 2006, c 180, pt of §2]

" **§356D-97 Appeals.** An aggrieved party may secure a review of any final judgment of the circuit court under this part by appeal to the appellate courts, subject to chapter 602. The appeal shall be taken in the manner provided in the rules of court. [L 2006, c 180, pt of §2; am L 2007, c 193, §6]

" **[\$356D-98] Rules.** The authority may adopt rules pursuant to chapter 91 necessary for the purposes of this part. [L 2006, c 180, pt of §2]

"PART VI. AUTHORITY-COUNTY COOPERATION

[\$356D-101] Gifts, etc., to counties from authority. The authority may make and pay gifts or donations of money directly to any county. Any county may receive the gifts or donations as a general fund realization, and expend the funds for any purpose authorized by law. [L 2006, c 180, pt of §2]

" **[\$356D-102] Facilities and services by counties to authority and tenants.** Each county within which the authority may own, operate, or administer any public housing project or complex and to which, or for whose benefit, the authority or its predecessors in interest has made (by payment to the county) or may hereafter make, gifts or donations including any payment in lieu of taxes, upon request of the authority, shall provide and furnish to the authority in regard to every public housing project or complex, and to the tenants and other occupants of the housing project, free of charge and without condition or other requirement, all the facilities, services, and privileges as it provides or furnishes, with or without charge or other consideration, to any person or persons. The facilities and services may include police protection, fire protection, street lighting, paving maintenance, traffic control, garbage or trash collection and disposal, use of streets or highways, use of county incinerators or garbage dumps, storm drainage, and sewage disposal. In addition, each county, upon request of the authority and free of charge and without condition or other requirement, shall open or close, but not construct or reconstruct, streets, roads, highways, alleys, or other facilities within any public housing project or complex within the county. Nothing in this section shall be construed to restrict or limit the power of the authority to agree to pay, or to pay, for any and all of the facilities, services, and privileges, if in its discretion it deems the payment advisable. [L 2006, c 180, pt of §2]

" **[\$356D-103] Construction of additional powers.** Sections 356D-101 and 356D-102 shall not be construed as abrogating, limiting, or modifying parts II, III, or IV, including amendments thereto. [L 2006, c 180, pt of §2]

" **[\$356D-104] Charges for prior services by counties to authority.** Every county (including departments, boards, or

instrumentalities thereof) which has, prior to May 14, 1949, provided or furnished any facilities, services, or privileges, including, without limitation to the generality of the foregoing, garbage and trash collection and disposal, use of streets or highways, and use of county incinerators or garbage dumps, to the authority or its predecessors in interest in regard to any public housing project or complex owned, operated, or administered by the authority under any law or laws, or to the tenants or occupants of the public housing project or complex, for which facilities, services, or privileges the authority, or the tenants or occupants have not paid, is prohibited from charging, collecting, or receiving any privileges, except such sum or sums as the authority, in its discretion, may hereafter agree to pay for the same. [L 2006, c 180, pt of §2]

" **[§356D-105] Garbage and trash disposal.** Every county that maintains or operates any garbage or trash collection and disposal service shall collect, free of charge, and dispose of garbage and trash at and from any public housing project or complex located within the county, which is owned, operated, or administered by the authority. Upon request of the authority, each county shall allow the authority to establish, maintain, or operate its own garbage and trash collection and disposal service for any or all public housing projects or complexes located within the county, and in regard to the service, shall allow the authority to use, free of charge, all incinerators, garbage dumps, and other facilities that the county may own, control, or operate.

Nothing in this section shall prohibit or prevent the authority from paying, and any county from receiving, any sum or sums that the authority in its discretion may agree to pay as reasonable compensation for the services or facilities provided by any county pursuant to this section. [L 2006, c 180, pt of §2]

" **[§356D-106] Furnishing of free water not required.** Sections 356D-102 to 356D-105 shall not be construed to require the furnishing of any free water to the authority or to the tenants or occupants of any public housing project or complex owned, operated, or administered by the authority. [L 2006, c 180, pt of §2]

" **[§356D-107] Regulation of traffic within public housing projects in the various counties.** (a) Any law to the contrary notwithstanding, the council of the city and county of Honolulu

may regulate traffic within the various public housing projects of the authority in that county by ordinance.

(b) Any law to the contrary notwithstanding, the county councils of the counties of Hawaii, Maui, and Kauai may regulate traffic within the various public housing projects of the authority within their respective counties by ordinance.

(c) No ordinance or regulations enacted by the council of any county regulating traffic within the public housing projects of the authority within the county shall be valid or effective unless prior thereto, the authority has entered into a written contract with the county absolving the county from any and all responsibility or liability for the construction, maintenance, and repair of any streets, lanes, alleys, or highways or street markers, traffic signs, or signal devices within the public housing projects of the authority. [L 2006, c 180, pt of §2]

" **§§356D-108 to 356D-119 Reserved.**

" **[§356D-120] Additional powers.** The powers conferred upon the authority by this part shall be in addition and supplemental to the powers conferred by any other law, and nothing in this part shall be construed as limiting any powers, rights, privileges, or immunities of the authority. [L 2006, c 180, pt of §2]

"PART VII. HOMELESS ASSISTANCE--REPEALED

§§356D-121 to 356D-147 REPEALED. L 2010, c 89, §12.

Cross References

For similar provisions, see chapter 346, part XVII.

"PART VIII. STATE RENT SUPPLEMENT PROGRAM

§356D-151 Rent supplements. The authority is authorized to make and contract to make annual payments to a housing owner on behalf of a qualified tenant as those terms are defined in this part, in amounts and under circumstances as are prescribed by the authority pursuant to rules adopted by the authority. [L 2006, c 180, pt of §2; am L 2007, c 223, §1]

" **[§356D-151.5] Rent supplement; qualification.** Except as provided by federal law, nothing in this chapter shall prevent a person who otherwise qualifies for rent supplement under this chapter from taking up to ninety days (from the day the person's application for rent supplement is approved) to secure a

qualified rental dwelling; provided that rent supplement payments shall not commence until a qualified rental dwelling is secured. [L 2008, c 166, §1]

" **[§356D-152] Housing owner; defined.** As used in this part, the term "housing owner" means:

- (1) A private nonprofit corporation or other private nonprofit legal entity, a limited dividend corporation or other limited dividend legal entity, or a cooperative housing corporation, that is a mortgagor under section 202, 207, 213, 221(d)(3), 221(d)(5), or 231 of the United States Housing Act of 1937, as amended, or that conforms to the standards of those sections but that is not a mortgagor under those sections or any other private mortgagor under the United States Housing Act of 1937, as amended, for very low-income, low-income, or moderate-income family housing, regulated or supervised under federal or state laws or by political subdivisions of the State, or agencies thereof, as to rents, charges, capital structure, rate of return, and methods of operation, from the time of issuance of the building permit for the project;
- (2) Any other owner of a standard housing unit or units deemed qualified by the authority; and
- (3) The authority. [L 2006, c 180, pt of §2]

" **§356D-153 Qualified tenant defined; preference.** (a) As used in this part, "qualified tenant" means any single person or family, pursuant to criteria and procedures established by the authority, who has been determined to have an income not exceeding the income limit as determined by the authority pursuant to rules adopted by the authority; provided that the income limit shall not exceed ninety-five per cent of the annual median income as determined by the United States Department of Housing and Urban Development; provided further that the qualified tenant's primary place of residence shall be in the State or the qualified tenant intends to make the State the qualified tenant's primary place of residence. The terms "qualified tenant" and "tenant" shall include a person or family who satisfies the foregoing requirements and is a member of a cooperative who, upon resale of the member's membership to the cooperative, will not be reimbursed for more than fifty per cent of any equity increment accumulated through payments under this part.

With respect to members of a cooperative, as used in this part, the terms "rental" and "rental charges" mean the charges

under the occupancy agreements between the members and the cooperative.

(b) The authority shall give preference to qualified tenants with incomes at or below eighty per cent of the annual median income as determined by the United States Department of Housing and Urban Development. [L 2006, c 180, pt of §2; am L 2007, c 223, §2]

" **[§356D-154] Relationship of annual payment to rental and income.** The amount of the annual payment with respect to any dwelling unit shall not exceed the amount by which the fair market rental for that unit exceeds thirty per cent of the tenant's income as determined by the authority pursuant to procedures and rules pursuant to chapter 91. [L 2006, c 180, pt of §2]

" **[§356D-155] Determination of eligibility of tenants and rental charges.** (a) For purposes of carrying out this part, the authority shall establish criteria and procedures for determining the eligibility of tenants and rental charges, including criteria and procedures with respect to periodic review of the tenant's income and periodic adjustment of rental charges. The authority shall issue, upon the request of a housing owner, certificates as to the income of the individuals and families applying for admission to, or residing in, dwellings of that owner.

(b) Procedures adopted by the authority hereunder shall provide for recertification of the incomes of tenants, except elders, at intervals of two years, or at shorter intervals, for the purpose of adjusting rental charges and annual payments on the basis of tenants' incomes, but in no event shall rental charges adjusted under this part for any dwelling exceed the fair market rental of the dwelling.

(c) No payments under this part may be made with respect to any property for which the costs of operation, including wages and salaries, are determined by the authority to be greater than similar costs of operation of similar housing in the community where the property is situated. [L 2006, c 180, pt of §2]

" **[§356D-156] Rules.** The authority may adopt under chapter 91 all rules necessary to carry out the purpose of this part, including rules relating to determining preference among applicants for state rent supplements. [L 2006, c 180, pt of §2]

" **§§356D-157 to 356D-159 Reserved.**

" **[§356D-160] Additional powers.** The powers conferred upon the authority by this part shall be in addition and supplemental to the powers conferred by any other law, and nothing in this part shall be construed as limiting any powers, rights, privileges, or immunities so conferred. [L 2006, c 180, pt of §2]

"PART IX. STATE SALES HOUSING PROGRAM--REPEALED

§§356D-161 to 356D-170 REPEALED. L 2016, c 41, §2.