

ACT 92

H.B. NO. 677

A Bill for an Act Relating to the Dwelling Unit Revolving Fund.

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

SECTION 1. Section 201H-47, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The following restrictions shall apply to the transfer of real property developed and sold under this chapter, whether in fee simple or leasehold:

- (1) For a period of ten years after the purchase, whether by lease, assignment of lease, deed, or agreement of sale, if the purchaser wishes to transfer title to the real property, the corporation shall have the first option to purchase the real property at a price that shall not exceed the sum of:
 - (A) The original cost to the purchaser, as defined in rules adopted by the corporation;
 - (B) The cost of any improvements added by the purchaser, as defined in rules adopted by the corporation;
 - (C) Simple interest on the original cost and capital improvements to the purchaser at the rate of one per cent per year; and
 - (D) The amount, if any, previously paid by the purchaser to the corporation as the corporation’s share of net appreciation in the real property;
- (2) The corporation may purchase the real property either:
 - (A) By conveyance free and clear of all mortgages and liens; or
 - (B) By conveyance subject to existing mortgages and liens.
 If the real property is conveyed in the manner provided in subparagraph (A), it shall be conveyed to the corporation only after all mortgages and liens are released. If the real property is conveyed in the manner provided in subparagraph (B), the corporation shall acquire the real property subject to any first mortgage created for the purpose of securing the payment of a loan of funds expended solely for the purchase of the real property by the seller; and any

mortgage or lien created for any other purpose; provided that the corporation has previously consented to it in writing.

The corporation's interest created by this section shall constitute a statutory lien on the real property and shall be superior to any other mortgage or lien, except for any first mortgage created for the purpose of securing the payment of a loan of funds expended solely for the purchase of the real property by the seller; any mortgage insured or held by a federal housing agency; and any mortgage or lien created for any other purpose; provided that the corporation has previously consented to it in writing. The amount paid by the corporation to the seller shall be the difference, if any, between the purchase price determined by paragraph (1)(A) to (D), and the total of the outstanding principal balances of the mortgages and liens assumed by the corporation;

- (3) A purchaser may refinance real property developed and sold under this chapter; provided that the purchaser shall not refinance the real property within ten years from the date of purchase for an amount in excess of the purchase price as determined by paragraph (1)(A) to (C); provided further that the purchaser shall obtain the corporation's written consent if any restriction on the transfer of the real property remains applicable;
- (4) After the end of the tenth year from the date of initial purchase or execution of an agreement of sale, the purchaser may sell the real property and sell or assign the property free from any price restrictions; provided that the purchaser shall be required to pay to the corporation the sum of:
 - (A) The balance of any mortgage note, agreement of sale, or other amount owing to the corporation;
 - (B) Any subsidy or deferred sales price made by the corporation in the acquisition, development, construction, and sale of the real property, and any other amount expended by the corporation not counted as costs under section 201H-45 but charged to the real property by good accounting practice as determined by the corporation whose books shall be prima facie evidence of the correctness of the costs;
 - (C) Interest on the subsidy or deferred sales price, if applicable, and any other amount expended at ~~the~~ a rate ~~of seven per cent per year~~ established by the corporation computed as to the subsidy or deferred sales price, if applicable, from the date of purchase or execution of the agreement of sale, and as to any amount expended, from the date of expenditure; provided that the computed interest shall not extend beyond thirty years from the date of purchase or execution of the agreement of sale of the real property. If any proposed sale or transfer will not generate an amount sufficient to pay the corporation the sum as computed under this paragraph, the corporation shall have the first option to purchase the real property at a price that shall not exceed the sum as computed under paragraphs (1) and (2); and
 - (D) The corporation's share of appreciation in the real property as determined under rules adopted pursuant to chapter 91, when applicable;
- (5) Notwithstanding any provision in this section to the contrary, pursuant to rules adopted by the corporation, the subsidy or deferred

sales price described in paragraph (4)(B) and any interest accrued pursuant to paragraph (4)(C) may be paid, in part or in full, at any time; and

- (6) Notwithstanding any provision in this section to the contrary, the corporation's share of appreciation in the real property described in paragraph (4)(D):
 - (A) Shall apply when the sales price of the real property that is developed and sold under this chapter is less than the then-current, unencumbered, fair market value of the real property, as determined by a real property appraisal obtained prior to the closing of the sale;
 - (B) Shall be a restriction that runs with the land until it is paid in full and released by the corporation, or extinguished pursuant to subsection (f); and
 - (C) May be paid, in part or in full, at any time after recordation of the sale."

SECTION 2. (a) The Hawaii housing finance and development corporation may establish a five-year dwelling unit revolving fund equity pilot program, which shall be funded by the dwelling unit revolving fund, to address the high, unmet demand of for-sale units by Hawaii residents, specifically residents who:

- (1) Own no other real property;
- (2) Receive no gift funds; and
- (3) Work in a profession that is facing a shortage as defined by the corporation, including health care workers, educators, law enforcement officers, including staff at correctional facilities, or agricultural field workers.

(b) The Hawaii housing finance and development corporation may purchase equity in for-sale housing development projects; provided that this equity shall be allocated to specific units within the housing development projects and the price to be paid by each eligible buyer of a unit shall be reduced by the Hawaii housing finance and development corporation's equity amount for that unit.

(c) If a buyer sells the buyer's unit within thirty years of the date of the buyer's purchase of the unit, then at the time of the sale, the buyer shall repay to the Hawaii housing finance and development corporation the corporation's appreciated equity value; provided that if the buyer does not sell the unit within thirty years of the date of the buyer's purchase of the unit, then the buyer shall repay to the Hawaii housing finance and development corporation the corporation's appreciated equity value prior to the expiration of the thirty-year period; provided further that this requirement shall run with the deed for each unit until the obligation to repay the appreciated equity value has been satisfied.

(d) The Hawaii housing finance and development corporation may establish rules pursuant to chapter 91, Hawaii Revised Statutes, to implement this section, including rules that establish the methods by which appreciated equity values shall be calculated, assessed, and satisfied.

(e) The Hawaii housing finance and development corporation may establish criteria for the prioritization of eligible buyers based on state goals and policies and submit a report on this criteria to the legislature no later than twenty days prior to the convening of the regular session of 2024.

(f) The Hawaii housing finance and development corporation shall submit interim reports on the dwelling unit revolving fund equity pilot program to the legislature no later than twenty days prior to the convening of the regular sessions of 2024, 2025, 2026, and 2027. The Hawaii housing finance and development corporation shall submit a final report on the dwelling unit revolving

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fund equity pilot program to the legislature no later than twenty days prior to the convening of the regular session of 2028.

(g) As used in this section:

“Housing development project” means a plan, design, or undertaking by the Hawaii housing finance and development corporation or an eligible developer for the development of units. “Housing development project” includes all real and personal property, buildings and improvements, commercial space, lands for farming and gardening, community facilities acquired or constructed or to be acquired or constructed, and all tangible or intangible assets held or used in connection with the housing development project.

“Unit” means:

- (1) The structure and land upon which the structure is constructed, whether on fee simple or leasehold property, developed for residential purposes pursuant to chapter 201H, Hawaii Revised Statutes; or
- (2) Improved or unimproved real property that is developed for residential purposes pursuant to chapter 201H, Hawaii Revised Statutes.

“Unit” includes dwelling units.

SECTION 3. The Hawaii housing finance and development corporation may spend up to \$10,000,000 or so much thereof as may be necessary for fiscal year 2023-2024 from the dwelling unit revolving fund for the equity pilot program established pursuant to this Act.

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect on July 1, 2023, and shall be repealed on June 30, 2028; provided that:

- (1) Section 201H-47, Hawaii Revised Statutes, shall be reenacted in the form in which it read on the day prior to the effective date of this Act; and
- (2) The requirements imposed pursuant to section 2(c) of this Act shall remain in effect and run with the deed after June 30, 2028.

(Approved June 21, 2023.)