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# A BILL FOR AN ACT

RELATING TO THE HAWAII PUBLIC HOUSING AUTHORITY.

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

1       SECTION 1. Section 356D-1, Hawaii Revised Statutes, is  
2 amended by adding a new definition to be appropriately inserted  
3 and to read as follows:

4       "Housing" or "housing project" means any home, house,  
5 residence, building, apartment, living quarters, abode,  
6 domicile, or dwelling unit that is designed principally for the  
7 purposes of sheltering people."

8       SECTION 2. Section 356D-8, Hawaii Revised Statutes, is  
9 amended as follows:

10       1. By amending subsection (a) to read:

11       "(a) The authority may acquire any real or personal  
12 property or interest therein by purchase, exchange, gift, grant,  
13 lease, or other means from any person or government to provide  
14 ~~public~~ housing. Exchange of real property shall be in  
15 accordance with section 171-50."

16       2. By amending subsection (c) to read:

17       "(c) The authority may lease or rent all or a portion of



1 any [~~public~~] housing project and establish and revise the rents  
2 or charges therefor. The authority may sell, exchange,  
3 transfer, assign, or pledge any property, real or personal, or  
4 any interest therein to any person or government."

5 SECTION 3. Section 356D-10, Hawaii Revised Statutes, is  
6 amended to read as follows:

7 "[~~+~~]**\$356D-10**[~~+~~] **Agents, including corporations.** The  
8 authority may exercise any or all of the powers conferred upon  
9 it, either generally or with respect to any specific [~~public~~]  
10 housing project through an agent that it may designate,  
11 including any corporation that is formed under the laws of this  
12 State, and for those purposes the authority may cause one or  
13 more corporations to be formed under the laws of this State or  
14 may acquire the capital stock of any corporation. Any for  
15 profit corporate agent, all of the stock of which shall be owned  
16 by the authority or its nominee, may to the extent permitted by  
17 law, exercise any of the powers conferred upon the authority in  
18 this chapter."

19 SECTION 4. Section 356D-11, Hawaii Revised Statutes, is  
20 amended to read as follows:



1       **"§356D-11 Development of property.** (a) The authority, in  
2 its own behalf or on behalf of any government, may:

3           (1) Clear, improve, and rehabilitate property; and

4           (2) Plan, develop, construct, and finance housing  
5 projects.

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

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

19           (d) The authority shall not develop any public land where  
20 the development may endanger the receipt of any federal grant,  
21 impair the eligibility of any government agency for a federal



1 grant, prevent the participation of the federal government in  
2 any government program, or impair any covenant between the  
3 government and the holder of any bond issued by the government.

4 (e) The authority may contract or sponsor with any county,  
5 housing authority, or person, subject to the availability of  
6 funds, housing projects designed to meet the needs of elders,  
7 disabled, displaced or homeless persons, low- and  
8 moderate- income persons, government employees, teachers, or  
9 university and college students and faculty.

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

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

18 (g) The authority may develop, with an eligible developer,  
19 or may assist under a government assistance program in the  
20 development of, housing projects. The land planning activities  
21 of the authority shall be coordinated with the county planning



1 departments and the county land use plans, policies, and  
2 ordinances.

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

5 In selecting eligible developers or in contracting any  
6 services or materials for the purposes of this subsection, the  
7 authority shall be subject to all federal procurement laws and  
8 regulations.

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

14 (h) In connection with the development of any housing  
15 dwelling units under this chapter, the authority may also  
16 develop commercial properties and industrial properties and sell  
17 or lease other properties if it determines that the uses will be  
18 an integral part of the housing development or a benefit to the  
19 community in which the properties are situated. The authority  
20 may designate any portions of the housing development for  
21 commercial, industrial, or other use and shall have all the



1 powers granted under this chapter with respect thereto. The  
2 authority may use any funding authorized under this chapter to  
3 implement this subsection.

4 The net proceeds of all sales or leases, less costs to the  
5 authority, shall be deposited in the public housing special fund  
6 established by section 356D-28.

7 ~~[(i) For purposes of this section, "housing" or "housing~~  
8 ~~project" means any home, house, residence, building, apartment,~~  
9 ~~living quarters, abode, domicile, or dwelling unit that is~~  
10 ~~designed principally for the purposes of sheltering people.]"~~

11 SECTION 5. Section 356D-11.2, Hawaii Revised Statutes, is  
12 amended to read as follows:

13 **"[+]§356D-11.2[+] Ceded lands; vacancy; development.**

14 ~~[(a)]~~ No housing projects developed or constructed pursuant to  
15 this part shall be developed or constructed on ceded land that  
16 is vacant on or after January 1, 2022.

17 ~~[(b) For the purposes of this section, "housing project"~~  
18 ~~shall have the same meaning as that term is defined in section~~  
19 ~~356D-11.] "~~

20 SECTION 6. Section 356D-12, Hawaii Revised Statutes, is  
21 amended to read as follows:



1        **"§356D-12 Development of property; additional powers.**

2    ~~[(a)]~~ Notwithstanding any other law to the contrary, whenever  
3    the bids submitted for the development or rehabilitation of any  
4    housing project authorized pursuant to this chapter exceed the  
5    amount of funds available for that project, the authority, with  
6    the approval of the governor, may disregard the bids and enter  
7    into an agreement to carry out the project, undertake the  
8    project, or participate in the project under the agreement;  
9    provided that:

10        (1) The total cost of the agreement and the authority's  
11            participation, if any, shall not exceed the amount of  
12            funds available for the project; and

13        (2) If the agreement is with a nonbidder, the scope of the  
14            project under agreement shall remain the same as that  
15            for which bids were originally requested.

16        ~~[(b) For purposes of this section, "housing project" shall~~  
17    ~~have the same meaning as that term is defined in section~~  
18    ~~356D-11.] "~~

19        SECTION 7. Section 356D-12.5, Hawaii Revised Statutes, is  
20    amended to read as follows:



1       **"§356D-12.5 Development of property; partnership or**  
2       **development agreement.** (a) Any housing project may be  
3       developed under sections 356D-11 and 356D-12 by the authority in  
4       partnership or under a development agreement with a private  
5       party; provided that a written partnership or development  
6       agreement is executed by the authority. At a minimum, the  
7       partnership or development agreement shall provide for:

8           (1) A determination by the authority that the partnership  
9           or development agreement is for a public purpose; and

10          (2) Final approval by the authority of the plans and  
11          specifications for the housing project.

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





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

6 (d) The authority may adopt rules pursuant to chapter 91  
7 necessary for the purposes of this section.

8 ~~[(c) For the purposes of this section, "housing project"~~  
9 ~~shall have the same meaning as that term defined in section~~  
10 ~~356D-11.] "~~

11 SECTION 8. Section 356D-21, Hawaii Revised Statutes, is  
12 amended as follows:

13 1. By amending subsection (d) to read:

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

17 (1) Income and revenues derived from the ~~[public]~~ housing  
18 project or projects financed from the proceeds of  
19 bonds;



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

10 2. By amending subsection (f) to read:

11 "(f) Any [~~public~~] housing project or projects authorized  
12 by, and undertaken pursuant to, this chapter shall constitute an  
13 [~~"undertaking"~~] undertaking within the meaning of that term as  
14 defined and used in part III, chapter 39. The authority shall  
15 constitute a [~~"department"~~] department and the board shall  
16 constitute a [~~"governing body"~~] governing body within the  
17 meaning of those terms as defined and used in part III, chapter  
18 39."

19 SECTION 9. Section 356D-22, Hawaii Revised Statutes, is  
20 amended by amending subsection (b) to read as follows:



1       "(b) The authority may include the costs of undertaking  
2 and maintaining any [public] housing project or projects for  
3 which the bonds are issued in determining the principal amount  
4 of bonds to be issued. In determining the cost of undertaking  
5 and maintaining the [public] housing project, the authority may  
6 include the cost of studies and surveys; insurance premiums;  
7 underwriting fees; financial consultant, legal, accounting, and  
8 other services incurred; reserve account, trustee, custodian,  
9 and rating agency fees; and interest on the bonds for a period  
10 determined by the authority."

11       SECTION 10. Section 356D-23, Hawaii Revised Statutes, is  
12 amended by amending subsection (c) to read as follows:

13       "(c) The trustee shall also be authorized by the authority  
14 to receive and receipt for, hold, and administer the revenues  
15 derived by the authority from any [public] housing project or  
16 projects for which the bonds are issued or the projects pledged  
17 to the payment of the bonds, and to apply the revenues to the  
18 payment of the cost of administering, operating, and maintaining  
19 the [public] housing project or projects, to pay the principal  
20 of and the interest on the bonds, to the establishment of



1 reserves, and to other purposes as may be authorized in the  
2 proceedings providing for the issuance of the bonds."

3 SECTION 11. Section 356D-24, Hawaii Revised Statutes, is  
4 amended as follows:

5 1. By amending subsection (b) to read:

6 "(b) A trust indenture may allow the authority to pledge  
7 and assign to the trustee agreements related to the [public]  
8 housing project or projects and the rights of the authority  
9 thereunder, including the right to receive revenues thereunder  
10 and to enforce the provision thereof."

11 2. By amending subsections (d) and (e) to read:

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

14 (1) The investment of the proceeds of the bonds, the  
15 investment of any reserve for the bonds, the  
16 investment of the revenues of the [public] housing  
17 project or system of [public] housing projects, and  
18 the use and application of the earnings from  
19 investments; and

20 (2) The terms and conditions upon which the holders of the  
21 bonds or any portion of them or any trustee thereof



1           may institute proceedings for the enforcement of any  
2           agreement or any note or other undertaking,  
3           obligation, or property securing the payment of the  
4           bonds and the use and application of the moneys  
5           derived therefrom.

6           (e) A trust indenture may also contain provisions deemed  
7           necessary or desirable by the authority to obtain or permit, by  
8           grant, interest subsidy, or otherwise, the participation of the  
9           federal government in the [~~public~~] housing projects or in the  
10          financing of the costs of administering, operating, or  
11          maintaining the [~~public~~] housing projects."

12          SECTION 12. Statutory material to be repealed is bracketed  
13          and stricken. New statutory material is underscored.

14          SECTION 13. This Act shall take effect upon its approval.



H.B. NO. 1093  
H.D. 1  
S.D. 1  
C.D. 1

**Report Title:**

HPHA; Housing Development; Bonds; Trustees; Housing Projects;  
Definition

**Description:**

Clarifies the Hawaii Public Housing Authority's powers relating  
to housing projects. (CD1)

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not legislation or evidence of legislative intent.*

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