

ACT 171

S.B. NO. 10

A Bill for an Act Relating to Housing.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Findings and Purpose. The legislature finds that a critical housing shortage still exists in the State and that a major percentage of our citizens are unable to acquire housing. The legislature has determined that certain technical and substantive amendments to chapters 356 and 359G of the Hawaii Revised Statutes will aid in the production of housing units for low income families. It is the purpose of this Act to provide as effective a mechanism as possible to achieve the goal of shelter for our citizens.

SECTION 2. Section 356-5, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 356-5 Housing authority to be public corporation; commissioners.

An authority to be known as the Hawaii housing authority is created. The authority shall be a public body and a body corporate and politic with perpetual existence, and shall consist of eight commissioners of whom six shall be public members appointed by the governor with the consent of the senate. Not more than three of the public members shall be members of the same political party. Two of the public members of the commission shall be appointed at large, one shall be appointed from the city and county of Honolulu and one from each of the counties of Hawaii, Maui and Kauai, The director of social services shall be an ex officio voting member of the housing authority as provided for in section 26-14, but shall not be an ex officio chairman. The special assistant for housing appointed pursuant to section 359G-2 shall be an ex officio voting member of the housing authority.

A commissioner shall hold office until his successor has been appointed and has qualified. Vacancies shall be filled for the unexpired term. Four commissioners shall constitute a quorum, whose affirmative vote shall be necessary for all actions by the authority. The governor shall file with the lieutenant governor a certificate of the appointment or reappointment of any commissioner and the certificate shall be conclusive evidence of the due and proper appointment of the commissioner. A commissioner shall receive no compensation for his services but he shall be entitled to the necessary expenses including traveling expenses incurred in the discharge of his duties.

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The governor may appoint an acting commissioner to serve as such during the temporary absence from the State or the illness of any regular commissioner appointed as above provided. The governor shall file with the lieutenant governor a certificate of the appointment of any acting commissioner and the certificate shall be conclusive evidence of the due and proper appointment of the acting commissioner. The acting commissioner shall, during his term of service, have the same powers and duties as the regular commissioner, and shall be known as an acting commissioner.

The authority shall select from among its members a chairman and a vice-chairman, and it may employ, subject to chapters 76 and 77, an executive secretary, technical experts and such other officers, agents, and employees, permanent and temporary, as it may require. The authority may call upon the attorney general for such legal services as it may require or it may employ its own counsel and legal staff. The authority may delegate to one or more of its agents or employees such powers or duties as it may deem proper. The staff provided under section 359G-3 shall be in addition to any staff provided for in this chapter."

SECTION 3. Section 359G-2, Hawaii Revised Statutes, is amended to read as follows:

"**Sec. 359G-2 Special assistant for housing.** There shall be in the office of the governor a special assistant for housing to be appointed by the governor without regard to chapters 76, 77, and 78. The special assistant shall be an ex officio member of the Hawaii housing authority with a vote."

SECTION 4. Section 359G-3, Hawaii Revised Statutes, is amended to read as follows:

"**Sec. 359G-3 Housing authority—staff.** The Hawaii housing authority shall administer this chapter. The authority may employ, subject to chapters 76, 77, and 78, a staff consisting of a qualified financial aide, development aide, and attorney, and other individuals on a contractual basis to assist in carrying out the functions and purposes of this chapter. Subject to legislative appropriation, no contract shall be for a period longer than two years, and no individual shall be employed beyond a maximum of six years."

SECTION 5. Section 359G-4(a), Hawaii Revised Statutes, is amended to read as follows:

"(a) Develop fee simple or leasehold property, construct dwelling units thereon, including condominiums and planned units, and sell, lease or rent or cause to be leased or rented the land and the completed units at the lowest possible price to qualified residents of the State, and the authority shall perform such functions in partnership with a qualified partner or partners as hereinafter defined, or shall act in its own behalf.

A qualified resident means a person who:

- (1) Is a citizen of the United States or a declarant alien;
- (2) Is at least eighteen years of age;

- (3) Is a bona fide resident of the State and has a bona fide intent to reside in the dwelling unit purchased or rented under this chapter; and
- (4) In the case of purchase of a dwelling unit in fee simple or leasehold, has a gross income sufficient to qualify for the loan to finance the purchase.

Any person whom the authority finds to be within one of the following classes, shall not be eligible to become a purchaser of a dwelling unit, to wit:

- (1) A person who himself or whose husband or wife or both (when husband and wife are living together) owns or own in fee simple or leasehold any lands suitable for dwelling purposes; and
- (2) A person who himself or whose husband or wife (when husband and wife are living together) has pending an unrefused application to purchase a dwelling unit under this chapter from the authority.

The authority shall require all applicants for the purchase of dwelling units to make application therefor under oath, and may require additional testimony or evidence under oath in connection with any application. The determination of any applicant's eligibility under this chapter by the authority shall be conclusive as to all persons thereafter dealing with the property; but the making of any false statement knowingly by the applicant or other person to the authority in connection with any application shall constitute perjury and be punishable as such. The authority shall establish a system to determine preferences by lot in the event that it receives more qualified applications than it has units available."

SECTION 6. Section 359G-12(d), Hawaii Revised Statutes, is amended to read as follows:

"(d) To be eligible for loans under this section, a qualified borrower shall be:

- (1) A citizen of the United States or a declarant alien;
- (2) A sound credit risk with ability to repay the money borrowed;
- (3) Meet the standards and regulations as may be promulgated by the authority; and
- (4) Willing to comply with the regulations as may be promulgated by the director of finance.

The authority shall process all applications and determine who is a qualified borrower under this chapter."

SECTION 7. Section 359G-17(a), Hawaii Revised Statutes, is amended to read as follows:

"(a) No person shall be qualified for a downpayment loan, unless he:

- (1) Is a citizen of the United States or a declarant alien;
- (2) Is at least eighteen years of age;
- (3) Is a bona fide resident of the State of one year or more;
- (4) Has a bona fide intent to reside in the residential property to be purchased;

- (5) Is accepted by a private lender as a person to whom it is willing to lend money for the purchase of the residential property provided the required downpayment is made; and
- (6) Has the financial capacity to repay the downpayment loan.

SECTION 8. Section 359G-23(a), Hawaii Revised Statutes, is amended to read as follows:

“(a) The authority shall not participate in any loan, unless the borrower to whom the private lender is willing to make the loan:

- (1) Is a citizen of the United States or a declarant alien;
- (2) Is at least eighteen years of age;
- (3) Is a bona fide resident of the State of one year or more;
- (4) Has a bona fide intent to reside in the residential property to be purchased;
- (5) Has the ability to repay the loan; and
- (6) Has a gross income of not more than \$20,000 per annum (the gross income of the borrower’s spouse, if the borrower is married, shall be counted, except where the borrower is living separate and apart from his spouse under a decree of a court of competent jurisdiction) or is fifty-five years of age or more, or is a person displaced by government action other than eviction due to his fault.”

SECTION 9. Chapter 359G, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“**Sec. 359G- Contractual staff reserve fund.** (a) There is created a contractual staff reserve fund. The fund shall be financed first out of the dwelling unit revolving fund created pursuant to section 359G-10 and then, if necessary, out of the general revenues of the State, and shall be used in accordance with the purposes set forth in section 359G-3.”

SECTION 10. Section 359G-4(c), Hawaii Revised Statutes, is amended to read as follows:

“(c) Acquire, by eminent domain, exchange, or negotiation, land or property required within the foreseeable future for the purposes of this chapter. Land or property includes vacant land or land with site improvements whether partially or entirely finished in accordance with governmental subdivision standards, or with completed dwellings. Whenever land with a completed dwelling or dwellings thereon is acquired by exchange or negotiation, the exchange value or purchase price for each such dwelling, including land, shall not exceed its appraised value.”

SECTION 11. Section 359G-7, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 359G-7 Financing.** The director of finance is hereby authorized to issue both general obligation bonds and short term project notes of the State in the aggregate amount not to exceed \$60,000,000, for the purposes of this chapter. For purposes of this section, “short term project notes” means evidences of indebtedness issued by the State for specified housing projects and secured by such projects, the terms of which call for complete repayment by the

State of the face amount in not less than two nor more than ten years. Pending the receipt of funds from the issuance and sale of such bonds and notes, the amount required for the purposes of this chapter shall be advanced from the general fund of the State. Upon the receipt of the bond or note funds, the general fund shall be reimbursed. The director of finance may sequester and separate the proceeds from sale of the bonds and notes into separate funds. The amounts in either fund may be used for any of the purposes set forth in subsection 359G-4(e), including permanent financing, and the state director of finance shall have the authority to use the moneys in the general obligation bond fund for projects which are receiving no federal assistance in the form of insurance, guarantee, or subsidy. Prior to the issuance and sale of the general obligation bonds, and any short term project notes, interest on any interim money shall be computed at the greater of seven per cent or one per cent more, rounded to the nearest one eighth of one per cent, than that paid by the State on the general obligation bonds most recently issued by it. After the issuance and sale of the general obligation bonds, and short term project notes, interest on any interim money shall be computed at one per cent more, rounded to the nearest one eighth of one per cent, than that paid by the State for the general obligation bonds or short term project notes. Interest so computed shall be a cost of the project to be prorated over the units. In the event the rate of interest on an interim loan made pursuant to the third preceding sentence is higher than the rate ultimately determined in accordance with the second preceding sentence, the authority may refund the difference.”

SECTION 12. Section 359G-9, Hawaii Revised Statutes, is repealed.

SECTION 13. Chapter 359G, Hawaii Revised Statutes, is hereby amended by adding a new section to be appropriately designated and to read as follows:

“Sec. 359G- Restrictions on transfer and use of dwelling units. (a) For a period of ten years after the dwelling unit is purchased from the authority, or an agreement of sale is executed, whether on fee simple or leasehold property the following restrictions shall apply to the use and transfer of the unit and the property:

- (1) Any such dwelling unit shall be owner occupied. Violation of this provision is sufficient for the authority, at its option, to repurchase the dwelling unit as provided for in paragraph (2);
- (2) In the event that the purchaser wishes to transfer title to the dwelling unit and the property or the lease, the authority shall have the right of first refusal, at a price which shall not exceed the amount of the original cost to the purchaser together with the cost of any improvements added by the purchaser together with simple interest on all of the purchaser's equity in the property at the rate of seven per cent a year; provided, however, that title to a dwelling unit and the property or lease may pass to a family member by devise or through the laws of descent, who would otherwise qualify under the rules and regulations established by the authority.

- (3) Any deed, lease, agreement of sale, mortgage, or other instrument of conveyance issued by the authority shall expressly contain the restriction on transfer and use of the dwelling unit as prescribed in this section.
- (b) For a period from the tenth year until the twentieth after a dwelling unit is purchased or an agreement of sale is executed, whether on fee simple or leasehold property the following restrictions shall apply to the use and transfer of the unit and the property:
 - (1) Any such dwelling unit shall be owner occupied. Violation of this provision is sufficient for the authority, at its option, to repurchase the dwelling unit as provided for in paragraph (2);
 - (2) In the event that the purchaser wishes to transfer title to the dwelling unit and the property or the lease, the authority shall have the right of first refusal, at a price which shall not exceed the greater amount of the original cost to the purchaser together with the cost of any improvements added by the purchaser together with simple interest on all of the purchaser's equity in the property at the rate of seven per cent a year, or the fair market value of the premises less any amount subsidized by the State, as determined by the authority, and less also interest thereon at the same rate as that paid by the purchaser on his mortgage or other security agreement, provided, that title to a dwelling unit and the property or lease may pass to a family member by devise or through the laws of descent, who would otherwise qualify under the rules and regulations established by the authority.
 - (3) Any deed, lease, agreement of sale, mortgage or other instrument of conveyance issued by the authority shall expressly contain the restriction on transfer and use of the dwelling unit as prescribed in this section.
- (c) Any time after twenty years have elapsed from the date a dwelling unit is purchased or an agreement of sale is executed, whether on fee simple or leasehold property, the purchaser may sell the unit and sell or assign the property to any person free from any price restrictions; provided that the purchaser shall be required to pay to the authority:
 - (1) The balance of any mortgage note, agreement of sale, or other amount owing to the authority.
 - (2) To the extent that any profit is realized, any subsidy made by the authority or the State not counted as cost under section 359G-8 but charged to the dwelling unit by good accounting practice as determined by the authority whose books shall be prima facie evidence of the correctness of the cost.
 - (3) To the extent that any profit is realized, interest on the amount determined under paragraph (2) above computed from the date of occupancy, at the same rate as that paid by the purchaser on his mortgage or other security agreement.
 - (4) If any proposed sale or transfer would not generate sufficient profit to enable the repayment of all sums under paragraphs (1), (2), and (3)

above, the authority shall have the right of first refusal to repurchase the unit. These provisions of subsection (b) shall be incorporated in any deed, lease, agreement of sale, mortgage, or other instrument of conveyance issued by the authority.

(d) Notwithstanding the provisions of subsections (a), (b), and (c) above, the authority may at any time consent to the sale or transfer of a unit for such a price and on such terms as the authority may determine, in accordance with adopted rules or regulations, to preserve the intent of those provisions without the necessity for the State to repurchase the unit.

(e) Notwithstanding the provisions of subsections (a), (b), and (c) above, the authority may at any time waive the restrictions of subsections (a) (2), (a) (3), (b) (2), (b) (3), and (c), if the State makes no subsidy in the form of unrecovered land costs or unrecovered development costs, except such tax relief granted under section 359G-15, and except such costs, if any, (1) allocable to the staff of the authority in the administration of the partnership, (2) for training of labor under section 359G-13, and (3) for the development of innovative techniques and research under section 359G-14.

In the event that the United States Department of Housing and Urban Development, through its Federal Housing Administration, the United States Department of Agriculture, through its Farmers Home Administration or any other federal or state agency engaged in housing activity, shall at any time become the owner of a dwelling unit and the land or leasehold interest pursuant to a contract, mortgage, or mortgage insurance, this right to repurchase by the authority shall be suspended and be of no force and effect during the period of such ownership, the right to repurchase being automatically reinstated and fully effective and applicable from and after any period of such ownership. Title to a dwelling unit and the land or leasehold interest may pass to a family member by devise or through the laws of descent, who would otherwise qualify under the rules and regulations established by the authority. The authority may in accordance with chapter 91 adopt rules to effectuate this section and to conform to the requirements of any federal or state program."

SECTION 14. Chapter 359G, Hawaii Revised Statutes, is hereby amended by adding a new section to be appropriately designated and to read as follows:

"Sec. 359G- Housing opportunity allowance program. (a) Subject to the provisions of this section, the authority may provide funds to assist a prospective home buyer who is ineligible to obtain home purchase assistance under the subsidy programs of the state and federal government, and whose income is insufficient to permit him to obtain a mortgage loan providing for monthly payments within his financial ability from a private lender on either a conventional or a guaranteed or insured, but unsubsidized, basis.

(b) Definitions. As used in this section:

- (1) "Allowance" means a housing opportunity allowance to be credited against interest due on qualifying loans as further described in subsection (c).
- (2) "Eligible borrower" means a borrower who, at the time of making

application for an allowance and at the time of the closing of a qualified loan:

- (A) Is either spouse of a married couple living together, or both such spouses, or the head of a household with one or more dependents;
- (B) Has an annual aggregate gross family income not in excess of two hundred fifty per cent of the income limits set by the authority for a family of the same size to be admitted to low-rent housing owned by the authority;
- (C) Is a citizen of the United States or a declarant alien who now resides in the State;
- (D) Is at least eighteen years of age;
- (E) Is a bona fide resident of the State for one year or more;
- (F) Has a bona fide intent to reside in the residential property to be purchased;
- (G) Is accepted by a mortgagee as a person to whom it is willing to make a qualifying loan provided an allowance is paid under this section;
- (H) Has assets not in excess of \$10,000 as defined in rules and regulations adopted by the authority.

No person who has any equity in fee simple or in leasehold, in any other residential property within or without the State, or who has or has had a loan made under this program shall be eligible to become a borrower under this section. A person shall be deemed to own a residential property if he, his spouse, or both he and his spouse (unless separated and living apart under a decree of a court of competent jurisdiction) owns such residential property.

- (3) "Mortgagee" means any bank or other institution authorized by law to make loans on dwelling units.
- (4) "Qualifying loan" means a loan which:
 - (A) Is for the purpose of financing the purchase of a dwelling unit to be owned and occupied by an eligible borrower as a primary residence;
 - (B) Is secured or is to be secured by a first lien on such dwelling unit;
 - (C) Is in a principal amount (i) not less than an amount equal to seventy per cent of the fair market value of the security property; (ii) not more than the lesser of an amount equal to one hundred per cent of the fair market value of the security property, or the purchase price of the security property.
- (c) Housing opportunity allowance.
 - (1) Any eligible borrower who has obtained a qualifying loan and a commitment from a mortgagee, and who has certified that all information provided in his application for the allowance is accurate at the time of closing, is eligible to receive an allowance from such mortgagee. An allowance in the amount determined by the authority under paragraph (5) of this subsection shall be credited against the

interest charged on each of the first sixty monthly installments paid on the qualifying loan, subject to terms and conditions included in the commitment.

- (2) The borrower may make application for an allowance to the mortgagee to which he has applied for a qualifying loan. The application for an allowance shall be on a form prescribed by the authority.
- (3) In making such application, the applicant shall sign a statement of intention that, if the qualifying loan is made, the borrower:
 - (A) Will be the title owner of the real estate securing the loan;
 - (B) Will occupy the dwelling unit comprising such real estate as a primary residence; and
 - (C) Will not give or execute any lien or charge in connection with the purchase of such real estate without the approval of the authority.
- (4) At the time of closing of the qualifying loan, the mortgagee shall furnish to the eligible borrower a commitment, signed by an officer of the mortgagee, stating the terms and conditions under which the eligible borrower shall be entitled to receive an allowance from the mortgagee. The terms and conditions to be included in the commitment shall be prescribed by the authority by rule.
- (5) The monthly allowance to be provided under this section shall be the lesser of \$50 or the excess of the monthly payment of principal and interest payable on the qualifying loan over twenty per cent of one-twelfth of the eligible borrower's annual aggregate gross family income. For the purposes of computing the amount of the allowance, the authority shall determine the family income of the eligible borrower at the time of closing for the qualifying loan; provided, that the family income shall be redetermined by the authority according to rules and regulations established pursuant to chapter 91 to determine if the allowance should be discontinued.
- (6) The eligible borrower shall be required to certify annually the fact that he is occupying the dwelling unit and that it is his primary residence.
- (7) Failure by the borrower to occupy the dwelling unit as his primary residence shall make all allowance funds paid to the mortgagee on the borrower's account immediately due and payable in accordance with subsection (e) and shall terminate his entitlement to future housing opportunity allowances.
- (d) Approval and payment of housing allowances.
 - (1) Prior to the closing of the qualifying loan, the mortgagee may request the authority to confirm that allowance funds are available to reimburse the mortgagee for all amounts credited under commitments approved by the authority.
 - (2) The authority shall approve any commitment for payment of an allowance if funds are available and if it finds that the commitment, certifications and all closing documents comply with the conditions of this section and requirements prescribed by the authority by rule.

- (3) The authority shall pay to each mortgagee holding an approved commitment the allowance credited to the qualified borrower under that commitment. The mortgagee shall report the total dollar amounts of allowances so credited on a form prescribed by the authority.
- (e) Repayment of allowance.
- (1) The eligible borrower shall repay to the authority all allowance funds paid to the mortgagee on the borrower's account plus interest to the date of repayment at the rate defined in section 359G-7.
- (2) Repayment shall be due at the end of the tenth year after the closing of the qualifying loan or on or before the date of conveyance if the eligible borrower conveys the dwelling unit pursuant to section 359G-
- (3) In the event the dwelling unit is not conveyed after the tenth year, the eligible borrower may repay the loan account balance to the authority over a five-year period at an interest rate as defined in section 359G-7. The authority may approve such a loan based on the capacity of the eligible borrower at that time.
- (4) To secure the indebtedness of the allowance in the event the dwelling unit is not conveyed, the borrower shall execute a promissory note or any other instrument of indebtedness as the authority may require.
- (f) Eligibility of spouse or dependents. Any spouse or dependent of the eligible borrower to whom a dwelling unit approved for allowance descends by devise or by the laws of descent who would qualify as an eligible borrower under rules and regulations established by the authority is eligible to continue to receive the allowance for the remaining term of such allowance, and shall be liable to repay such allowance as provided in subsection (e) upon any subsequent conveyance but not later than the end of the tenth year.
- (g) Financing. For purposes of this section the authority may use funds available from general obligation bonds of the State issued under section 359G-21.
- (h) Rules and regulations. The authority shall adopt and promulgate all rules and regulations necessary to further the policies and provisions of this section pursuant to chapter 91."

SECTION 15. Chapter 359G, Hawaii Revised Statutes, is hereby amended by adding a new section to be appropriately designated and to read as follows:

"Sec. 359G- Independent development of projects. (a) In any county, the authority may enter into agreements for housing projects with a private developer where a project was initiated by the private developer where a project was initiated by the private developer and in the authority's reasonable judgment is primarily designed for low-income housing. The agreement may provide for the housing to be placed under the control of the authority, or to be sold by the authority or to be sold to the authority as soon as the units are completed and shall contain such terms, conditions, and covenants as the authority, by rules made in conformity with this chapter and chapter 91 deems appropriate, and every agreement shall provide for the developer to furnish a

performance bond, in favor of the authority, assuring the timely and complete performance of the agreement. Sureties on the bond must be satisfactory to the authority.

For the purpose of this section, an eligible developer means any person, partnership, cooperative, firm, or corporation determined by the authority:

- (1) To be qualified by experience and financial responsibility and support to construct housing of the type described in this section and of the magnitude encompassed by the given project;
- (2) To have submitted plans for a project adequately meeting the objectives of this section, the maintenance of aesthetic values in the locale of the project, and the requirements of all applicable environmental statutes, and rules;
- (3) To be fully capable, on the basis of experience and reputation to complete all sales of the project in a nondiscriminatory fashion and without encountering complaints under chapters 342, 378, 396, 515, or suits under any applicable state or federal civil or human rights statute;
- (4) To meet all other requisites the authority deems to be just and reasonable, and all requirements stipulated in this section.

(b) Whenever the authority determines a developer to be eligible under this section, it may accept its application for approval of a project provided the plans and specifications for the project and the terms of the agreement to be entered:

- (1) Provide for economically integrated housing by stipulation and design; that not less than sixty per cent of the units shall be sold in price ranges established by the authority under this chapter and chapter 91 as being within the purchasing power of lower income purchasers and the balance of the units to be sold at these or other prices; provided further that, the variously priced units shall not be segregated and shall be randomly dispersed throughout the project horizontally, and if applicable, vertically;
- (2) Provide for the sale of all units in fee simple or in leasehold either to the authority or to the purchaser and in all cases subject to all of the provisions of section 359G-
- (3) Encompass the use of lands adequately suited to the size, design, and types of occupancies designated in subsection (a), properly located for occupancy by the groups for which primarily designed under this section, properly districted for the use intended prior to this application, and appropriately zoned within an urban land use district, or appropriate in its situation and surroundings for more intensive or denser zoning.

(c) The authority may accept and approve projects independently initiated by private developers which fully comply with subsections (a) and (b). The authority may review the plans, specifications, districting, and zoning of the project for the purpose of exempting the project from all statutes, ordinances, charter provisions, and rules and regulations of any governmental

agency relating to zoning and construction standards for subdivisions, development, and improvement of land and the construction, improvement, and sale of homes thereon; provided that:

- (1) The authority finds the project is (A) consistent with the production of housing under this chapter, and meets minimum requirements of good design, pleasant amenities, health, safety, and coordinated development, and (B) in harmony with the general purpose and intent of this chapter.
- (2) The development of the proposed project does not contravene any state land use district classification, county general plan or zoning designation, or safety standard or tariff approved by the public utilities commission for public utilities.
- (3) The authority shall have first presented the plans and specifications for the project to the legislative body of the county in which the project is to be situated, and the legislative body has not disapproved the project within forty-five days from date of presentment. On the forty-sixth day after presentment, a project not disapproved shall be deemed approved by the legislative body of the county. The approval shall be based, or deemed to be based, upon a finding that the provisions of the county general plan and zoning and the spirit of any applicable ordinance of the county in maintaining public welfare and safety are not prejudiced by the variance of the proposed project from such ordinances.

The final plans and specifications for the project approved by the legislative body, or in the alternative by the authority, shall constitute the zoning, building, construction, and subdivision standards for that project. No action shall be prosecuted or maintained against any county, its officials, or employees, on account of actions taken by them in reviewing, approving, disapproving such plans and specifications. For purposes of sections 501-85 and 502-17, the executive director of the authority or the responsible county official may certify maps and plans of lands connected with the project as having complied with applicable laws and ordinances relating to consolidation and subdivision of lands, and such maps and plans shall be accepted for registration or recordation by the land court and registrar.”

SECTION 16. Chapter 359G, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“Sec. 359G- Commercial, industrial, and other uses. (a) In connection with the development of any residential units under this chapter the authority may also develop commercial, industrial, and other properties if it determines that such uses can be an integral part of the development and can help to preserve the life styles of the purchasers of residences in the development. The authority may designate any portions of the developments as for commercial, industrial, or other use and shall have all the powers granted under this chapter with respect thereto including the power to by-pass statutes,

ordinances, charter provisions and rules and regulations of any governmental agency pursuant to section 359G-4(g). For this purpose the authority may use any of the funds authorized under this chapter.

(b) The authority shall establish rules and regulations pursuant to chapter 91 which shall provide the manner of designation of such uses and shall provide that any commercial, industrial, or other properties so developed shall be sold or leased at cost. Sale or lease at cost shall be first to owners of commercial, industrial, or other facilities displaced by the authority; and second to purchasers of residential units developed in the near vicinity under this chapter; and third to any other interested persons.

The regulations may also provide that any commercial property so developed and sold or leased may during the first twenty years after its purchase be resold or assigned only to the authority at the original purchase price plus the cost of any improvements made by the purchaser together with simple interest on all of the purchaser's equity in the property at the rate of seven per cent a year. The regulations may also provide that ownership of the commercial property cannot be separated from ownership of the residential property in connection with which it was sold or leased."

SECTION 17. Section 359G-11.1, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 359G-11.1 State financing of projects. The authority may provide interim construction loans to qualified developers and nonprofit corporations whose projects for the development and construction of dwelling units qualify for any federal or state housing program for low income housing.

Loans secured and made under this section shall bear interest computed at one per cent more, rounded to the nearest one-eighth of one per cent, than that paid by the State for general obligation bonds issued for the project.

The loans shall be secured by a duly recorded first mortgage upon the fee simple or leasehold interest in the land upon which the dwelling units are constructed. The authority may require such other security interests and instruments as it deems necessary to secure the indebtedness and such other conditions consistent with the production and marketing of dwelling units at the lowest possible prices. The authority may also set the conditions of the loan in a building and loan agreement between the borrower and the authority in order to secure the loan and the performance of the borrower to complete the project."

SECTION 18. Section 356-29.5, Hawaii Revised Statutes, is repealed.

SECTION 19. Chapter 359, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"Sec. 359- Housing developed by State; requirements. Any law to the contrary notwithstanding, all housing developed by the State or by any agency of the State shall include plans and specifications for meeting the human needs of prospective tenants of such housing. There shall be provision for adequate management services for such housing in order to meet the maintenance and social service needs of tenants. There shall be provision for special need housing, such as for the disabled and the elderly, and for special

facilities, such as adequate play areas for children. Accessibility to needed services and facilities and adequate recreational areas shall be provided for all residents. Plans and specifications shall provide for preservation of diversity and individuality of living patterns.

SECTION 20. Section 359-151, Hawaii Revised Statutes, is amended by amending subsection (b) to read:

“(b) The Hawaii housing authority may make loans, either before or after final subdivision approval, to cover planning, development, and initial costs, including the costs of options, agreements of sale, and down payments, of commencing projects to provide non-profit, low and middle cost housing through the use of federal funds. In managing the fund, the authority may cooperate with other public and private agencies or individuals and may enter into loan agreements with them. The necessity for the extent and nature of security required for a loan shall be determined by the authority. The security may include, but is not limited to, a borrowing resolution of the non-profit entity.

The foregoing powers are subject, however, to the following restrictions and limitations:

- (1) No single loan shall exceed two per cent of the project cost;
- (2) The loan shall be repaid with simple interest in the amount of six per cent per year;
- (3) The monies loaned shall be used only for the planning, development, and initial costs of commencing projects to provide non-profit low and middle cost housing.

The authority may in accord with chapter 91 make rules and regulations to carry out the purposes of this section.”

SECTION 21. Notwithstanding the interest rate limitation contained in section 356-29, during the twelve months following the effective date of this Act, bonds issued by the Hawaii housing authority under chapter 356 may bear interest, payable annually or semiannually, at a rate not exceeding eight per cent a year.

SECTION 22. All Hawaii housing authority staff employed under the authority of section 359G-2 and 359G-3, Hawaii Revised Statutes, prior to the effective date of this Act and still so employed shall be accorded all the rights, benefits, and privileges thereto retroactive to the date of their appointment. Such rights and privileges shall include seniority, prior service credit for retirement purposes, vacation and sick leave credit, and salary level, and each such employee shall become a civil service employee without necessity of examination.

SECTION 23. Section 359-5, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 359G-5 Eminent domain, exchange or use of public property.** The authority may, through exchange, voluntary negotiation or by eminent domain, acquire any private land in the State for the purpose of this chapter. The authority shall exercise the power of eminent domain in the same manner

as provided in chapter 101. The exchange of land shall be 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; and provided further, that if the use of the private land prior to the exchange is intensive agricultural, the authority shall determine the agricultural productivity of the private land and, whenever and wherever possible, exchange so much state land as shall be sufficient to approximate or equal the productivity of the private land so acquired by the State.

Except as hereinafter set forth in this paragraph, the authority may also develop state lands but not federal lands, state monuments or historical sites or parks and subject to the prior approval of the land use commission in the case of agricultural land and the prior approval of the board of land and natural resources in the case of conservation land. Whenever it proposes to develop public lands it shall file with the department of land and natural resources a petition setting forth such purpose and such petition shall be conclusive proof that the use to which the property is sought to be put is a superior public use to that to which it has already been appropriated. The fair market value of the public land may be paid by the authority and computed as cost or subsidized by the State subject to reimbursement under section 359G-9. The authority shall not, however, possess the power to develop, or develop, any public lands where the possession of such power or such development (1) would endanger the receipt of any federal grant or impair the eligibility of any public body for a federal grant or prevent the participation by the federal government in any governmental program or (2) would impair any covenant between the State or any county or any department or board thereof and the holders of bonds issued by the State or such county, department or board."

SECTION 24. Severability. If any provision or clause of this Act or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

SECTION 25. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 26. Effective date. This Act shall take effect upon its approval.

(Approved June 7, 1974.)

*Edited accordingly.