

A Bill for an Act Relating to Housing.

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

SECTION 1. Chapter 356, Hawaii Revised Statutes, is amended by adding a new part to read as follows:

"PART III. RENTAL ASSISTANCE PROGRAM

§356-301 Purpose; findings and determinations. The legislature finds and declares that the health and general welfare of the people of the State require that the people of this State have safe and sanitary rental housing accommodations available at affordable rents; that a grave shortage in the number of such accommodations affordable by families and individuals of low and moderate income in the State exists; that it is essential that owners of rental housing accommodations be provided with appropriate additional means to assist in reducing the cost of rental housing accommodations to the people of the State; that it is the purpose of this Act to assist such owners in maintaining the rentals at levels affordable by families and individuals of low and moderate income by providing such owners with rental assistance payments which, with rentals received by tenants of low and moderate income, will provide such owners with limited but acceptable rates of return on their investments in rental housing accommodations; and that assisting such owners by entering into contracts with them which provide for rental assistance payments is a valid public purpose and in the public interest.

§356-302 Definitions. The following words or terms as used in this part shall have the following meanings unless a different meaning clearly appears from the context:

"Eligible project" means a rental housing project which:

- (1) Is financed by the authority pursuant to the provisions of part II of chapter 356;
- (2) Is subject to a regulatory agreement with the authority;
- (3) Has not less than twenty per cent of the units in the project maintained for eligible tenants;
- (4) Has the remaining units, other than a unit reserved for a manager of the project, maintained for moderate income persons and families, as defined in section 356-206(b); and
- (5) Meets other qualifications as established by rules adopted by the authority.

"Eligible tenant" means a family or an individual of low or moderate income as determined by the Secretary of the United States Treasury Department in accordance with section 167(k)(3)(B) of the Internal Revenue Code of 1954, as amended.

"Owner" means the owner of an eligible project.

"Regulatory agreement" means an agreement between the authority and the owner relating to an eligible project which includes provisions relating to rents, charges, profits, return on owner's equity, development costs, and methods of operation.

"Rental assistance contract" means an agreement between an owner and the

authority providing for periodic rental assistance payments for units in an eligible project.

§356-303 Rental assistance fund. (a) There is created a rental assistance fund to be administered by the authority.

(b) The aggregate principal sum in the rental assistance fund, which may without limitation include sums made available from any government program or grant, from private grants or contributions, or by appropriation, shall be invested by the authority in a manner which will preserve the principal sum and maximize the rate of return on investment of the fund; provided that any investment shall be consistent with section 356-31 but need not comply with section 36-21.

(c) Earnings on the investment of the rental assistance fund and amounts recovered by the authority pursuant to section 356-305(f) may be applied by the authority to payments under the rental assistance contracts.

§356-304 Rental assistance contracts. (a) The authority may enter into a rental assistance contract and a regulatory agreement with an owner of an eligible project.

(b) Prior to the execution of a rental assistance contract, the authority may execute an agreement to enter into a rental assistance contract with an owner, which agreement shall provide for the execution of a rental assistance contract upon satisfaction of the terms set forth in such agreement and otherwise established by the authority.

(c) The authority shall not enter into any rental assistance contract which would require the authority to make payments at any time in excess of the amount available at such time or times in the rental assistance fund pursuant to section 356-303 for the funding of such payments. Each rental assistance contract shall provide that rental assistance payments shall be made solely from the earnings on the investment of the rental assistance fund.

(d) A rental assistance contract shall be for a term of not less than ten years and shall not be for a term in excess of the period of which the authority has invested the principal of the rental assistance fund at a known rate of return.

(e) Each rental assistance contract shall set forth a maximum annual rental assistance payment amount. The authority shall establish procedures for determining the maximum annual rental assistance payment amount and may consider, but not be limited to, the following:

- (1) The cost of constructing the eligible project;
- (2) The estimated annual operating cost of the eligible project;
- (3) The estimated maximum rentals which may be charged for units in the eligible project;
- (4) The amount of funds available for the funding of rental assistance contracts;
- (5) The number of eligible projects requiring assistance under this part; and
- (6) A restricted rate of return on equity to the owner, which rate shall be established by the authority by rule.

§356-305 Rules, rental assistance program. (a) Prior to the execution of a rental assistance contract and annually thereafter, the owner shall submit a proposed rental schedule to the authority for approval, which schedule shall list every rental

unit in the project and shall designate which units are to be maintained for eligible tenants.

(b) The authority shall establish procedures for evaluating the rental schedules submitted pursuant to this section, and may consider, but not be limited to, the following:

- (1) The size of and number of bedrooms in the units comprising the eligible project;
- (2) The location of the project and its type (whether high-rise, mid-rise, or low-rise);
- (3) The percentage of units being maintained for eligible tenants; and
- (4) The rentals prevalent in the open market for comparable units.

(c) Annually, following the approval of the rental schedule submitted pursuant to the preceding section, the authority shall determine the amount of rental assistance payments payable to the owner for the forthcoming year, which amount shall under no circumstances exceed the maximum annual rental assistance payment amount determined in accordance with section 356-304. The amount determined pursuant to this subsection shall take into account the estimated amount to be derived by the owner from rentals to be charged for the forthcoming year and the limited rate of return on equity permitted in accordance with section 356-304(e)(6).

(d) The authority shall establish standards and requirements for:

- (1) The awarding of rental assistance contracts and the allocation of annual rental assistance payments;
- (2) The form of lease to be utilized by the owner in renting units in an eligible project;
- (3) The marketing and tenant selection and admission processes to be employed by the owner with respect to an eligible project; and
- (4) The maintenance and operation of eligible projects.

(e) The authority shall establish procedures for:

- (1) The annual review of rental schedules for eligible projects;
- (2) The periodic review of the income of tenants renting units in eligible projects; and
- (3) The periodic inspection of eligible projects to monitor the owners' compliance with the terms and conditions of their rental assistance contracts.

(f) The authority shall be entitled to share in any appreciation in value of an eligible project realized at the time of refinancing or prepayment of the eligible project loan. The authority's share shall be calculated by multiplying the appreciation of the eligible project realized upon refinancing or prepayment by the ratio of the owner's equity to the discounted value of the aggregate rental assistance payments. The discount rate shall be established by rules adopted by the authority.

(g) The authority may adopt rules under chapter 91 necessary or convenient for the operation of the rental assistance program under this part.

§356-306 Benefits of program not exclusive. Nothing in this part contained shall be construed to prohibit, with respect to an eligible project, the operation of the rental assistance program in conjunction with other state or federal programs including, but not limited to, the state rent supplements provided for in part VI of chapter 359."

SECTION 2. Section 356-201, Hawaii Revised Statutes, is amended by amending the definition of "eligible project loan" to read:

"Eligible project loan" means an interim or permanent loan, which may be federally insured or guaranteed, made to a qualified sponsor for the financing of a rental housing project, and which meets other requirements as established by rules adopted by the authority pursuant to chapter 91."

SECTION 3. Section 356-208, Hawaii Revised Statutes, is amended to read as follows:

"§356-208 Rules; eligible project loans. (a) The authority shall establish requirements for projects to be financed by an eligible project loan, and may consider, but not be limited to the location, age, condition, and other characteristics of the project.

(b) The authority shall establish restrictions on the terms, maturities, interest rates, and other requirements for eligible project loans.

(c) The authority shall establish restrictions on the prepayment of eligible project loans and on the transfer of ownership of the projects securing eligible project loans.

(d) The authority shall require that any sums deferred on land leased at nominal rates by the authority to the owner of an eligible project shall be recovered by the authority at the time an eligible project loan is prepaid, whether as a result of a refinancing of the eligible project loan or otherwise, to the extent that funds are available therefor from the refinancing or other method by which the eligible project loan is paid in full prior to its due date.

(e) The authority shall enter into an agreement with the owner of an eligible project to be financed with an eligible project loan which shall provide that in the event that the eligible project loan is at any time prepaid for the purpose of converting the rental units of such project to ownership units, all tenants at the time of the proposed conversion shall have the first option to purchase their units.

(f) All eligible project loans shall comply with applicable state and federal laws."

SECTION 4. Section 356-241, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The authority may make loans to mortgage lenders under terms and conditions requiring that the loan proceeds be used within a time period prescribed by the authority to make eligible loans and eligible project loans in an aggregate principal amount substantially equal to the amount of the loan."

SECTION 5. Section 356-251, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The authority shall require as a condition of each purchase of existing loans from a mortgage lender that the mortgage lender proceed to make and disburse eligible loans or eligible project loans in an aggregate principal amount substantially equal to the amount of the proceeds from the purchase by the authority of loans therefrom."

SECTION 6. Section 356-271, Hawaii Revised Statutes, is amended to read as follows:

“§356-271 Eligible loan and eligible project loan funding program. (a) The authority may contract with mortgage lenders to fund eligible loans and may directly make or contract with mortgage lenders to fund eligible project loans.

(b) Any such contract with a mortgage lender may contain provisions as determined by the authority to be necessary or appropriate to provide security for its revenue bonds.”

SECTION 7. Severability. If any part, section, sentence, clause, phrase, word, or punctuation of this Act, or the application thereof to any person or transaction or circumstance is held invalid, the invalidity does not affect any other part, section, sentence, clause, phrase, word, or punctuation of this Act or the application thereof to other persons or transactions or circumstances which can be given effect without the invalid part, section, sentence, clause, word, or punctuation or application, and to this end the parts, sections, sentences, clauses, words, or punctuation of this Act are severable.

SECTION 8. Statutory material to be repealed is bracketed. New material is underscored.*

SECTION 9. This Act shall take effect upon its approval.

(Approved June 8, 1981.)

*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.