

ACT 98

H.B. NO. 543

A Bill for an Act Relating to Affordable Housing.

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

SECTION 1. The legislature finds that the Front Street Apartments project on the island of Maui provides affordable housing to more than two hundred fifty low-income residents. The project was developed using state financing and state tax credits in 2001 as an affordable rental housing project with one hundred forty-two units and was expected to remain affordable to low-income tenants for fifty years. However, the owners of the project have exercised an option to remove the project from the affordability requirements tied to the development of the project. This change will allow them to begin renting available apartments at market rates and to raise rents for existing tenants by October 2019.

The legislature further finds that, at the time the owners of the project exercised the option to remove the affordability requirements, many tenants of the Front Street Apartments project were not aware of this threat to their housing and are now worried that the removal of affordability requirements could leave them homeless. There is a severe shortage of affordable housing on the island of Maui, especially in west Maui, and this shortage will be exacerbated by the conversion of the Front Street Apartments project to market-rate housing.

The legislature took steps to condemn the ground lease for the Front Street Apartments project by enacting Act 150, Session Laws of Hawaii 2018 (Act 150). However, the legislature believes that the tenants, surrounding community, and the island of Maui would further benefit if the State were to acquire the leased fee and fee simple interests in the Front Street Apartments project.

The legislature declares that it is in the public interest and is required for public use to preserve the affordable rental housing project at the Front Street Apartments by exercising the power of eminent domain if an agreement for the State to acquire the property is not reached within a reasonable time. If the State exercises eminent domain powers, the legislature further declares that it is necessary to provide public financing for the acquisition of any property interest in the Front Street Apartments by condemnation through the expenditure of general funds, revenue bonds, dwelling unit revolving funds, or any other authorized funds at the disposal of the State.

The legislature notes that Act 150 additionally authorized the Hawaii housing finance and development corporation to complete construction on another affordable housing project in west Maui. Development activities and expenditures on this project have commenced but may not be completed by 2021, as provided in that Act, and the \$30,000,000 or so much thereof appropriated from the rental housing revolving fund should therefore be returned to the rental housing revolving fund and a new appropriation should be authorized from the rental housing revolving fund with an extended project completion date.

The legislature finds that, by enacting Act 288, Session Laws of Hawaii 2006, the State intervened to preserve affordable housing at the Kukui Gardens affordable rental housing project on the island of Oahu and this action provides precedent for this Act and Act 150.

Accordingly, the purpose of this Act is to ensure the continued availability of affordable rental housing, including the Front Street Apartments project and Leialii affordable housing project, on Maui.

SECTION 2. The Hawaii housing finance and development corporation shall immediately initiate negotiations with 3900 Corp., leasehold fee owner of the parcel designated as tax map key (2) 4-5-003-013, or its successor in interest to acquire the parcel.

SECTION 3. The Hawaii housing finance and development corporation shall submit a report to the legislature no later than twenty days prior to the convening of the regular session of 2020 regarding its efforts to acquire the leased fee interest in the Front Street Apartments project.

SECTION 4. The Hawaii housing finance and development corporation shall exercise its power of eminent domain to acquire the leased fee interest in the Front Street Apartments project if an agreement to acquire the leased fee interest is not reached within a reasonable time, as determined by the corporation. For the purposes of this Act, and notwithstanding any provision of section 201H-13, Hawaii Revised Statutes, to the contrary, condemnation of the leased fee interest in the Front Street Apartments project shall not be subject to legislative disapproval.

SECTION 5. Act 150, Session Laws of Hawaii 2018, is amended to read as follows:

“**SECTION 1.** The Hawaii housing finance and development corporation shall institute proceedings for the condemnation of the ground lease for the Front Street Apartments affordable housing project pursuant to chapter 101, Hawaii Revised Statutes[.], unless the corporation has renegotiated the ground lease or issued a new ground lease on terms acceptable to the corporation by December 31, 2019.”

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$250,000 or so much thereof as may be necessary for fiscal year 2018-2019 for an appraisal and other preparations for instituting the condemnation proceedings under section 1; provided that no funds authorized pursuant to this section shall be made available unless the county of Maui provides dollar-for-dollar matching funds.

The sum appropriated shall be expended by the Hawaii housing finance and development corporation for the purposes of this section.

~~[SECTION 3. There is appropriated out of the rental housing revolving fund the sum of \$30,000,000 or so much thereof as may be necessary for fiscal year 2018-2019 to expedite and complete the construction of the Leialii affordable housing project in Lahaina, Maui, by 2021.~~

~~The sum appropriated shall be expended by the Hawaii housing finance and development corporation for the purposes of this section.~~

~~SECTION 4.] SECTION 3.~~ This Act shall take effect on July 1, 2018.”

SECTION 6. There is appropriated out of the rental housing revolving fund the sum of \$37,000,000 or so much thereof as may be necessary for fiscal year 2019-2020 to expedite and complete the construction of the Lealii affordable housing project in Lahaina, Maui, by 2022; provided that if the project does not obtain necessary land use entitlements by April 30, 2020, the appropriated funds shall be returned to the rental housing revolving fund.

The sum appropriated shall be expended by the Hawaii housing finance and development corporation for the purposes of this Act.

SECTION 7. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 8. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 9. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 10. This Act shall take effect on July 1, 2019.

(Approved June 7, 2019.)