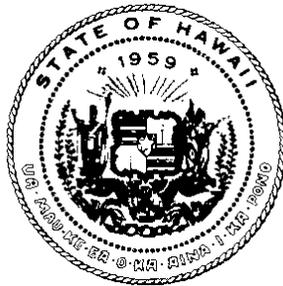


REPORT TO THE TWENTY-THIRD LEGISLATURE
STATE OF HAWAII
2006

RELATING TO
THE REORGANIZATION OF THE
STATE'S HOUSING FUNCTIONS
PURSUANT TO
ACT 196, SESSION LAWS OF HAWAII 2005



Prepared by:

HOUSING AND COMMUNITY DEVELOPMENT
CORPORATION OF HAWAII

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Report to the Twenty-Third Legislature Relating to the Reorganization of the State's Housing Functions

Introduction

Act 196, Session Laws of Hawaii (SLH) 2005 separates the Housing and Community Development Corporation of Hawaii (HCDCH) into a public housing agency (PHA) and a housing finance and development agency (HFD) effective July 1, 2006. The Legislature found that *“the State’s role in maintaining affordable housing in Hawaii has evolved into two parts:*

- 1. Administering the State’s public housing programs; and*
- 2. Financing and developing affordable housing.*

The housing and community development corporation of Hawaii has managed both of these functions since its inception. However, the burden of administering the public housing projects in the State has overshadowed the ability of the corporation to pay sufficient attention to the financing and development of affordable housing.” (Act 196, SLH 2005, Part V, Section 19)

The Act requires the HCDCH to prepare an implementation plan for the reorganization of the State’s housing functions. It also requires the HCDCH to submit a report to the Legislature not later than 20 days prior to the convening of the 2006 regular session. The report shall include the implementation plan, recommendations for any additional statutory amendments that may be necessary to fully effectuate the implementation plan and the purposes of the Act, and proposed legislation containing the recommended statutory amendments for the reorganization of the State’s housing functions.

Background

In addition to the perceived inability of the HCDCH to pay sufficient attention to the financing and development of affordable housing, the Legislature was also concerned with the HCDCH’s troubled agency designation and the possibility that non-public housing funds could be taken over by the U.S. Department of Housing and Urban Development (HUD). Thus, in the event that HUD declared the HCDCH to be in substantial default of the Memorandum of Agreement, Act 19, SLH 2005 included a provision to transfer the responsibility and administration of the Housing for Elders, Housing Finance, Kikala-Keokea Housing, Rental Assistance, and Dwelling Unit Revolving Funds and the Rental Housing Trust Fund from the HCDCH to the Department of Budget and Finance (Section 36 of Act 196, SLH 2005).

The HCDCH acknowledges the legislative concerns but believes the circumstances have changed since the passage of Act 196, SLH 2005. The HCDCH has made substantial progress in meeting the performance targets contained in the Memorandum of Agreement with HUD. In a letter dated November 4, 2005, HUD informed the HCDCH that it is now considered a Standard performing public housing agency.

The HCDCH has also pressed forward to develop affordable housing by making land and other resources available to developers. Approximately 1,182 rental and for-sale units are in the design and/or construction phase in projects facilitated by the HCDCH. Approximately 854 rental units are for households with incomes of 80% and below the median family income (MFI);

100 rental units are for households with incomes of 80-100% of MFI; and 228 for-sale units are for households with incomes of 100-140% of MFI.

Given the progress that the HCDCH has made, the reorganization may not be needed. Moreover, the timing of the reorganization may negate the momentum that the HCDCH has built as staff will be engaged in administrative matters relating to the reorganization; new Board members must familiarize themselves with agency powers, programs and clients; and existing resources will be utilized to fund the reorganization as moneys were not appropriated by the Legislature.

However, the reorganization has merit as it will allow the PHA and HFD to focus on their distinct missions. Thus, in accordance with Act 196, SLH 2005, the HCDCH has taken the reorganization to task and has prepared an implementation plan and proposed legislation to effectuate the split and purposes of the Act 196.

Implementation Plan

The implementation plan provides a framework for the efficient reorganization of the HCDCH into separate public housing and finance and development agencies pursuant to Act 196, SLH 2005.

1. Major milestones to effectuate the reorganization

Date	Action
6/23/05	<p>Establish core group to lead the reorganization effort.</p> <ul style="list-style-type: none"> • Core group members are the Executive Director, Executive Assistant, Personnel Officer, Acting Budget and Administrative Services Officer, Finance Manager, and Chief Planner.
6/27/05 – ongoing	<p>Communication with stakeholders. Inform and obtain input from internal and external stakeholders. Internal stakeholders include HCDCH employees, board members and private management units. External stakeholders include federal, state and county departments such as the U.S. Department of Housing and Urban Development; the Governor; the Departments of Budget and Finance, Business, Economic Development and Tourism, Human Services, Human Resource Development, and Attorney General; legislators; county housing agencies; service providers; clients; the unions; and the media.</p> <ul style="list-style-type: none"> • Prepare a communications plan - 6/27/05 • Executive Director and Executive Assistant meet with HCDCH branches, sections and management units. Informational meetings - 8/2/05 - 9/9/05, ongoing • Consult with HCDCH Board - 8/05 to ongoing • Consult with federal and state departments – 8/05 to ongoing • Consult with legislators – 8/28/05 to ongoing • Consult with unions – 9/12/05 to ongoing

Date	Action
8/5/05	Create checklist of activities to be undertaken pre-7/1/06 and post-7/1/06 to support a smooth transition. (Appendix A)
8/5/05	<p>Establish Transition Team comprised of HCDCH branch administrators and section officers.</p> <ul style="list-style-type: none"> • Assign the responsibility to perform activities identified on the transition checklist to appropriate managers on the transition team. • Conduct periodic meetings of the transition team to monitor status; revise the checklist as needed. • Branch administrators and section officers communicate with their staff.
11/17/05 - ongoing	<p>Prepare proposed organization chart and position organization chart.</p> <ul style="list-style-type: none"> • Reorganize by function and seniority in civil service system. • Review balance sheets and income statements for revolving funds. • Consult with DBEDT, DHS, DHRD, B&F, AG, and unions. • DBEDT, DHS and the AG's office may need to adjust their staffing levels and/or staff assignments as a result of the reorganization of the HCDCH.
	<p>Prepare forward looking financials for the separate agencies.</p>
	<p>Prepare draft legislation to support the reorganization</p> <ul style="list-style-type: none"> • Recommend revisions to Act 196, SLH 2005 • Establish new positions • Request operational or CIP funding to implement the reorganization
12/29/05	<p>Submit Report to the 2006 Legislature which includes an implementation plan and proposed legislation</p> <ul style="list-style-type: none"> • HCDCH Board approval – 12/15/05 • Governor's approval
2/06	<p>Submit Governor's Messages to Legislature nominating new board members</p>

2. Staffing

Staffing for the public housing agency (PHA) and the housing finance and development agency (HFD) was based on function (e.g., public housing, rent subsidy, finance, development) and seniority in the State employment system. Positions that are directly related or provide support to public housing or rent subsidy functions were placed with the PHA (e.g., public housing specialists, general laborers, accountants and account clerks for federal programs). Similarly, positions that are directly related or provide support to finance or development functions were placed with the HFD (e.g., housing finance specialists, housing development specialists, and accountants and account clerks for finance and development programs). There are, however, positions that provide support to all functions and will be needed in both agencies (e.g., accountants, account clerks, personnel management specialists, systems analysts). Employees in these positions were given the opportunity to select the PHA or HFD based on seniority.

3. Organizational structure

To minimize concerns which could lead to delays in the reorganization, the PHA and HFD organization charts will be comparable to the HCDCH organization chart which was approved in September 2005. Upon approval of the PHA and HFD organization charts, position organization charts, and functional statements, the agencies may make revisions, as needed.

Under the approved HCDCH organization chart, the Office of the Executive Director is the focal point for the execution of the statutory provisions relating to housing management, housing finance, housing development and the delivery of housing services. There are eight support offices within the Office of the Executive Director:

1. Housing Information Office provides for regular communication among the HCDCH, other government and private entities, clients, and the general public regarding the HCDCH's programs, services, actions, plans and policies.
2. Fiscal Management Office (FMO) provides administrative assistance and advisory services in fiscal management, budget, and accounting services for the HCDCH. The FMO also monitors teacher housing and property management contracts for State owned rental properties and oversees the HCDCH's assets, including real property.
3. Personnel Office provides personnel staff support and advisory services to the Executive Director, managers and employees.
4. Information Technology Office is responsible for the overall administration of all information technology systems and data processing for the HCDCH.
5. Hearings Office conducts and coordinates hearings that involve resident disputes or evictions from public housing.
6. Planning and Evaluation Office performs overall planning, evaluation and research activities for programs administered by the HCDCH, and coordinates legislative activities.
7. Compliance Office performs activities to ensure the HCDCH manages and operates programs in accordance with Federal and State requirements, and corporate policies and directives.

8. Procurement Office provides central procurement, storekeeping, and inventory and inventory control services for all HCDCH programs in accordance with Federal, State and corporate requirements.

There are five branches under the approved HCDCH organization chart:

1. Development Branch provides overall administration for housing development, construction management for renovation or reconstruction of public housing projects, and technical support services.
2. Finance Branch provides overall administration of various housing financing programs.
3. Homeless Programs Branch serves as the focal point for homeless services and programs.
4. Property Management and Maintenance Services Branch performs management and maintenance of assigned housing and homeless facilities, vacant land and equipment owned or managed by the HCDCH, and coordinates supportive services for residents.
5. Section 8 Subsidy Programs Branch coordinates application and rental assistance functions for rent subsidy programs administered by the HCDCH.

4. Public housing agency

The PHA will have eight support offices within the Office of the Executive Director: Housing Information, Fiscal Management, Personnel, Information Technology, Hearings, Planning and Evaluation, Compliance, and Procurement. It will have four branches: Construction Management, Homeless Programs, Property Management and Maintenance Services, and Section 8 Subsidy Programs.

The PHA will have a total of 368 positions and a total budget of approximately \$98.6 million. The position count includes the establishment of three new positions in HMS 229.

- Clerk Typist II (\$22,737)
- Clerk Typist III (\$22,737)
- Account Clerk III (\$25,545)

Approximately \$1.8 million in capital improvement program (CIP) funds will be needed to renovate offices located at School Street in order to house the public housing agency. (**Note:** Prior to the establishment of the HCDCH in 1998 through the consolidation of the Hawaii Housing Authority (HHA) and Housing Finance and Development Corporation (HFDC), the HHA was located at School Street and the HFDC was located at Queen Street. With the consolidation, the HHA's construction management staff (HMS 225) and administrative support staff (HMS 229) which includes the office of the Executive Director, personnel, accounting, budget, planning, housing information) moved to the HCDCH's main office located at Queen Street. Housing management staff (HMS 220, 222 and 807) and homeless assistance staff (HMS 224) remained at the School Street property.)

5. Housing finance and development agency

The HFD will have six support offices within the Office of the Executive Director: Housing Information, Fiscal Management, Personnel, Information Technology, Planning and Evaluation, and Compliance. Staffing for the Personnel and Information Technology Offices will be minimal, as the Department of Business, Economic Development and Tourism will

provide the HFD with support in these areas, as well as with procurement, payroll and compliance with the Americans with Disabilities Act as it relates to employment. The HFD will have two branches: Development and Finance.

The HFD will have a total of 82 positions and a total budget of approximately \$30.4 million. The position count includes the establishment of six new positions in BED 225 and BED 229.

BED 225

- Secretary III (\$32,151)

BED 229

- Executive Director (\$77,965)
- Executive Assistant (\$70,169)
- Account Clerk V (\$29,901)
- Secretary to the Chief Financial Officer (\$28,722)
- Central Files Clerk III (\$22,737)

A General Fund appropriation of approximately \$708,300 will be needed for the HFD to purchase a new computer network and related computer equipment. The existing computer network and much of the computer equipment, were purchased with federal funds primarily to support public housing programs, and will remain with the PHA.

6. Transition period

Beginning on July 1, 2006, there will be a transition period wherein the Executive Director and Executive Assistant for the PHA will also oversee the HFD. Filling of these executive positions for the HFD is subject to the legislative establishment of the positions, approval of the HFD organization chart, and appointment by the newly created HFD Board of Directors.

Staff from support offices in the PHA and HFD, such as Fiscal Management, Housing Information, Compliance, and Planning, may also provide assistance for both agencies until such time as comparable positions are approved or filled.

Proposed Legislation

The revisions to Act 196, SLH 2005 are generally technical or housekeeping in nature. For example, the proposed bill incorporates those sections in Chapter 201G, HRS relating to housing development or finance programs into the new chapter that was created for the HFD; adds a new chapter in the HRS for the PHA; and replaces references to Chapter 201G, HRS with the appropriate new chapters for the HFD or PHA.

Substantive amendments to Act 196, SLH 2005 include the following:

- To avoid confusion between the PHA and the HFD, change the name of the “Hawaii Public Housing Administration” or “Administration” to the “Hawaii Public Housing Authority” or “Authority” and the name of the “Hawaii Housing Finance and Development Administration” or “Administration” to the “Hawaii Housing Finance and Development Corporation” or “Corporation.”

- To enable the agencies to recruit and retain qualified executives, allow the Boards of the PHA and HFD to set the salaries for the Executive Director and Executive Assistant, subject to the Governor's approval.
- Provide specific authority for the PHA and HFD to execute contracts with the federal government.
- Clarify that the federal eviction process is applicable to federal public housing projects.
- Amend the composition of the Board of Directors for the PHA by replacing one of the 8 public members with a representative from the Office of the Governor who will serve as an ex officio, voting member to provide a bridge between the PHA and the HFD.
- Provide the PHA with bond authority and establish a Public Housing Revolving Fund for bond financing transactions.
- Expand opportunities for eligible residents who are directly assisted by the PHA under the federal public housing or Section 8 tenant-based assistance programs to serve as the resident member to the PHA Board of Directors.
- Allow the PHA to make State rent supplement payments in State low income housing projects.

A summary of the legislative proposal, including justifications, is attached as Appendix B. The legislative proposal to amend Act 196, SLH 2005 is attached as Appendix C.

The HCDCH stands ready to work with the 2006 Legislature to implement the reorganization of the State's housing functions and effectuate the purposes of Act 196, SLH 2005.

APPENDIX A
Transition Checklist

APPENDIX A
TRANSITION CHECKLIST

Transition item	Lead	Coordinate with:	Deadline
REORGANIZATION			
Organization chart	PERS	All, DBEDT, DHS	Jul-06
Position Chart	PERS	All, DBEDT, DHS	Jul-06
Functional statements	PERS	All	Jul-06
Union consultations	PERS		Jul-06
Departmental consultations (DHS, DBEDT, B&F, DHRD)	PERS		Jul-06
B&F approve reorganization	PERS		Nov-06
Position descriptions	PERS		Jan-07
BOARD/POLICY			
Governor's Messages to nominate Board members	OED	GOV, PEO	Feb-06
Revise bylaws - Meeting dates - Location - Agenda format	PEO	OED, AG	Jun-06
New corporate seal	Sec. to Board		Jun-06
Director name plates	Sec. to Board		Jul-06
Board orientation workshop	PEO	OED, AG, All	Jul-06
Strategic planning to identify agency goals/objectives	PEO		Dec-06
*Design for new logos	HIO		
OFFICE			
*Location of main office	OED		Sep-05
*Location of branch/section offices	OED	All	Sep-05
*Maintain certain offices at Queen Street? (Personnel, HIO, data systems, central files)	FMO		Jul-06
Inventory Queen Street keys	FMO		Jun-06
Who is issued office keys?	OED	FMO	Jul-06
Space requirements/layout /accessibility	FMO	Committee	Jul-06

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Transition item	Lead	Coordinate with:	Deadline
OFFICE			
Archive old files	FMO	All	Jun-06
Parking assignments	FMO	PERS	Jul-06
Separate files (Central files, Personnel, Planning, Housing Info, etc.)	OED, PERS, PEO, HIO		Jun-06
SUPPLIES			
Revise letterheads/envelopes	RSS		Jun-06
Revise pre-printed forms – IOMS, transmittals, accounting forms	RSS		Jun-06
Revise general excise tax exemption (G-37) form	DEV	PEO	Jul-06
Revise business cards	RSS	All	Jul-06
Order new rubber stamps (see samples)	RSS	All	Jul-06
Employee ID badges	RSS		Jul-06
EQUIPMENT			
New checkwriter signature plate	FMO		Jun-06
Change agency name on time stamp	FMO		Jun-06
Decals for PHA new autos only	RSS		Jul-06
Postage machine	FMO		Jun-06
Insurance coverage – DAGS Risk Mgt.	FMO	PERS	Jun-06
Division of furniture/equipment	FMO	Committee	
SERVICES			
Telephone (phone lines, numbers, equipment, long distance access)	IT		
Inform clients of new phone number, address, etc.	IT	All	Jun-06
New internal phone/fax directory	FMO		Jun-06
Post office bulk mail permit – address change	FMO		Jun-06
Revise memberships (NAHRO, NCSHA, ULI, etc) and/or publications.	OED		At renewal
Arrange for State messenger service at Queen Street	OED		Jun-06
Arrange for other messenger service at Queen Street	OED		Jun-06
Schedule PHA messenger times			Jun-06
DAGS civic center parking permits	OED		Jun-06
R.E. Tax Maps			Jun-06

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Transition item	Lead	Coordinate with:	Deadline
OPERATIONS			
Transition meetings to allow key staff to familiarize themselves with functions/operations	OED	PEO	Ongoing
Status meetings with all employees to keep them apprised of split, what changes, what remains the same	OED	PERS	Ongoing
Develop/revise procedures (e.g. travel, training, logging/routing mail)	OED		Jul-06
Revise administrative rules	PEO	AG	Jan-07
Notify all clients, agencies, vendors, businesses of the reorganization prior to 7/1/06, publish notice in the newspapers	OED		Jun-06
Send change address/mail forwarding cards	OED	All	Jun-06
Notify County Real Property Tax Offices of name change. Give TMKS. Send copy of Act(s).	FMO		Jun-06
Accounting/Budget			
Prepare forward looking financial statements (balance sheets, profit and loss statements)	FMO		Dec-05
Prepare for first separate payroll for 7/15/06	FMO		Jun-06
Convert accounting to tenant ledger	FMO		Jun-06
Obtain new federal ID, IRS, EIN, DUNS numbers	FMO		Jun-06
Revise cost allocations	FMO	All	Dec-05
Prepare budgets	FMO	All	Dec-05
Separate charges for the State program budget (e.g. HMS 220, 222, 223, 224, 225, 227, 229, 807)	FMO	DBEDT, DHS	Dec-05
Revise General Ledger	FMO		Jun-06
Input beginning balances for account numbers... balance sheets accounts. Revenue and expense account should have closed to retained earnings 6/20/06. Liquidate 888 fund.	FMO		Jun-06
Create project codes	FMO		Jun-06
1099 reporting requirements... program A/P system	FMO		Jun-06
Fund symbols for HHFDA in DBEDT	FMO	DBEDT	Jun-06
Authorization signatures for DAGS, B&F, HUD, etc.	FMO		Jun-06
Payroll coding to identify payments	FMO		Jun-06
Open new bank accounts for HHFDA	FMO		Jun-06
Order new checks for HHFDA	FMO		Jun-06

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Transition item	Lead	Coordinate with:	Deadline
Accounting/Budget			
GBSM conversion to new GL system	FMO		Jun-06
Reconcile Disbursing Account (repay advances made)	FMO	DEV, FIN	Jun-06
DAGS audit for HHFDA	FMO		Jun-06
Central Files			
Procedure for receipt/dissemination of mail			Jun-06
Assign filing codes			Jun-06
Re-label mail cubbies			Jul-06
Determine which files go to School Street and which files to remain at Queen Street.			Jul-06
Personnel			
Develop database to tract personnel data, positions, changes, etc.	PERS		Nov-05
Process SF-5S and SF-1s	PERS	DBEDT, DHS	Jun-06
*Workers' compensation insurance – self-insured or under State plan? Liability coverage, associations, auto coverage	OED	PERS	Jun-06
Assign Organizational Codes (branch, section, unit)	PERS		Jun-06
Transfer Official Personnel Employee Jackets	PERS		Jun-06
*G2s and Form 7 leave balances – who will audit records for payments out at departure (DAGS, DBEDT, DHS?)	PERS		Dec-05
What agency will accept, sort, distribute Health Fund data to all employees?	PERS		Dec-05
*Classification (Position Management) requirements – redescribe for all positions, assign new position numbers?	PERS	DBEDT, DHS	Jun-06
Re-describe affected position descriptions	PERS	Affected BAs/Sos	Jan-07
*Recruitment and examination requirements/areas of responsibility between HHFDA and DBEDT	PERS	DBEDT	Dec-05
*Training – areas of responsibility between HHFDA and DBEDT/DHRD	PERS	DBEDT	Dec-05
*Labor relations –areas of responsibility between HHFDA and DBEDT	PERS	DBEDT	Dec-05
*Safety – what section will provide safety services?	PERS	DBEDT	Dec-05

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Transition item	Lead	Coordinate with:	Deadline
Personnel			
*Civil rights – areas of responsibility between HHFDA and DBEDT	PERS	DBEDT	Dec-05
*Will DBEDT monitor HHFDA transactions to ensure compliance with appropriate laws?	PERS	DBEDT	Dec-05
*Will HHFDA work through DBEDT for approvals of personnel actions or go directly to DHRD?	PERS	DBEDT	Dec-05
*How to handle PAS/JPR	PERS	DBEDT	Dec-05
Revise all other forms/certificates (Section 504 and Title VI Employee Certif., etc.)	PERS		Jun-06
Information Technology			
Determine IT needs to address reorganization	IT		Nov-05
Modify existing PHA computer network	IT		
Acquire/set up HHFD computer network	IT	DBEDT	
Update/separate HHPA and HHFDA websites	IT	PEO	
Acquire computer software for HHFDA	IT		
LEGAL			
Draft language to be inserted next to signature area for documents previously executed by HHA, HFDC, and RHTF and HCDCH citing Act 196, SLH 2005, which authorizes housing agencies to execute documents for release of mortgage, title transfer, etc.	AG		Jun-06
Corporate resolution for E.D. to sign documents for recording and filing	AG		Jun-06
DBEDT delegate authority the E.D. to certify exemptions from civil service	OED	DBEDT	Jul-06
HUD recertification of public housing authority	OED	AG, HUD	Jul-06
Amend HPHA cooperative agreements with counties	OED	AG, Counties	Jul-06
Separate/subdivide HHFD and HPHA real property assets	FMO	AG, DEV	
Publish public notice relating to the split	FMO		Jun-06

APPENDIX B

Summary of Proposed Legislation

APPENDIX B
SUMMARY OF PROPOSED LEGISLATION
TO EFFECTUATE ACT 196, SESSION LAWS OF HAWAII 2005

Section 1: Purpose to effectuate the implementation plan and purposes of Act 196, SLH 2005.

Section 2: Amendments to Section 20 of Act 196, SLH 2005

- Amends the name of the “Hawaii Housing Finance and Development Administration” or “Administration” to the “Hawaii Housing Finance and Development Corporation” or “Corporation.”

Justification: The term “administration” has multiple meanings depending on the context in which it is used. The new housing agencies are both referred to as the “administration.” The term “administration” also refers to the Executive Branch. Additionally, “administration” means the act of administering such as the administration of a rent subsidy program. Amending the names of the housing agencies will alleviate confusion. Use of the term “corporation” connotes a more business-like entity which fits with the development and financing focus of the new finance and development agency.

- Authorizes the Board of Directors of the HFD to set the salaries for the Executive Director and Executive Assistant, subject to the Governor’s approval.

Justification: Pursuant to Act 196, SLH 2005, the salaries for the Executive Director and Executive Assistant are statutorily established. The Executive Director is paid a salary not to exceed eighty-five per cent of the salary of the Director of Human Resources Development. The Executive Assistant is paid a salary not to exceed ninety per cent of the Executive Director's salary. The HFD must be able to recruit and retain highly qualified executives.

- Authorizes the HFD to execute contracts with the federal government.

Justification: Currently, the HCDCH applies for and administers HUD Community Planning and Development funds (e.g., HOME Investment Partnership Program). There is no specific statutory authority for the HCDCH to enter into agreements with HUD. Therefore, the agreements are executed by the Governor. HUD recommended this amendment to expedite the release of federal funds.

- Housekeeping amendment to revise the period in which a purchaser of an affordable housing unit is required to sell the property to a “qualified resident” from 3 years to 10 years from purchase.

Justification: The sale of affordable housing units is subject to a buyback provision in which the HCDCH has the first option to purchase the unit for a period of 10 years from the date of purchase. If the HCDCH waives the buyback during the first 10 years, the purchaser is required to sell the units to another “qualified resident.” The 10-year buyback period was reduced to 3 years in 1997 and was to revert to 10 years effective December 31, 2004. The buyback period set forth in section 201G-127(a) did revert to 10 years. However, the buyback period set forth in section 201G-127(b) still reflects 3

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SUMMARY OF PROPOSED LEGISLATION
TO EFFECTUATE ACT 196, SESSION LAWS OF HAWAII 2005

years (i.e., the period in which a purchaser is required to sell the unit to another “qualified resident” should the HCDCH waive first right of refusal). This housekeeping amendment would bring the 201G-127(b) buyback period in line with the 10-year period in 201G-127(a).

- Incorporates all relevant sections in HRS Chapter 201G, Parts II and III relating to housing development, housing finance, and expenditures of revolving funds into the new HRS chapter for the HFD.

Justification: Section 21 of Act 196, SLH 2005 transferred housing development functions in HRS 201G, Part II, Subpart F and housing finance functions and exemptions for expenditures from revolving funds from appropriation and allotment in HRS 201G, Part III, except for Subpart D (State Rent Supplement Program) and Subpart M (State Sales Housing Program) to the HFD. The Legislative Reference Bureau suggested placement of the finance and development functions in the new chapter.

Section 3: Adds a new chapter to the HRS for the Hawaii Public Housing Authority

- Amends the name of the “Hawaii Public Housing Administration” or “Administration” to the “Hawaii Public Housing Authority” or “Authority.”

Justification: Same reasons for changing the name for the Hawaii Housing Finance and Development Corporation. Use of the term “authority” is consistent with other public housing authorities across the nation.

- Amends the definition of “public housing project” or “complex” to a housing project directly controlled, owned, developed, or managed by the PHA pursuant to the federal low rent public housing program.

Justification: Currently, “public housing project” is defined as a housing project directly controlled, owned, developed, or managed by the HCDCH pursuant to Chapter 201G, Subparts A, B, and H. As such, the HCDCH utilizes an administrative eviction and grievance processes to evict tenants in violation of their rental agreements from federal public housing projects, as well as state low income housing projects, state elderly housing projects, and Section 8 rental properties. Tenants in other rental properties owned and assisted by the HCDCH (i.e., rental properties financed under the Rental Housing System, DURF, RHTF or low income housing tax credits) are subject to the Residential Landlord-Tenant Code. Amending the definition of “public housing project” would clarify that the mandated federal eviction process is limited to tenants residing in federal public housing.

- Authorizes the Board of Directors of PHA to set the salaries for the Executive Director and Executive Assistant, subject to the Governor’s approval.

Justification: Same reasons as above.

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TO EFFECTUATE ACT 196, SESSION LAWS OF HAWAII 2005

- Amends the composition of the board of directors by replacing one of the public members with a representative from the Office of the Governor who will serve as an ex officio, voting member.

Justification: The nine-member board of directors for the PHA consists of eight public members and the Director of Human Services or a designated representative who serves as an ex officio, voting member. A representative from the Governor's Office could provide a valuable link between the public housing administration and finance and development administration.

- Allows eligible residents who are directly assisted by the PHA under the federal public housing or Section 8 tenant-based assistance programs to apply to serve as the resident member to the Board of Directors of the PHA.

Justification: Currently, the Resident Advisory Board compiles a list of five individuals for the Governor's consideration for appointment to the Board. The proposed amendment would provide any eligible resident who is directly assisted by the agency under the federal public housing or a Section 8 tenant-based program the opportunity to submit an application to serve as the resident member to the Board.

- Authorizes the PHA to execute contracts with the federal government.

Justification: The HCDCH and its predecessor, the Hawaii Housing Authority, have executed agreements relating to public housing programs with HUD. However, there is no specific statutory authority to do so. This amendment would clarify that the PHA is authorized to enter into agreements with the federal government.

- Provides the PHA with bond authority and establish a public housing revolving fund for bond financing transactions.

Justification: Act 196 does not provide the public housing administration with bond financing authority. Historically, the public housing agency was required to provide permanent financing for public housing projects through the issuance of bonds. Under the Annual Contributions Contract, HUD would repay the bonds. Currently, HUD does not require public housing agencies to issue bonds. Nationally, many housing finance agencies issue bonds on behalf of the public housing agencies. However, bond authorization would provide the PHA with the flexibility to leverage its Capital Funds and Operating Funds to renovate public housing projects or participate in mixed finance public housing projects.

- Amends the definition of "housing owner" to allow the authority to make State rent supplement payments in State low income housing projects.

Justification: Currently, the Rent Supplement Program provides a shallow rent subsidy to very low income households who rent a unit in the private market. The program has not

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been fully utilized and Rent Supplement funds have lapsed to the State General Fund. This amendment will allow the PHA to address operating deficits in the State Low Income Housing Program and fully utilize funds that are appropriated.

Section 4: Housekeeping amendments to Section 26 of Act 196, SLH 2005
Section 26 of Act 196 amended references to the HCDCH throughout other chapters of the HRS. This legislative proposal amends references to the “Administration” to the “Corporation.” It also makes conforming amendments to ensure that the appropriate sections in Chapter 201G, HRS that will remain intact refer to the “Hawaii Public Housing Authority.”

Section 5: Repeal Chapter 201G, Parts I, III, and IV, HRS. Also repeal Chapter 201G, Part II, Subparts A, B, E, F, and H, HRS.

Section 6: Purpose of Part IV of Proposed Act to make additional technical and conforming amendments as they relate to the HFD.

Section 7: Housekeeping amendments to Sections 22, 23, 24 and 25 of Act 196, SLH 2005 to replace references to the “Hawaii Housing Finance and Development Administration” to the “Hawaii Housing Finance and Development Corporation.”

Section 8: Housekeeping amendments to Section 46-15.1, HRS to amend references to Chapter 201G, HRS to the appropriate new chapter created for the HFD.

Section 9: Housekeeping amendments to section 53-1, HRS to amend the reference to Chapter 201G, HRS to the appropriate new chapter created for the HFD and the reference to the “Hawaii Housing Finance and Development Administration” to the “Hawaii Housing Finance and Development Corporation.”

Section 10: Housekeeping amendments to section 53-17, HRS to amend the reference to Chapter 201G, HRS to the appropriate new chapter created for the HFD and the reference to the “Hawaii Housing Finance and Development Administration” to the “Hawaii Housing Finance and Development Corporation.”

Section 11: Housekeeping amendments to section 171-18.5, HRS to amend the reference to section 201G-1, HRS to the appropriate section in the new chapter created for the HFD and the reference to the “Hawaii Housing Finance and Development Administration” to the “Hawaii Housing Finance and Development Corporation.”

Section 12: Housekeeping amendments to section 237-29, HRS to amend the reference to section 201G-116, HRS to the appropriate section in the new chapter created for the HFD and the reference to the “Hawaii Housing Finance and Development Administration” to the “Hawaii Housing Finance and Development Corporation.”

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Section 13: Housekeeping amendment to section 247-3, HRS to amend the reference to the “Housing and Community Development Corporation of Hawaii” to the “Hawaii Housing Finance and Development Corporation.”

Section 14: Purpose of Part V is to make additional technical and conforming amendments as they relate to the PHA.

Section 15: Housekeeping amendments to section 521-7, HRS to amend the reference to Chapter 201G, Part IV to the appropriate reference in the new chapter created for the PHA.

Section 16: Appropriates \$708,300 out of the General Fund for fiscal year 2006-2007, to be expended by the HFD to purchase a computer network and related computer equipment.

Justification: The existing computer network system was purchased primarily with federal funds and will service the PHA.

Section 17: Appropriates \$336,303 out of revolving funds and creates six new full-time equivalent positions for the HFD.

BED 225

- Secretary III \$32,151

BED 229

- Executive Director \$77,965
- Executive Assistant \$70,169
- Account Clerk V \$29,901
- Secretary to the Chief Financial Officer \$28,722
- Central Files Clerk III \$22,737

Section 18: Appropriates \$1,800,000 in Capital Improvement Program funds for the PHA to renovate the School Street offices.

Section 19: Appropriates \$99,427 out of federal funds and establishes three new full-time equivalent positions for the PHA.

HMS 229

- Clerk Typist II \$22,737
- Clerk Typist III \$22,737
- Account Clerk III \$25,545

Section 20: Non-federal public housing rental agreements entered into by the HCDCH prior to July 1, 2006 remain in full force and effect until the rental agreements are renewed or terminated.

Justification: Rental agreements for State low-income housing, housing for elders and project-based Section 8 properties are the same as for federal public housing properties. Therefore, tenants may utilize the federal eviction process which includes the federal grievance hearing. Section 3 of this legislative proposal clarifies that the federal eviction

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process applies to federal public housing properties and that other, non-federal public housing projects would be subject to the Residential Landlord-Tenant Code. Section 20 allows for rental agreements entered into prior to July 1, 2006 to remain in full force and effect until they are renewed or terminated.

Section 21: Ramseyer language. Statutory material to be deleted is bracketed and stricken. New statutory material is underscored.

Section 22: Effective date of the Act is July 1, 2006.

APPENDIX C
Proposed Legislation

1 "CHAPTER
2 HAWAII HOUSING FINANCE AND DEVELOPMENT [~~ADMINISTRATION~~]
3 CORPORATION

4 PART I. GENERAL PROVISIONS

5 § -1 Definitions. The following terms, wherever used or
6 referred to in this chapter, shall have the following respective
7 meanings, unless a different meaning clearly appears from the
8 context:

9 [~~"Administration" means the Hawaii housing finance and~~
10 ~~development administration.~~]

11 "Board" means the board of directors of the Hawaii housing
12 finance and development [~~administration.~~] corporation.

13 "Bonds" means any bonds, interim certificates, notes,
14 debentures, participation certificates, pass-through
15 certificates, mortgage-backed obligations, or other evidences of
16 indebtedness of the [~~administration~~] corporation issued pursuant
17 to this chapter.

18 "Community facilities" includes: real and personal
19 property; buildings, equipment, lands, and grounds for
20 recreational or social assemblies, or educational, health, or
21 welfare purposes; and necessary or convenient utilities, when

1 designed primarily for the benefit and use of the
2 [~~administration~~] corporation or the occupants of the dwelling.

3 "Contract" means any agreement of the [~~administration~~]
4 corporation with an obligee or a trustee for the obligee,
5 whether contained in a resolution, trust indenture, mortgage,
6 lease, bond, or other instrument.

7 "Corporation" means the Hawaii housing finance and
8 development corporation.

9 "Dwelling", "dwelling unit", or "unit" means any structure
10 or room, for sale, lease, or rent, that provides shelter.

11 [~~"Elder" or "elderly" means a person who is a resident of~~
12 ~~the state and has attained the age of sixty two years.~~

13 [~~"Elder or elderly households" means households in which at~~
14 ~~least one member is at least sixty two years of age, the spouse~~
15 ~~or partner of that member has attained the age of majority, and~~
16 ~~the remaining members have attained the age of fifty five years~~
17 ~~at the time of application to a [public] housing project. A~~
18 ~~live in aide shall cease to be a resident therein upon the~~
19 ~~recovery of, or removal from the project of, the elder.~~

20 [~~"Elder or elderly housing" means:~~

1 ~~(1) A housing project intended for and occupied by elder~~
2 ~~or elderly households; or~~

3 ~~(2) Housing provided under any state or federal program~~
4 ~~that the Secretary of the United States Department of~~
5 ~~Housing and Urban Development determines is~~
6 ~~specifically designed and operated to assist elders or~~
7 ~~elderly persons, which, upon a determination by the~~
8 ~~Secretary, may also be occupied by persons with~~
9 ~~disabilities who have reached the age of majority.]~~

10 "Executive director" means the executive director of the
11 Hawaii housing finance and development [administration]
12 corporation.

13 "Federal government" includes the United States and any
14 agency or instrumentality, corporate or otherwise, of the United
15 States.

16 "Government" includes the State and the United States and
17 any political subdivision, agency, or instrumentality, corporate
18 or otherwise, of either of them.

19 "Household member" means a person who:

20 (1) Is a co-applicant; or

1 (2) Will reside in the dwelling unit purchased or leased
2 from the corporation.

3 "Housing project" or "project" includes all real and
4 personal property, buildings and improvements, commercial
5 spaces, lands for farming and gardening, and community
6 facilities acquired or constructed or to be acquired or
7 constructed, and all tangible or intangible assets held or used
8 in connection with the housing project.

9 The term "housing project" or "project" may also be applied
10 to the planning of the buildings and improvements, the
11 acquisition of property by purchase, lease, or otherwise, the
12 demolition of existing structures, the construction,
13 reconstruction, alteration, and repair of the improvements, and
14 all other work in connection therewith.

15 "Land" or "property" includes vacant land or land with site
16 improvements, whether partially or entirely finished in
17 accordance with governmental subdivision standards, or with
18 complete dwellings.

19 "Live-in aide" means a person who:

20 (1) Is eighteen years of age or older;

1 (2) Is living in the unit solely to assist the elder or
2 elderly person in daily living activities, including
3 bathing, meal preparation and delivery, medicinal
4 care, transportation, and physical activities;

5 (3) Is not legally obligated to support the elder or
6 elderly person; and

7 (4) Is verified by the [~~administration~~] corporation as
8 meeting these requirements.

9 "Mortgage holder" includes the United States Department of
10 Housing and Urban Development, Federal Housing Administration,
11 the United States Department of Agriculture, or other federal or
12 state agency engaged in housing activity, [~~Administrator of~~
13 United States Department of Veterans Affairs, Federal National
14 Mortgage Association, Government National Mortgage Association,
15 Federal Home Loan Mortgage Corporation, private mortgage lender,
16 private mortgage insurer, and their successors, grantees, and
17 assigns.

18 "Mortgage lender" means any bank, trust company, savings
19 bank, national banking association, savings and loan
20 association, building and loan association, mortgage banker,
21 credit union, insurance company, or any other financial

1 institution, or a holding company for any of the foregoing,
2 that:

- 3 (1) Is authorized to do business in the State;
- 4 (2) Customarily provides service or otherwise aids in the
5 financing of mortgages on single-family or multifamily
6 residential property; and
- 7 (3) Is a financial institution whose accounts are
8 federally insured or is an institution that is an
9 approved mortgagee for the Federal Housing
10 Administration, an approved lender for the United
11 States Department of Veterans Affairs or the United
12 States Department of Agriculture, or an approved
13 mortgage loan servicer for the Federal National
14 Mortgage Association or the Federal Home Loan Mortgage
15 Corporation.

16 "Nonprofit organization" means a corporation, association,
17 or other duly chartered entity that is registered with the State
18 and has received a written determination from the Internal
19 Revenue Service that it is exempt under either section
20 501(c)(3), section 501(c)(4), or so much of section 501(c)(2) as
21 applied to title holding corporations that turn over their

1 income to organizations that are exempt under either section
2 501(c)(3) or 501(c)(4), of the Internal Revenue Code of 1986, as
3 amended.

4 "Obligee of the [~~administration~~] corporation" or "obligee"
5 includes any bondholder, trustee or trustees for any
6 bondholders, any lessor demising property to the
7 [~~administration~~] corporation used in connection with a housing
8 project, or any assignee or assignees of the lessor's interest
9 or any part thereof, and the United States, when it is a party
10 to any contract with the [~~administration.~~] corporation.

11 "Real property" includes lands, land under water,
12 structures, and any and all easements, franchises, and
13 incorporeal hereditaments and every estate and right therein,
14 legal and equitable, including terms for years and liens by way
15 of judgment, mortgage, or otherwise.

16 "Trustee" means a national or state bank or trust company
17 located within or outside the State that enters into a trust
18 indenture.

19 "Trust indenture" means an agreement by and between the
20 [~~administration~~] corporation and the trustee, which sets forth
21 the duties of the trustee with respect to the bonds, the

1 security therefor, and other provisions as deemed necessary or
2 convenient by the corporation to secure the bonds.

3 **§ -2 Hawaii housing finance and development**

4 ~~[administration,]~~ corporation; establishment, staff. (a) There
5 is established the Hawaii housing finance and development
6 ~~[administration]~~ corporation to be placed within the department
7 of business, economic development, and tourism for
8 administrative purposes only. The ~~[administration]~~ corporation
9 shall be a public body and a body corporate and politic.

10 (b) The ~~[administration]~~ corporation shall employ, exempt
11 from chapter 76 and section 26-35(a)(4), an executive director
12 and an executive assistant. ~~[The executive director shall be
13 paid a salary not to exceed eighty-five per cent of the salary
14 of the director of human resources development.—The executive
15 assistant shall be paid a salary not to exceed ninety per cent
16 of the executive director's salary.]~~ The corporation shall set
17 the salary of the executive director and executive assistant,
18 subject to the approval of the governor. The ~~[administration]~~
19 corporation may employ, subject to chapter 76, technical experts
20 and officers, agents, and employees, permanent and temporary, as
21 required. The ~~[administration]~~ corporation may also employ

1 officers, agents, and employees, prescribe their duties and
2 qualifications, and fix their salaries, not subject to chapter
3 76, when in the determination of the [~~administration~~]
4 corporation, the services to be performed are unique and
5 essential to the execution of the functions of the
6 [~~administration.~~] corporation. The [~~administration~~] corporation
7 may call upon the attorney general or retain counsel for legal
8 services as it may require. The [~~administration~~] corporation
9 may delegate to one or more of its agents or employees its
10 powers and duties as it deems proper.

11 **§ -3 Board; establishment, functions, duties.** (a) There
12 is created a board of directors of the Hawaii housing finance
13 and development [~~administration~~] corporation consisting of nine
14 members, of whom six shall be public members appointed by the
15 governor as provided in section 26-34. At least four of the
16 public members shall have knowledge and expertise in public or
17 private finance and development of affordable housing. Public
18 members shall be appointed from each of the counties of
19 Honolulu, Hawaii, Maui, and Kauai. At least one public member
20 shall represent community advocates for low-income housing,
21 affiliated with private nonprofit organizations that serve the

1 residents of low-income housing. The public members of the
2 board shall serve four-year staggered terms; provided that the
3 initial appointments shall be as follows:

- 4 (1) Two members to be appointed for four years;
- 5 (2) Two members to be appointed for three years; and
- 6 (3) Two members to be appointed for two years.

7 The director of business, economic development, and tourism
8 and the director of finance, or their designated
9 representatives, and a representative of the governor's office,
10 shall be ~~[an]~~ ex officio voting members. The ~~[administration]~~
11 corporation shall be headed by the board.

12 (b) The board of directors shall select a chairperson and
13 vice chairperson from among its members; provided that the
14 chairperson shall be a public member. The director of business,
15 economic development, and tourism, director of finance, and the
16 governor's representative shall be ineligible to serve as
17 chairperson of the board.

18 (c) Five members shall constitute a quorum, whose
19 affirmative vote shall be necessary for all actions by the
20 ~~[administration.]~~ corporation. The members shall receive no
21 compensation for services, but shall be entitled to necessary

1 expenses, including travel expenses, incurred in the performance
2 of their duties.

3 **§ -4 General powers.** (a) The [~~administration~~]
4 corporation may:

- 5 (1) Sue and be sued;
- 6 (2) Have a seal and alter the same at pleasure;
- 7 (3) Make and execute contracts and other instruments
8 necessary or convenient to the exercise of its powers;
9 and

10 (4) Adopt bylaws and rules in accordance with chapter 91
11 for its organization, internal management, and to
12 carry into effect its purposes, powers, and programs.

13 (b) In addition to other powers conferred upon it, the
14 [~~administration~~] corporation may do all things
15 necessary and convenient to carry out the powers
16 expressly provided in this chapter.

17 **§ -5 Fair housing law to apply.** Notwithstanding any law
18 to the contrary, the provisions of chapter 515 shall apply in
19 administering this chapter.

20 **§ -6 Housing advocacy and information system.** (a) The
21 [~~administration,~~] corporation, with the assistance of other

1 agencies of the State and counties with related
2 responsibilities, shall develop and maintain a housing advocacy
3 and information system to aid the [~~administration~~] corporation
4 in meeting the needs and demands of housing consumers.

5 (b) In establishing and maintaining the housing advocacy
6 and information system, the [~~administration~~] corporation shall
7 conduct market studies, engage in community outreach, and
8 solicit recommendations from and statistics and research
9 developed by agencies of the United States, the State, the
10 counties, private research organizations, nonprofit community
11 groups, trade associations, including those of the construction
12 and real estate industries, departments, individuals at the
13 University of Hawaii, and housing consumers.

14 (c) The [~~administration~~] corporation shall analyze the
15 information received and make recommendations to the appropriate
16 agencies and developers.

17 (d) The [~~administration,~~] corporation, through the housing
18 advocacy and information system, shall act as a clearinghouse
19 for information relating to housing conditions, needs, supply,
20 demand, characteristics, developments, trends in federal housing
21 programs, and housing laws, ordinances, rules, and regulations.

1 (e) The housing advocacy and information system may be
2 used by housing researchers, planners, administrators, and
3 developers and shall be coordinated with other housing research
4 efforts. The [~~administration~~] corporation shall maintain a
5 current supply of information, including means to gather new
6 information through surveys, contracted research, and
7 investigations.

8 **§ -7 Housing research.** (a) The [~~administration~~]
9 corporation may study the plans of any government in relation to
10 the problem of clearing, replanning, or reconstructing an area
11 in which unsafe or unsanitary [~~public~~] dwelling or [~~public~~]
12 housing conditions exist.

13 (b) The [~~administration~~] corporation may purchase
14 materials for the development of land and the construction of
15 dwelling units in the manner it concludes to be most conducive
16 to lower costs, including purchase from other states or from
17 foreign countries for drop shipment in the State or on cost-plus
18 contracts for materials with persons or firms doing business in
19 the State, or otherwise.

20 (c) The [~~administration~~] corporation may conduct, or cause
21 to be conducted, research on housing needs, materials, design,

1 or technology, and apply the findings of the investigation to
2 housing projects, including the following:

3 (1) Sociocultural investigation of housing and community
4 utilization, preferences, or needs of residents within
5 the housing need classification of the housing
6 functional plan;

7 (2) Development of technology for the application of
8 innovative building systems or materials, to provide
9 energy or resource conservation or cost savings in the
10 construction or operation of a housing project;

11 (3) Investigation of the applicability of locally-produced
12 building materials and systems to dwelling unit
13 construction;

14 (4) Investigation of new forms of project construction,
15 maintenance, operation, financing, or ownership,
16 involving tenants, homeowners, financing agencies, and
17 others; or

18 (5) Other necessary or appropriate research that may lower
19 the long-term costs of housing, conserve resources, or
20 create communities best suited to the needs of
21 residents.

1 (d) In the development and construction of a housing
2 project, the [~~administration~~] corporation may provide for an on-
3 the-job training program or other projects as it may deem
4 justifiable, including innovative projects to develop a larger
5 qualified work force in the State.

6 **§ -8 Housing counseling.** The [~~administration~~] corporation
7 may provide the following services for the programs it
8 administers:

- 9 (1) Listing and referral services to tenants seeking to
10 rent homes;
- 11 (2) Counseling to tenants on matters such as financial
12 management and budgeting, basic housekeeping,
13 communicating effectively and getting along with
14 others, and other matters as may be desirable or
15 necessary;
- 16 (3) Counseling to prospective homeowners on the rudiments
17 of owning a home;
- 18 (4) Assistance to any person or government agency
19 regarding the nature and availability of federal
20 assistance for housing development and community
21 development or redevelopment;

1 (5) Counseling and guidance services to aid: any person or
2 government agency in securing the financial aid or
3 cooperation of the federal government in undertaking,
4 constructing, maintaining, operating, or financing any
5 housing designated for elders; persons displaced by
6 governmental action; university and college students
7 and faculty; and any other persons; and

8 (6) Assistance to a county agency upon request from the
9 agency in the development of programs to correct or
10 eliminate blight and deterioration and to effect
11 community development.

12 **§ -9 Acquisition, use, and disposition of property. (a)**

13 The [~~administration~~] corporation may acquire any real or
14 personal property or interest therein by purchase, exchange,
15 gift, grant, lease, or other means from any person or government
16 to provide housing. Exchange of real property shall be in
17 accordance with section 171-50.

18 (b) The [~~administration~~] corporation may own or hold real
19 property. All real property owned or held by the
20 [~~administration~~] corporation shall be exempt from mechanic's or
21 materialman's liens and also from levy and sale by virtue of an

1 execution, and no execution or other judicial process shall
2 issue against the same nor shall any judgment against the
3 [~~administration~~] corporation be a charge or lien upon its real
4 property; provided that this subsection shall not apply to or
5 limit the right of obligees to foreclose or otherwise enforce
6 any mortgage of the [~~administration~~] corporation or the right of
7 obligees to pursue any remedies for the enforcement of any
8 pledge or lien given by the [~~administration~~] corporation on its
9 rents, fees, or revenues. The [~~administration~~] corporation and
10 its property shall be exempt from all taxes and assessments.

11 (c) The [~~administration~~] corporation may lease or rent all
12 or a portion of any housing project and establish and revise the
13 rents or charges therefor. The [~~administration~~] corporation may
14 sell, exchange, transfer, assign, or pledge any property, real
15 or personal, or any interest therein to any person or
16 government.

17 (d) The [~~administration~~] corporation may insure or provide
18 for the insurance of its property or operations against risks as
19 it deems advisable.

20 **§ -10 Cooperative agreements with other governmental**
21 **agencies.** (a) The [~~administration~~] corporation may:

- 1 (1) Obtain the aid and cooperation of governmental
2 agencies in the planning, construction, and operation
3 of [~~public~~] housing projects and enter into agreements
4 and arrangements as it deems advisable to obtain aid
5 and cooperation;
- 6 (2) Arrange or enter into agreements with any governmental
7 agency for the acquisition of property, options, or
8 property rights or for the furnishing, installing,
9 opening, or closing of streets, roads, alleys,
10 sidewalks, or other places, or for the furnishing of
11 property, services, parks, sewage, water, and other
12 facilities in connection with housing projects, or for
13 the changing of the map of a political subdivision or
14 the planning, replanning, zoning, or rezoning of any
15 part of a political subdivision;
- 16 (3) Procure insurance or guarantees from any governmental
17 agency for the payment of any debts or parts thereof
18 incurred by the [~~administration,~~] corporation,
19 including the power to pay premiums on any such
20 insurance; and

1 (4) Agree to make payments to any state or county agency,
2 if the agency is authorized to accept payments, as the
3 [~~administration~~] corporation deems consistent with the
4 maintenance of the character of housing projects or
5 the purposes of this chapter.

6 (b) For the purpose of aiding and cooperating in the
7 planning, construction, and operation of housing projects
8 located within their respective territorial boundaries, any
9 state or county agency, upon those terms, with or without
10 consideration, as it determines, may:

11 (1) Dedicate, grant, sell, convey, or lease any of its
12 property or grant easements, licenses, or any other
13 rights or privileges therein to the [~~administration~~]
14 corporation or to the federal government;

15 (2) To the extent that it is within the scope of the
16 agency:

17 (A) Cause the services customarily provided by the
18 agency to be rendered for the benefit of housing
19 projects and the occupants thereof;

- 1 (B) Provide and maintain parks and sewage, water,
2 lights, and other facilities adjacent to or in
3 connection with housing projects;
- 4 (C) Open, close, pave, install, or change the grade
5 of streets, roads, roadways, alleys, sidewalks,
6 or other related facilities; and
- 7 (D) Change the map of a political subdivision or
8 plan, replan, zone, or rezone any part of a
9 political subdivision;
- 10 (3) Enter into agreements with the [~~administration~~
11 corporation] with respect to the exercise of their
12 powers relating to the repair, closing, or demolition
13 of unsafe, unsanitary, or unfit dwellings;
- 14 (4) Employ, notwithstanding any other law as to what
15 constitutes legal investments, any available funds
16 belonging to them or within their control, including
17 funds derived from the sale or furnishing of property
18 or facilities to the [~~administration,~~] corporation, in
19 the purchase of bonds or other obligations of the
20 [~~administration~~] corporation to the extent provided
21 under section [~~201G-1617~~] _____-61; and exercise all

1 the rights of any holder of the bonds or other
2 obligations;

3 (5) Do any and all things necessary or convenient to aid
4 and cooperate in the planning, undertaking, and
5 construction of such housing projects; and

6 (6) Enter into contracts with the [~~administration~~
7 corporation or the federal government for any period
8 agreeing to exercise any of the powers conferred
9 hereby or to take any other action in aid of such
10 housing projects.

11 In connection with the exercise of this power, any
12 political subdivision may incur the entire expense of any such
13 public improvements located within its territorial boundaries
14 without assessment against abutting property owners.

15 For the purpose of aiding and cooperating in the planning,
16 construction, and operation of housing projects, the department
17 of land and natural resources, the Hawaiian homes commission,
18 and any other agency of the State having power to manage or
19 dispose of its public lands, with the approval of the governor
20 and with or without consideration, may grant, sell, convey, or
21 lease, for any period, any parts of such public lands, without

1 limit as to area, to the [~~administration~~] corporation or to the
2 federal government.

3 Any law to the contrary notwithstanding, any gift, grant,
4 sale, conveyance, lease, or agreement provided for in this
5 section may be made by the state or county government without
6 appraisal, public notice, advertisement, or public bidding.

7 If at any time title to, or possession of, any housing
8 project is held by any governmental agency authorized by law to
9 engage in the development or administration of low-rent housing
10 or slum clearance projects, any agreement made under this
11 chapter relating to the project shall inure to the benefit of
12 and may be enforced by that governmental agency.

13 Insofar as this subsection is inconsistent with the
14 provisions of any other law, this subsection shall be
15 controlling.

16 (c) Any county in which a [~~public~~] housing project is
17 located or is about to be located may make donations or advances
18 to the [~~administration~~] corporation in sums as the county in its
19 discretion may determine. The advances or donations shall be
20 made for the purpose of aiding or cooperating in the
21 construction and operation of the housing project. The

1 [~~administration,~~] corporation, when it has money available
2 therefor, shall reimburse the county for all advances made by
3 way of a loan to it.

4 **§ -11 Agents, including corporations.** The
5 [~~administration]~~ corporation may exercise any or all of the
6 powers conferred upon it, either generally or with respect to
7 any specific housing project through an agent that it may
8 designate, including any corporation that is formed under the
9 laws of this State, and for such purposes the [~~administration]~~
10 corporation may cause one or more corporations to be formed
11 under the laws of this State or may acquire the capital stock of
12 any corporation. Any corporate agent, all of the stock of which
13 shall be owned by the [~~administration]~~ corporation or its
14 nominee, to the extent permitted by law, may exercise any of the
15 powers conferred upon the [~~administration]~~ corporation in this
16 chapter.

17 **§ -12 Development of property.** (a) The [~~administration,~~]
18 corporation, in its own behalf or on behalf of any federal,
19 state, or county agency, may:

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

1 (2) Plan, develop, construct, and finance housing
2 projects; and
3 (3) In cooperation with the department of education and
4 department of accounting and general services, plan
5 educational facilities and related infrastructure as a
6 necessary and integral part of its [~~public~~] housing
7 projects, using all its innovative powers toward
8 achieving that end expeditiously and economically;
9 provided that the educational facilities comply with
10 the department of education's educational
11 specifications, timelines, and siting requirements.

12 (b) The [~~administration~~] corporation may develop public
13 land in an agricultural district subject to the prior approval
14 of the land use commission, when developing lands greater than
15 fifteen acres in size, and public land in a conservation
16 district subject to the prior approval of the board of land and
17 natural resources. The [~~administration~~] corporation shall not
18 develop state monuments or historical sites or parks. When the
19 [~~administration~~] corporation proposes to develop public land, it
20 shall file with the department of land and natural resources a
21 petition setting forth such purpose. The petition shall be

1 conclusive proof that the intended use is a public use superior
2 to that which the land has been appropriated.

3 (c) The [~~administration~~] corporation may develop or assist
4 in the development of federal lands with the approval of
5 appropriate federal authorities.

6 (d) The [~~administration~~] corporation shall not develop any
7 public land where the development may endanger the receipt of
8 any federal grant, impair the eligibility of any public body for
9 a federal grant, prevent the participation of the federal
10 government in any government program, or impair any covenant
11 between the government and the holder of any bond issued by the
12 government.

13 (e) The [~~administration~~] corporation may contract or
14 sponsor with any county, housing authority, or person, subject
15 to the availability of funds, an experimental or demonstration
16 housing project designed to meet the needs: of elders; the
17 disabled; displaced or homeless persons; low- and moderate-
18 income persons; teachers or other government employees; or
19 university and college students and faculty.

20 **§ -13 Eminent domain, exchange or use of public property.**

21 The [~~administration~~] corporation may acquire any real property,

1 including fixtures and improvements, or interest therein:
2 through voluntary negotiation; through exchange of land in
3 accordance with section 171-50, provided that the public land to
4 be exchanged need not be of like use to that of the private
5 land; or by the exercise of the power of eminent domain which it
6 deems necessary by the adoption of a resolution declaring that
7 the acquisition of the property described therein is in the
8 public interest and required for public use. The
9 [~~administration~~] corporation shall exercise the power of eminent
10 domain granted by this section in the same manner and procedure
11 as is provided by chapter 101 and otherwise in accordance with
12 all applicable provisions of the general laws of the State;
13 provided that condemnation of parcels greater than fifteen acres
14 shall be subject to legislative disapproval expressed in a
15 concurrent resolution adopted by majority vote of the senate and
16 the house of representatives in the first regular or special
17 session following the date of condemnation.

18 The [~~administration~~] corporation may acquire by the
19 exercise of the power of eminent domain property already devoted
20 to a public use; provided that no property belonging to any
21 government may be acquired without its consent, and that no

1 property belonging to a public utility corporation may be
2 acquired without the approval of the public utilities
3 commission, and subject to legislative disapproval expressed in
4 a concurrent resolution adopted by majority vote of the senate
5 and the house of representatives in the first regular or special
6 session following the date of condemnation.

7 **§ -14 Contracts with federal government.** (a) The
8 [~~administration~~] corporation may:

- 9 (1) Borrow money or accept grants from the federal
10 government for or in aid of any housing project that
11 the [~~administration~~] corporation is authorized to
12 undertake;
- 13 (2) Take over any land acquired by the federal government
14 for the construction or operation of a housing project
15 with the approval of the federal government or at the
16 request of the federal government;
- 17 (3) Procure insurance or guarantees from the federal
18 government of the payment of any debts or parts
19 thereof secured by mortgages made or held by the
20 [~~administration~~] corporation on any property included
21 in any housing project; [~~and~~]

1 (4) Comply with any conditions required by the federal
2 government in any contract for financial [~~assistance.~~]
3 assistance; and

4 (5) Execute contracts with the federal government.

5 (b) It is the purpose and intent of this part to authorize
6 the [~~administration~~] corporation to do any and all things
7 necessary to secure the financial aid and the cooperation of the
8 federal government in the undertaking, construction,
9 maintenance, and operation of any housing project that the
10 [~~administration~~] corporation is empowered to undertake.

11 **§ -15 Administration of low-income housing credit allowed**

12 **under section 235-110.8.** (a) The [~~administration~~] corporation
13 is designated as a state housing credit agency to carry out
14 section 42(h) (with respect to limitation on aggregate credit
15 allowable with respect to a project located in a state) of the
16 Internal Revenue Code of 1986, as amended. As a state housing
17 credit agency, the [~~administration~~] corporation shall determine
18 the eligibility basis for a qualified low-income building, make
19 the allocation of housing credit dollar amounts within the
20 State, and determine the portion of the State's housing credit
21 ceiling set aside for projects involving qualified nonprofit

1 organizations. The [~~administration~~] corporation shall file any
2 certifications and annual reports required by section 42 (with
3 respect to low-income housing credit) of the Internal Revenue
4 Code of 1986, as amended.

5 (b) The state aggregate housing credit dollar amount shall
6 be allocated annually as required by section 42 of the Internal
7 Revenue Code of 1986, as amended, by the [~~administration~~]
8 corporation in an amount equal to \$1.25 multiplied by the state
9 population in the calendar year or such greater or lesser amount
10 as provided by section 42(h) of the Internal Revenue Code of
11 1986, as amended.

12 (c) The [~~administration~~] corporation shall adopt rules
13 under chapter 91 necessary to comply with federal and state
14 requirements for determining the amount of the tax credit
15 allowed under section 42 of the Internal Revenue Code of 1986,
16 as amended, and section 235-110.8. The [~~administration~~]
17 corporation may establish and collect reasonable fees for
18 administrative expenses incurred in providing the services
19 required by this section, including fees for processing
20 developer applications for the credit. All fees collected for
21 administering these provisions, including developer application

1 fees, shall be used to cover the administrative expenses of the
2 [~~administration.~~] corporation.

3 (d) All claims for allocation of the low-income housing
4 credit under section 235-110.8 shall be filed with the
5 [~~administration.~~] corporation. The [~~administration~~] corporation
6 shall determine the amount of the credit allocation, if
7 necessary, and return the claim to the taxpayer. The taxpayer
8 shall file the credit allocation with the taxpayer's tax return
9 with the department of taxation.

10 **§ -16 Administration of federal programs.** (a) The
11 [~~administration~~] corporation may carry out federal programs
12 designated to be carried out by a housing finance or housing
13 development entity.

14 (b) The [~~administration~~] corporation shall adopt necessary
15 rules in accordance with chapter 91, including the establishment
16 and collection of reasonable fees for administering the program,
17 to carry out any federal program in subsection (a).

18 (c) All fees collected for administering the program may
19 be deposited into an appropriate special fund of the
20 [~~administration~~] corporation and may be used to cover the
21 administrative expenses of the [~~administration.~~] corporation.

1 **§ -17 Federal funds outside of state treasury.**

2 Notwithstanding chapter 38, the [~~administration~~] corporation may
3 establish and manage federal funds outside of the state treasury
4 to be used for federal housing programs. The [~~administration~~]
5 corporation shall invest those funds in permitted investments in
6 accordance with chapter 36.

7 **§ -18 Public works contracts.** The [~~administration~~]
8 corporation may make, execute, and carry out contracts for, or
9 in connection with, any housing project in the manner provided
10 under chapter 103D and section 103-53; provided that with regard
11 to the contracts, the term "officers", as used in chapter 103D,
12 shall mean the administration or officer authorized by the
13 [~~administration~~] corporation to act as its contracting officer.
14 Unless made and executed in the name of the State, each contract
15 made and executed as authorized in this section shall state
16 therein that it is so made and executed.

17 **§ -19 Remedies of an obligee: mandamus; injunction;**
18 **possessory action; receiver; accounting; etc.** An obligee of the
19 [~~administration~~] corporation shall have the right, in addition
20 to all other rights that may be conferred on the obligee subject

1 only to any contractual restrictions binding upon the obligee,
2 and subject to the prior and superior rights of others:

3 (1) By mandamus, suit, action, or proceeding in law or
4 equity to compel the [~~administration,~~] corporation,
5 and the members, officers, agents, or employees
6 thereof to perform each and every item, provision, and
7 covenant contained in any contract of the corporation,
8 and to require the carrying out of any or all
9 covenants and agreements of the [~~administration~~]
10 corporation and the fulfillment of all duties imposed
11 upon the [~~administration~~] corporation by this chapter;

12 (2) By suit, action, or proceeding in equity to enjoin any
13 acts or things that may be unlawful, or the violation
14 of any of the rights of the obligee of the
15 [~~administration;~~] corporation;

16 (3) By suit, action, or proceeding in any court of
17 competent jurisdiction to cause possession of any
18 housing project or any part thereof to be surrendered
19 to any obligee having the right to possession pursuant
20 to any contract of the [~~administration;~~] corporation;

- 1 (4) By suit, action, or proceeding in any court of
2 competent jurisdiction, upon the happening of an event
3 of default (as defined in a contract of the
4 [~~administration~~], corporation), to obtain the
5 appointment of a receiver of any housing project of
6 the [~~administration~~] corporation or any part or parts
7 thereof, and if the receiver is appointed, the
8 receiver may enter and take possession of the housing
9 project or any part or parts thereof and operate and
10 maintain same, and collect and receive all fees,
11 rents, revenues, or other charges thereafter arising
12 therefrom in the same manner as the [~~administration~~]
13 corporation itself might do and shall keep the moneys
14 in a separate account or accounts and apply the same
15 in accordance with the obligations of the
16 [~~administration~~] corporation as the court shall
17 direct; and
- 18 (5) By suit, action, or proceeding in any court of
19 competent jurisdiction to require the [~~administration~~]
20 corporation and the members thereof to account as if
21 it and they were the trustees of an express trust.

1 **§ -20 Subordination of mortgage to agreement with**
2 **government.** The [~~administration~~] corporation may agree in any
3 mortgage made by it that the mortgage shall be subordinate to a
4 contract for the supervision by a governmental agency of the
5 operation and maintenance of the mortgaged property and the
6 construction of improvements thereon. In that event, any
7 purchaser or purchasers at a sale of the property of the
8 [~~administration~~] corporation pursuant to a foreclosure of the
9 mortgage or any other remedy in connection therewith shall
10 obtain title subject to the contract.

11 **§ -21 Duty to make reports.** Except as otherwise provided
12 by law, the [~~administration~~] corporation shall:

- 13 (1) File at least once a year with the governor a report
14 of its activities for the preceding fiscal year;
- 15 (2) Report to the state comptroller on moneys deposited in
16 depositories other than the state treasury under
17 section 40-81 and rules adopted thereunder; and
- 18 (3) Submit an annual report to the legislature on all
19 [~~administration~~] corporation program areas and funds
20 organized by program area, and by fund within each
21 program area, no later than twenty days prior to the

1 convening of each regular session, which shall provide
2 the following information on the status of its
3 programs and finances:

4 (A) A description of programs being developed in the
5 current fiscal biennium, including a summary
6 listing of the programs, the status of each
7 program, the methods of project financing or
8 loans, and other information deemed significant;

9 (B) A description of programs planned for development
10 during the two ensuing fiscal bienniums,
11 including a summary listing of the proposed
12 programs, the methods of project financing or
13 loans, and other information deemed significant;

14 (C) A status report of actual expenditures made in
15 the prior completed fiscal year from each fund
16 established under this chapter, estimated
17 expenditures anticipated for the current fiscal
18 year, and projected expenditures for the ensuing
19 fiscal years to be described in relation to
20 specific projects developed to implement the

1 purposes of any program or fund established under
2 this chapter;

3 (D) A financial audit and report conducted on an
4 annual basis by a certified public accounting
5 firm; and

6 (E) Recommendations with reference to any additional
7 legislation or other action that may be necessary
8 to carry out the purposes of this part.

9 **§ -22 Quitclaim deeds.** Unless otherwise provided by law,
10 the [~~administration~~] corporation shall issue quitclaim deeds and
11 leases whenever it conveys, transfers, sells, or assigns any
12 property developed, constructed, or sponsored under this
13 chapter.

14 **PART II. Housing Development Programs**

15 **§ -31 Criteria.** In administering this chapter and other
16 laws of the State applicable to the supplying of housing or the
17 assistance in obtaining housing, the corporation shall give
18 preference to those applicants most in need of assistance in
19 obtaining housing, in light of the amount of moneys available
20 for the various programs. In doing so, the corporation shall
21 take into consideration the applicant's household income and

1 number of dependents; the age of the applicant; the physical
2 disabilities of the applicant or those living with the
3 applicant; whether or not the present housing of the applicant
4 is below standard; whether or not the applicant's need for
5 housing has arisen by reason of displacement of the applicant by
6 governmental actions; and other factors as it may deem
7 pertinent.

8 **§ -32 Definitions.** The following terms, wherever used or
9 referred to in this subpart, shall have the following respective
10 meanings unless a different meaning clearly appears from the
11 context:

12 "Develop" or "development" means the planning, financing,
13 acquisition of real and personal property, demolition of
14 existing structures, clearance of real property, construction,
15 reconstruction, alteration, or repairing of approaches, streets,
16 sidewalks, utilities, and services, or other site improvements,
17 or construction, reconstruction, repair, remodeling, extension,
18 equipment, or furnishing of buildings or other structures, or
19 any combination of the foregoing, of any housing project. It
20 also includes any and all undertakings necessary therefor, and
21 the acquisition of any housing, in whole or in part.

1 "Eligible bidder" means a person, partnership, firm, or
2 corporation determined by the corporation:

3 (1) To be qualified by experience and financial
4 responsibility to construct housing of the type
5 proposed to be contracted; and

6 (2) To have submitted the lowest acceptable bid.

7 "Eligible developer" means any person, partnership,
8 cooperative including limited-equity housing cooperatives as
9 defined in chapter 421H, firm, nonprofit or profit corporation,
10 or public agency determined by the corporation:

11 (1) To be qualified by experience and financial
12 responsibility and support to construct housing of the
13 type described and of the magnitude encompassed by the
14 given project;

15 (2) To have submitted plans for a project adequately
16 meeting the objectives of this chapter, the
17 maintenance of aesthetic values in the locale of the
18 project, and the requirements of all applicable
19 environmental statutes and rules; and

1 (3) To meet all other requisites the corporation deems to
2 be just and reasonable, and all requirements
3 stipulated in this chapter.

4 "Purchaser's equity" means the difference between the
5 original cost of the dwelling unit to the purchaser, and the
6 principal amount of any mortgages, liens, or notes outstanding.

7 "Qualified resident" means a person who:

8 (1) Is a citizen of the United States or a resident alien;

9 (2) Is at least eighteen years of age;

10 (3) Is domiciled in the State and shall physically reside
11 in the dwelling unit purchased or rented under this
12 chapter;

13 (4) In the case of the purchase of real property in fee
14 simple or leasehold, has a gross income sufficient to
15 qualify for the loan to finance the purchase; or in
16 the case of a rental, demonstrates an ability to pay
17 rent as determined by the corporation and meets any
18 additional criteria established by the corporation for
19 the respective rental housing development for which
20 the applicant is applying; and

21 (5) Meets the following qualifications:

1 (A) Is a person who either oneself or together with
2 spouse or household member, does not own a
3 majority interest in fee simple or leasehold
4 lands suitable for dwelling purposes or a
5 majority interest in lands under any trust
6 agreement or other fiduciary arrangement in which
7 another person holds the legal title to the land;
8 and

9 (B) Is a person whose spouse or household member does
10 not own a majority interest in fee simple or
11 leasehold lands suitable for dwelling purposes or
12 more than a majority interest in lands under any
13 trust agreement or other fiduciary arrangement in
14 which another person holds the legal title to the
15 land, except when husband and wife are living
16 apart under a decree of separation from bed and
17 board issued by the family court pursuant to
18 section 580-71;

19 provided that for purchasers of market-priced units in an
20 economically integrated housing project, the term "qualified
21 resident" means a person who is a citizen of the United States

1 or a resident alien; is domiciled in the State and shall
2 physically reside in the dwelling unit purchased; is at least
3 eighteen years of age; and meets other qualifications as
4 determined by the developer.

5 "Short term project notes" means evidences of indebtedness
6 issued by the State for specified housing projects and secured
7 by the projects the terms of which call for complete repayment
8 by the State of the face amount in not less than two nor more
9 than ten years.

10 § -33 Powers and duties, generally. (a) The corporation
11 may develop fee simple or leasehold property, construct dwelling
12 units thereon, including condominiums, planned units, and
13 cluster developments, and sell, lease, or rent or cause to be
14 leased or rented, at the lowest possible price to qualified
15 residents, nonprofit organizations, or government agencies, with
16 an eligible developer or in its own behalf, either:

17 (1) Fully completed dwelling units with the appropriate
18 interest in the land on which the dwelling unit is
19 located;

1 (2) Units which are substantially complete and habitable
2 with the appropriate interest in the land on which the
3 dwelling unit is located; or

4 (3) The land with site improvements (other than the
5 dwelling unit) either partially or fully developed.

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

18 (c) The corporation shall adopt rules under chapter 91 on
19 health upon direction from the governor and for the period as
20 the governor shall authorize, rules on health, safety, building,
21 planning, zoning, and land use that relate to the development,

1 subdivision, and construction of dwelling units in projects in
2 which the State, through the corporation, shall participate;
3 provided that these rules shall not contravene any safety
4 standards or tariffs approved by the public utilities
5 commission; provided further that these rules shall follow
6 existing law as closely as is consistent with the production of
7 lower cost housing with standards that meet minimum requirements
8 of good design, pleasant amenities, health, safety, and
9 coordinated development.

10 Upon the adoption of such rules they shall have the force
11 and effect of law and shall supersede, for all projects in which
12 the State through the corporation shall participate, all other
13 inconsistent laws, ordinances, and rules relating to the use,
14 zoning, planning, and development of land, and the construction
15 of dwelling units thereon; provided that any rules, before
16 becoming effective, shall be presented to the legislative body
17 of each county in which they will be effective and the
18 legislative body of any county may within forty-five days
19 approve or disapprove, for that county, any or all of the rules
20 by a majority vote of its members. On the forty-sixth day after

1 submission any rules not disapproved shall be deemed to have
2 been approved by the county.

3 (d) The corporation may acquire, by eminent domain,
4 exchange, or negotiation, land or property required within the
5 foreseeable future for the purposes of this chapter. Whenever
6 land with a completed or substantially complete and habitable
7 dwelling or dwellings thereon is acquired by exchange or
8 negotiation, the exchange value or purchase price for each
9 dwelling, including land, shall not exceed its appraised value.
10 Land or property acquired in anticipation of future use may be
11 leased for the interim period by the corporation for such term
12 and rent as it deems appropriate.

13 (e) Upon authorization by the legislature, the corporation
14 shall cause the State to issue general obligation bonds to
15 finance:

16 (1) Land acquisition;

17 (2) The development and improvement of land;

18 (3) The construction of dwelling units;

19 (4) The purchase, lease, or rental of land and dwelling
20 units by qualified residents, nonprofit organizations,
21 or government agencies under this chapter;

1 (5) Payment of any services contracted for under this
2 chapter, including profit or recompense paid to
3 partners, and including community information and
4 advocacy services deemed necessary by the corporation
5 to provide for citizen participation in the
6 development of housing projects, the implementation of
7 this chapter, and the staffing of any citizen advisory
8 committee the corporation may establish;

9 (6) The cost of repurchase of units under section -47;

10 (7) Loans for the rehabilitation and renovation of
11 existing housing; and

12 (8) Any other moneys required to accomplish the purposes
13 of this chapter.

14 (f) The corporation shall do all other things necessary
15 and convenient to carry out the purposes of this chapter.

16 § -34 Additional powers; development. Notwithstanding and
17 without compliance with section 103-7 but with the approval of
18 the governor, the corporation may enter into and carry out
19 agreements and undertake projects or participate in projects
20 authorized by this chapter. The powers conferred upon the
21 corporation by this subpart shall be in addition and

1 supplemental to the powers conferred upon it by part I and any
2 other law, and nothing herein shall be construed as limiting any
3 powers, rights, privileges, or immunities so conferred upon it.

4 **§ -35 Bond financing.** The director of finance may issue
5 general obligation bonds and short term project notes of the
6 State in the aggregate amount not to exceed \$105,000,000 for the
7 dwelling unit revolving fund created by section -171. Pending
8 the receipt of funds from the issuance and sale of the bonds and
9 notes, the amount required for the purposes of this chapter
10 shall be advanced from the general fund of the State. Upon the
11 receipt of the bond or note funds, the general fund shall be
12 reimbursed. The director of finance may sequester and separate
13 the proceeds from the sale of the bonds and notes into separate
14 funds and the amounts in either fund may be used for any of the
15 purposes set forth in this chapter.

16 **§ -36 Exemption from general excise taxes.** (a) In
17 accordance with section 237-29, the corporation may approve and
18 certify for exemption from general excise taxes any qualified
19 person or firm involved with a newly constructed, or moderately
20 or substantially rehabilitated project:

21 (1) Developed under this subpart;

1 (2) Developed under a government assistance program
2 approved by the corporation, including but not limited
3 to, the United States Department of Agriculture 502
4 program and Federal Housing Administration 235
5 program;

6 (3) Developed under the sponsorship of a private nonprofit
7 corporation providing home rehabilitation or new homes
8 for qualified families in need of decent, low-cost
9 housing; or

10 (4) Developed by a qualified person or firm to provide
11 affordable rental housing where at least fifty per
12 cent of the available units are for households with
13 incomes at or below eighty per cent of the area median
14 family income, as determined by the United States
15 Department of Housing and Urban Development, of which
16 at least twenty per cent of the available units are
17 for households with incomes at or below sixty per cent
18 of the area median family income as determined by the
19 United States Department of Housing and Urban
20 Development.

1 (b) All claims for exemption under this section shall be
2 filed with and certified by the corporation and forwarded to the
3 department of taxation. Any claim for exemption that is filed
4 and approved, shall not be considered a subsidy for the purpose
5 of this subpart.

6 (c) For the purposes of this section, "moderate
7 rehabilitation" means rehabilitation to upgrade a unit to a
8 decent, safe, and sanitary condition, or to repair or replace
9 major building systems or components in danger of failure.
10 "Substantial rehabilitation" means the improvement of a property
11 to a decent, safe, and sanitary condition that requires more
12 than routine or minor repairs or improvements and may include,
13 but is not limited to, the gutting and extensive reconstruction
14 of a unit or cosmetic improvements coupled with the curing of a
15 substantial accumulation of deferred maintenance. "Substantial
16 rehabilitation" also includes renovation, alteration, or
17 remodeling to convert or adapt structurally sound property to
18 the design and condition required for a specific use (e.g.,
19 conversion of a hotel to housing for elders).

20 (d) The corporation may establish, revise, charge, and
21 collect a reasonable service fee, as necessary, in connection

1 with its approvals and certifications under this section. The
2 fees shall be deposited into the dwelling unit revolving fund.

3 **§ -37 Exemption from tax on income and obligations.**

4 Income earned and obligations issued by a nonprofit entity
5 determined to constitute a "public housing agency" pursuant to
6 section 3(6) of the United States Housing Act of 1937, as
7 amended, and which income and obligations are declared by the
8 United States Department of Housing and Urban Development to be
9 exempt from all taxation imposed by the United States pursuant
10 to section 11(b) of the Act shall be exempt from all taxation
11 now or hereafter imposed by the State.

12 **§ -38 Housing development; exemption from statutes,**
13 **ordinances, charter provisions, rules.** (a) The corporation may
14 develop, on behalf of the State or with an eligible developer,
15 or may assist under a government assistance program in the
16 development of, housing projects which shall be exempt from all
17 statutes, ordinances, charter provisions, and rules of any
18 governmental agency relating to planning, zoning, construction
19 standards for subdivisions, development and improvement of land,
20 and the construction of units thereon; provided that:

1 (1) The corporation finds the project is consistent with
2 the purpose and intent of this chapter, and meets
3 minimum requirements of health and safety;

4 (2) The development of the proposed project does not
5 contravene any safety standards, tariffs, or rates and
6 fees approved by the public utilities commission for
7 public utilities or the various boards of water supply
8 authorized under chapter 54; and

9 (3) The legislative body of the county in which the
10 project is to be situated shall have approved the
11 project.

12 (A) The legislative body shall approve or disapprove
13 the project by resolution within forty-five days
14 after the corporation has submitted the
15 preliminary plans and specifications for the
16 project to the legislative body. If on the forty-
17 sixth day a project is not disapproved, it shall
18 be deemed approved by the legislative body;

19 (B) No action shall be prosecuted or maintained
20 against any county, its officials, or employees
21 on account of actions taken by them in reviewing,

1 approving, or disapproving the plans and
2 specifications; and
3 (C) The final plans and specifications for the
4 project shall be deemed approved by the
5 legislative body if the final plans and
6 specifications do not substantially deviate from
7 the preliminary plans and specifications. The
8 final plans and specifications for the project
9 shall constitute the zoning, building,
10 construction, and subdivision standards for that
11 project. For purposes of sections 501-85 and 502-
12 17, the executive director of the corporation, or
13 the responsible county official may certify maps
14 and plans of lands connected with the project as
15 having complied with applicable laws and
16 ordinances relating to consolidation and
17 subdivision of lands, and the maps and plans
18 shall be accepted for registration or recordation
19 by the land court and registrar; and
20 (4) The land use commission shall approve or disapprove a
21 boundary change within forty-five days after the

1 corporation has submitted a petition to the commission
2 as provided in section 205-4. If on the forty-sixth
3 day the petition is not disapproved, it shall be
4 deemed approved by the commission.

5 (b) For the purposes of this section, "government
6 assistance program" means a housing program qualified by the
7 corporation and administered or operated by the corporation or
8 the United States or any of their political subdivisions,
9 agencies, or instrumentalities, corporate or otherwise.

10 **§ -39 Starter homes; design standards; applicant**
11 **eligibility; authority to incorporate starter homes into housing**
12 **projects of the corporation.** (a) The corporation shall adopt
13 rules in accordance with chapter 91 to establish design and
14 construction standards for starter homes configured to expand
15 incrementally over time. For the purposes of this section,
16 "starter home" means a dwelling unit that is designed to meet
17 the basic living capacity requirements of homebuyers with
18 families of limited size by eliminating needless design and
19 space amenities, but which nonetheless enables future expansion,
20 modification, and improvement by the owner to accommodate
21 increased occupancy over time as may be necessary. The rules

1 shall include building, setback, minimum lot size,
2 infrastructure, and architectural standards for the construction
3 and development of starter homes.

4 (b) In addition to the requirements of subsection (a), the
5 corporation shall adopt rules in accordance with chapter 91 to
6 establish the basic requirements for families eligible to
7 purchase starter homes under this section. The rules shall
8 include guidelines and restrictions on occupancy standards
9 initially permitted in a starter home, as well as the income
10 ranges of families eligible to qualify for purchases under this
11 section.

12 (c) The corporation may incorporate starter homes into any
13 affordable housing project developed by the corporation under
14 this chapter. The corporation shall determine on a project-by-
15 project basis the number of starter home units to be included in
16 each particular project.

17 (d) The corporation shall include in its annual report to
18 the legislature a report on the number of starter homes
19 constructed and developed by the corporation in accordance with
20 the authorization provided in this section.

1 § -40 Dwelling unit project, construction and sponsorship

2 of. (a) The corporation, on behalf of the State or with
3 eligible developers and contractors, shall develop real property
4 and construct dwelling units thereon; provided that, not less
5 than ten per cent of the total number of units in single- family
6 projects consisting of fifty units or more sponsored by the
7 corporation shall be first offered to owner-builders or to
8 nonprofit organizations assisting owner-builders in the
9 construction of units thereon. Qualifications for developers
10 and contractors shall be provided by rules to be adopted by the
11 corporation in accordance with chapter 91. Any person, if
12 qualified, may act as both the developer and the contractor.

13 (b) In selecting the eligible developers or in contracting
14 any services or materials for the purposes of this chapter, the
15 corporation shall not be subject to the competitive bidding
16 laws.

17 (c) If working in partnership with an eligible developer,
18 the corporation shall have sole control of the partnership,
19 shall keep all books of the partnership, and shall ascertain all
20 costs of the partnership including the cost of services
21 performed by any other partners and it shall audit the same.

1 The other partners shall perform services for the partnership
2 under the direction of the corporation and shall be reimbursed
3 for all costs relating to the project as certified by the
4 corporation, including administrative and overhead costs.
5 Additionally, the other partners, upon transfer of title by the
6 corporation to the purchaser, shall be entitled to a guaranteed
7 gross share if the actual cost of the project does not exceed
8 the original project cost. The gross share shall not exceed
9 fifteen per cent of the original project cost prorated to the
10 dwelling units, less any amount subsidized by the State.
11 Subsidies shall include unrecovered development and land costs
12 and any other subsidized items as defined in rules to be adopted
13 by the corporation pursuant to chapter 91. The percentage of
14 the share shall be determined by the corporation by contract
15 with the partner based upon the nature of the services rendered
16 by them. For purposes of this subsection, "original project
17 cost" means the original budget of a project as approved by the
18 corporation without modification at a later date.
19 (d) The corporation may require that performance bonds be
20 posted to the benefit of the State with surety satisfactory to
21 it guaranteeing performance by the other partners, or the State

1 may act as a self-insurer requiring security, if any, from the
2 other partners, as the corporation shall deem necessary.

3 **§ -41 Independent development of projects.** (a) In any
4 county, the corporation may develop or may enter into agreements
5 for housing projects with an eligible developer if in the
6 corporation's reasonable judgment a project is primarily
7 designed for lower income housing. The agreement may provide
8 for the housing to be placed under the control of the
9 corporation, or to be sold by the corporation, or to be sold to
10 the corporation as soon as the units are completed and shall
11 contain terms, conditions, and covenants as the corporation, by
12 rules, deems appropriate. Every agreement shall provide for the
13 developer to furnish a performance bond, in favor of the
14 corporation, assuring the timely and complete performance of the
15 housing project. Sureties on the bond must be satisfactory to
16 the corporation.

17 (b) The plans and specifications for the project shall:

18 (1) Provide for economically integrated housing by
19 stipulation and design;

20 (2) Provide for the sale of all units in fee simple or in
21 leasehold either to the corporation or to the

1 purchaser and in all cases subject to all of the
2 provisions of sections -47, -49, and -50 excepting
3 units sold at market price; and

4 (3) Encompass the use of lands adequately suited to the
5 size, design, and types of occupancies designated in
6 subsection (a), properly located for occupancy by the
7 groups for which the project was primarily designed
8 under this section, properly districted for the use
9 intended prior to this application, and appropriately
10 zoned within an urban land use district, or
11 appropriate in its situation and surroundings for more
12 intensive or denser zoning.

13 (c) The corporation may accept and approve projects
14 independently initiated by private developers which fully comply
15 with subsections (a) and (b). The corporation may review the
16 plans, specifications, districting, and zoning of the project
17 for the purpose of exempting the project from all statutes,
18 ordinances, charter provisions, and rules of any governmental
19 agency relating to zoning and construction standards for
20 subdivisions, development, and improvement of land and the
21 construction, improvement, and sale of homes thereon; provided

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1 that the procedures in section -38(a)(1), (2), and (3) have
2 been satisfied.

3 § -42 Private development of projects. (a) The
4 corporation may enter into contracts with any eligible bidder to
5 provide for the construction of a housing project or projects.
6 Each contract shall provide that the housing project or projects
7 shall be placed under the control of the corporation, as soon as
8 the unit is available for occupancy. Each contract also shall
9 provide that the capital stock of the mortgagor (where the
10 mortgagor is a corporation) be transferred to the corporation,
11 when the housing project or projects have been completed. Each
12 contract shall contain terms and conditions that the corporation
13 may determine to be necessary to protect the interests of the
14 State. Each contract shall provide for the furnishing by the
15 contractor of a performance bond and a payment bond with
16 sureties satisfactory to the corporation, and the furnishings of
17 bonds shall be deemed a sufficient compliance with the
18 provisions of law and no additional bonds shall be required
19 under law. Before the corporation shall enter into any contract
20 as authorized by this section for the construction of a housing
21 project or projects, it shall invite the submission of

1 competitive bids after giving public notice in the manner
2 prescribed by law.

3 (b) Notwithstanding any other provision of law, the
4 corporation is authorized to acquire the capital stock of
5 mortgagors holding property covered by a mortgage guaranty under
6 this chapter and established by this section, and to exercise
7 the rights as holder of the capital stock during the life of the
8 mortgage and, upon the termination of the mortgage, to dissolve
9 the corporation; to guarantee the payment of notes or other
10 legal instruments of such mortgagors; and to make payments
11 thereon. All housing projects placed under the control of the
12 corporation pursuant to this section shall be deemed to be
13 housing projects under the jurisdiction of the State.

14 (c) On request by the corporation, the attorney general
15 shall furnish to the corporation, an opinion as to the
16 sufficiency of title to any property on which it is proposed to
17 construct housing projects, or on which housing projects have
18 been constructed, under this section. If the opinion of the
19 attorney general is that the title to the property is good and
20 sufficient, the corporation is authorized to guarantee, or enter
21 into a commitment to guarantee, the mortgagee, against any

1 losses that may thereafter arise from the adverse claims to
2 title. None of the proceeds of any mortgage loan hereafter
3 insured shall be used for title search and title insurance
4 costs; provided that if the corporation determines in the case
5 of any housing project, that the financing of the construction
6 of the project is impossible unless title insurance is provided,
7 the corporation may provide for the payment of the reasonable
8 costs necessary for obtaining title search and title insurance.
9 Any determination by the corporation under the foregoing proviso
10 shall be set forth in writing, together with the reasons
11 thereto.

12 (d) The State shall be authorized to guarantee the
13 repayment of one hundred per cent of the principal and interest
14 of loans from commercial lenders for the purposes of this
15 section pursuant to rules adopted by the corporation which shall
16 conform as closely as is possible to the practices of the
17 Federal Housing Administration in insuring loans under sections
18 203 and 207 of the National Housing Act, as amended; provided
19 that at no time shall the State's liability, contingent or
20 otherwise, on the guarantees exceed \$10,000,000.

1 **§ -43 Interim financing of projects.** (a) The corporation
2 may provide interim construction loans to eligible developers.
3 In addition to the rate of interest charged on interim loans,
4 the corporation may charge loan commitment fees, to be
5 determined by rules adopted by the corporation.

6 (b) The interim loans shall be secured by a duly recorded
7 primary or secondary mortgage upon the fee simple or leasehold
8 interest in the land upon which the dwelling units are
9 constructed, or the corporation may require other security
10 interests and instruments as it deems necessary to secure the
11 indebtedness and such other conditions consistent with the
12 production and marketing of dwelling units at the lowest
13 possible prices. The corporation may also set the conditions of
14 a loan in a building and loan agreement between the borrower and
15 the corporation in order to secure the loan and the performance
16 of the borrower to complete the project.

17 **§ -44 Commercial, industrial and other uses.** (a) In
18 connection with the development of any residential units under
19 this chapter the corporation may also develop commercial,
20 industrial, and other properties if it determines that the uses
21 can be an integral part of the development and can help to

1 preserve the lifestyles of the purchasers of residences in the
2 development. The corporation may designate any portions of the
3 developments as for commercial, industrial, or other use and
4 shall have all the powers granted under this chapter with
5 respect thereto including the power to bypass statutes,
6 ordinances, charter provisions and rules of any governmental
7 agency pursuant to section -38. For this purpose the
8 corporation may use any of the funds authorized under this
9 chapter.

10 (b) The corporation shall establish rules which shall
11 provide the manner of designation of the uses and shall provide
12 that any commercial, industrial, or other properties so
13 developed shall be sold or leased at cost or at economic rents
14 or sales prices. Sale or lease shall be made at cost to owners
15 of commercial, industrial, or other facilities displaced by the
16 corporation. All other leases or sales shall be at economic
17 rents or sales prices determined by the corporation, after
18 appraisal, to be consistent with rents or sales prices in
19 similar locations or terms. The net proceeds of all such sales
20 or leases, less costs to the corporation, shall be deposited in
21 the dwelling unit revolving fund. The rules may also provide

1 that during the first twenty years after its purchase, any
2 commercial, industrial, or other property so developed and sold
3 or leased may be resold or assigned only to the corporation at
4 the original purchase price plus the cost of any improvements
5 made by the purchaser together with simple interest on all of
6 the purchaser's equity in the property at the rate of seven per
7 cent a year. Rules may also provide that ownership of the
8 commercial, industrial, or other property cannot be separated
9 from ownership of the residential property in connection with
10 which it was sold or leased.

11 **§ -45 Sale, mortgage, agreement of sale, other**
12 **instruments.** (a) The corporation shall sell completed dwelling
13 units or dwelling units that are substantially completed and
14 habitable, developed and constructed hereunder, to qualified
15 residents in fee simple, or shall cause them to be leased or
16 rented to qualified residents, at a price or rental based on
17 costs as determined by the corporation. The gross share to the
18 other partners or contract payments and any amounts subsidized
19 by the State, including but not limited to the land, need not be
20 counted as cost so as to increase the price. Such may be borne

1 by the State, under rules subject to reimbursement upon sale as
2 provided for in section -47.

3 (b) If a qualified purchaser is unable to obtain
4 sufficient funds at reasonable rates from private lenders, the
5 corporation, by way of mortgage, agreement of sale, or other
6 instrument to secure the indebtedness, may loan to the purchaser
7 up to one hundred per cent of the purchase price. The purchaser
8 in that event shall execute with the corporation an agreement of
9 sale or mortgage or other instrument under the terms of which
10 the unpaid principal and the interest thereon shall be paid in
11 monthly installments over a period of not more than forty years.

12 (c) Every mortgage, agreement of sale, other instrument to
13 secure the indebtedness, or instrument of indebtedness executed
14 by the corporation may contain other provisions as are usually
15 found in such instruments and shall provide that the purchaser
16 may repay the whole or any part of the unpaid balance of the
17 purchase price plus accrued interest at any time without
18 prepayment penalty.

19 (d) If the purchaser defaults on the payment of any loan,
20 the corporation shall take all necessary action to collect the
21 delinquent principal and interest on the loan and may take all

1 actions allowed to holders of obligations, including the power
2 to repossess, lease, rent, repair, renovate, modernize, and sell
3 the property foreclosed, subject to the restrictions hereinafter
4 described.

5 (e) The mortgages, agreements of sale, and other
6 instruments of indebtedness, at the direction of the
7 corporation, may be assigned to and serviced by commercial banks
8 and other lending institutions doing business in the State at a
9 fee of not more than one-half of one per cent of the amount
10 loaned to the purchaser.

11 (f) Subsections (a) to (e) need not apply to market-priced
12 units in an economically integrated housing project, except as
13 otherwise determined by the developer of the units; provided
14 that preference shall be given to qualified residents in the
15 initial sale of market-priced units.

16 § -46 Co-mortgagor. For purposes of qualifying for a
17 mortgage loan to finance the purchase of a dwelling unit under
18 this subpart, a "qualified resident" as defined in section -32
19 may be assisted by a co-mortgagor who is a family member as
20 defined by the corporation, who may own other lands in fee
21 simple or leasehold suitable for dwelling purposes, whose

1 interest in the dwelling unit to be purchased is limited to no
2 more than one per cent, and who certifies that the co-mortgagor
3 does not intend to reside in the dwelling unit. The income and
4 assets of the co-mortgagor shall not be counted in determining
5 the eligibility of the "qualified resident" under this chapter.

6 **§ -47 Real property; restrictions on transfer; waiver of**
7 **restrictions.** (a) The following restrictions shall apply to
8 the transfer of real property developed and sold under this
9 chapter, whether in fee simple or leasehold:

10 (1) For a period of ten years after the purchase, whether
11 by lease, assignment of lease, deed, or agreement of
12 sale, if the purchaser wishes to transfer title to the
13 real property, the corporation shall have the first
14 option to purchase the real property at a price that
15 shall not exceed the sum of:

16 (A) The original cost to the purchaser, as defined in
17 rules adopted by the corporation;

18 (B) The cost of any improvements added by the
19 purchaser, as defined in rules adopted by the
20 corporation; and

1 (C) Simple interest on the original cost and capital
2 improvements to the purchaser at the rate of one
3 per cent a year.

4 (2) The corporation may purchase the real property either:

5 (A) By conveyance free and clear of all mortgages and
6 liens; or

7 (B) By conveyance subject to existing mortgages and
8 liens.

9 If the real property is conveyed in the manner
10 provided in subparagraph (A), it shall be conveyed to
11 the corporation only after all mortgages and liens are
12 released. If the real property is conveyed in the
13 manner provided in subparagraph (B), the corporation
14 shall acquire the property subject to any first
15 mortgage created for the purpose of securing the
16 payment of a loan of funds expended solely for the
17 purchase of the real property by the seller; and any
18 mortgage or lien created for any other purpose
19 provided that the corporation has previously consented
20 to it in writing.

1 The corporation's interest created by this
2 subsection shall constitute a statutory lien on the
3 real property and shall be superior to any other
4 mortgage or lien except for:

5 (i) Any first mortgage created for the purpose
6 of securing the payment of a loan of funds
7 expended solely for the purchase of the real
8 property by the seller;

9 (ii) Any mortgage insured or held by a federal
10 housing agency; and

11 (iii) Any mortgage or lien created for any other
12 purpose provided that the corporation has
13 previously consented to it in writing.

14 The amount paid by the corporation to the seller shall
15 be the difference, if any, between the purchase price
16 determined by paragraph (1)(A) to (C), and the total
17 of the outstanding principal balances of the mortgages
18 and liens assumed by the corporation.

19 (3) A purchaser may refinance real property developed and
20 sold under this chapter provided that the purchaser
21 shall not refinance the real property, within ten

1 years from the date of purchase, for an amount in
2 excess of the purchase price as determined by
3 paragraph (1)(A) to (C).

4 (4) After the end of the tenth year from the date of
5 purchase, or execution of an agreement of sale, the
6 purchaser may sell the real property and sell or
7 assign the property free from any price restrictions;
8 provided that the purchaser shall be required to pay
9 to the corporation the sum of:

10 (A) The balance of any mortgage note, agreement of
11 sale, or other amount owing to the corporation;

12 (B) Any subsidy or deferred sales price made by the
13 corporation in the acquisition, development,
14 construction, and sale of the real property, and
15 any other amount expended by the corporation not
16 counted as cost under section -45 but charged to
17 the real property by good accounting practice as
18 determined by the corporation whose books shall
19 be prima facie evidence of the correctness of the
20 costs;

1 (C) Interest on the subsidy or deferred sales price,
2 if applicable, and any other amount expended at
3 the rate of seven per cent a year computed as to
4 the subsidy or deferred sales price, if
5 applicable, from the date of purchase, or
6 execution of the agreement of sale, and as to any
7 amount expended, from the date of expenditure;
8 provided that the computed interest shall not
9 extend beyond thirty years from the date of
10 purchase, or execution of the agreement of sale,
11 of the real property; and provided further that
12 if any proposed sale or transfer will not
13 generate an amount sufficient to pay the
14 corporation the sum as computed under this
15 paragraph, the corporation shall have the first
16 option to purchase the real property at a price
17 which shall not exceed the sum as computed under
18 paragraphs (1) and (2); and

19 (D) The corporation's share of appreciation in the
20 real property as determined under rules adopted
21 pursuant to chapter 91 when applicable; and

1 (5) Notwithstanding any provision above to the contrary,
2 pursuant to rules adopted by the corporation, the
3 subsidy or deferred sales price described in paragraph
4 (4)(B) and any interest accrued pursuant to paragraph
5 (4)(C) may be paid, in part or in full, at any time.

6 (b) For a period of ten years after the purchase, whether
7 by lease, assignment of lease, deed, or agreement of sale, if
8 the purchaser wishes to transfer title to the real property, and
9 if the corporation does not exercise the option to purchase the
10 real property as provided in subsection (a), then the
11 corporation shall require the purchaser to sell the real
12 property to a "qualified resident" as defined in section -32,
13 and upon the terms that preserve the intent of this section and
14 sections -49 and -50, and in accordance with rules adopted by
15 the corporation.

16 (c) The corporation may waive the restrictions prescribed
17 in subsection (a) or (b) if:

18 (1) The purchaser wishes to transfer title to the real
19 property by devise or through the laws of descent to a
20 family member who would otherwise qualify under rules
21 established by the corporation; or

1 (2) The sale or transfer of the real property would be at
2 a price and upon terms that preserve the intent of
3 this section without the necessity of the State
4 repurchasing the real property; provided that, in this
5 case, the purchaser shall sell the unit or lot and
6 sell or assign the property to a person who is a
7 "qualified resident" as defined in section -32; and
8 provided further that the purchaser shall pay to the
9 corporation its share of appreciation in the unit as
10 determined in rules adopted pursuant to chapter 91
11 when applicable.

12 (d) The corporation may release the restrictions
13 prescribed in subsection (a) or (b) if the real property is
14 financed under a federally subsidized mortgage program and the
15 restrictions would jeopardize the federal government's ability
16 to recapture any interest credit subsidies provided to the
17 homeowner.

18 (e) The restrictions prescribed in this section and
19 sections -49 to -51 shall be automatically extinguished and
20 shall not attach in subsequent transfers of title when a
21 mortgage holder or other party becomes the owner of the real

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1 property pursuant to a mortgage foreclosure, foreclosure under
2 power of sale, or a conveyance in lieu of foreclosure after a
3 foreclosure action is commenced; or when a mortgage is assigned
4 to a federal housing agency. Any law to the contrary
5 notwithstanding, a mortgagee under a mortgage covering real
6 property or leasehold interest encumbered by the first option to
7 purchase in favor of the corporation, prior to commencing
8 mortgage foreclosure proceedings, shall notify the corporation
9 in writing of:

10 (1) Any default of the mortgagor under the mortgage within
11 ninety days after the occurrence of the default; and

12 (2) Any intention of the mortgagee to foreclose the
13 mortgage under chapter 667;

14 provided that the mortgagee's failure to provide written notice
15 to the corporation shall not affect the holder's rights under
16 the mortgage. The corporation shall be a party to any
17 foreclosure action, and shall be entitled to all proceeds
18 remaining in excess of all customary and actual costs and
19 expenses of transfer pursuant to default, including liens and
20 encumbrances of record; provided that the person in default

1 shall be entitled to an amount which shall not exceed the sum of
2 amounts determined pursuant to subsection (a)(1)(B) and (C).

3 (f) The provisions of this section shall be incorporated
4 in any deed, lease, agreement of sale, or any other instrument
5 of conveyance issued by the corporation. In any sale by the
6 corporation of real property for which a subsidy or deferred
7 sales price was made by the corporation, the amount of the
8 subsidy or deferred sales price described in subsection
9 (a)(4)(B), a description of the cost items that constitute the
10 subsidy or deferred sales price, and the conditions of the
11 subsidy or deferred sales price shall be clearly stated at the
12 beginning of the contract document issued by the corporation.

13 (g) This section need not apply to market-priced units in
14 an economically integrated housing project, except as otherwise
15 determined by the developer of the units; provided that
16 preference shall be given to qualified residents in the initial
17 sale of market-priced units.

18 (h) The corporation is authorized to waive any of the
19 restrictions set forth in this section in order to comply with
20 or conform to requirements set forth in federal laws or
21 regulations governing mortgage insurance or guarantee programs

1 or requirements set forth by federally chartered secondary
2 mortgage market participants.

3 **§ -48 Exception of current owners in corporation projects.**

4 The corporation may allow a person who is a current owner of a
5 multifamily dwelling unit in a project sponsored by the
6 corporation to apply for the purchase of a larger dwelling unit
7 in a project sponsored by the corporation if the applicant's
8 current family size exceeds the permissible family size for the
9 applicant's current dwelling unit, as determined by prevailing
10 county building or housing codes. The applicant shall be
11 required to sell the applicant's current dwelling unit back to
12 the corporation. Notwithstanding any law to the contrary, any
13 applicant, as it pertains to for-sale housing, shall be a
14 "qualified resident" who:

- 15 (1) Is a citizen of the United States or a resident alien;
16 (2) Is at least eighteen years of age;
17 (3) Is domiciled in the State and shall physically reside
18 in the dwelling unit purchased under this chapter;
19 (4) In the case of purchase of real property in fee simple
20 or leasehold, has a gross income sufficient to qualify
21 for the loan to finance the purchase; and

- 1 (5) Except for the applicant's current residence, meets
2 the following qualifications:
- 3 (A) Is a person who either oneself or together with
4 the person's spouse or a household member, does
5 not own a majority interest in fee simple or
6 leasehold lands suitable for dwelling purposes,
7 or a majority interest in lands under any trust
8 agreement or other fiduciary arrangement in which
9 another person holds the legal title to the land;
10 and
- 11 (B) Is a person whose spouse or a household member
12 does not own a majority interest in fee simple or
13 leasehold lands suitable for dwelling purposes,
14 or a majority interest in lands under any trust
15 agreement or other fiduciary arrangement in which
16 another person holds the legal title to the land,
17 except when husband and wife are living apart
18 under a decree of separation from bed and board
19 issued by the family court pursuant to section
20 580-71.

1 § -49 Real property; restrictions on use. (a) Real
2 property purchased under this chapter shall be occupied by the
3 purchaser at all times during the ten-year restriction period
4 set forth in section -47, except in hardship circumstances
5 where the inability to reside on the property arises out of
6 unforeseeable job or military transfer, a temporary educational
7 sabbatical, serious illness of the person, or in other hardship
8 circumstances as determined by the corporation on a case-by-case
9 basis.

10 The corporation may waive the owner-occupancy requirement
11 for a total of not more than ten years after the purchase of the
12 dwelling, during which time the dwelling unit may be rented or
13 leased. Waivers may be granted only to qualified residents who
14 have paid resident state income taxes during all years in which
15 they occupied the dwelling, who continue to pay resident state
16 income taxes during the waiver period, and whose inability to
17 reside on the property does not stem from a natural disaster.
18 The ten-year owner-occupancy requirement shall be extended by
19 one month for every month or fraction thereof that the owner-
20 occupancy requirement is waived.

1 The corporation shall adopt rules under chapter 91 to
2 implement the letter and spirit of this subsection and to
3 prescribe necessary terms and conditions. The rules shall
4 include:

5 (1) Application and approval procedures for the waivers;

6 (2) Exceptions authorized by this subsection;

7 (3) The amounts of rents that may be charged by persons
8 allowed to rent or lease a dwelling unit; and

9 (4) Schedules of fees needed to cover administrative
10 expenses and attorneys' fees.

11 No qualified resident who fails to reoccupy a dwelling unit
12 after any waiver period shall receive more than the maximum to
13 which the person would be entitled under section -47. Any
14 person who disagrees with the corporation's determination under
15 this section shall be entitled to a contested case proceeding
16 under chapter 91.

17 (b) From time to time the corporation may submit a
18 verification of owner-occupancy form to the purchaser. Failure
19 to respond to the verification in a timely manner or violation
20 of subsection (a) shall be sufficient reason for the

1 corporation, at its option, to purchase the unit as provided in
2 section -47(a)(1), (2), or (4), as applicable.

3 (c) Any deed, lease, agreement of sale, or other
4 instrument of conveyance issued by the corporation shall
5 expressly contain the restrictions on use prescribed in this
6 section.

7 (d) The restrictions prescribed in subsection (a) shall
8 terminate and shall not attach in subsequent transfers of title
9 if the corporation releases the restrictions when the real
10 property is financed under a federally subsidized mortgage
11 program.

12 (e) Subsections (a) to (c) need not apply to market-priced
13 units in an economically integrated housing project, except as
14 otherwise determined by the developer of the units; provided
15 that preference shall be given to qualified residents in the
16 initial sale of market-priced units.

17 (f) The corporation shall be authorized to waive any of
18 the restrictions set forth in this section in order to comply
19 with or conform to requirements set forth in federal laws or
20 regulations governing mortgage insurance or guarantee programs

1 or requirements set forth by federally chartered secondary
2 mortgage market participants.

3 **§ -50 Restrictions on use, sale, and transfer of real**
4 **property; effect of amendment or repeal.** (a) Restrictions on

5 the use, sale, and transfer of real property shall be made as
6 uniform as possible in application to purchasers of all real
7 property, and restrictions shall be conformed with agreement of
8 the purchaser to reflect change or repeal made by any subsequent
9 legislative act, ordinance, rule, or regulation. Purchasers
10 shall be permitted at their election to sell or transfer real
11 property subject to restrictions in effect at the time of their
12 sale or transfer.

13 (b) The corporation, any department of the State, or any
14 county housing agency maintaining restrictions, through
15 contract, deed, other instrument, or by rule, shall notify
16 purchasers of any substantial change in restrictions made by
17 law, ordinance, rule, or regulation not more than one hundred
18 eighty days after a change in restrictions, and the notice shall
19 clearly state the enacted or proposed new provisions, the date
20 or dates upon which they are to be effective, and offer to each
21 purchaser of real property constructed and sold prior to the

1 effective date an opportunity to modify the existing contract or
2 other instrument to incorporate the most recent provisions. The
3 public notice shall be given at least three times in the State
4 for state agencies and at least three times in a county for
5 county agencies.

6 (c) For all purchasers of real property prior to June 25,
7 1990, where the restrictions on use and transfer of property
8 apply for a period of time, the period of time shall not be
9 increased beyond the date calculated from the date of original
10 purchase.

11 (d) No purchaser shall be entitled to modify the
12 restrictions on use, transfer, or sale of the real property,
13 without the written permission of the holder of a duly-recorded
14 first mortgage on the dwelling unit and the owner of the fee
15 simple or leasehold interest in the land underlying the unit,
16 unless the holder of the first mortgage or the owner is an
17 agency of the State or its political subdivisions.

18 (e) This section shall apply to all real property
19 developed, constructed, and sold pursuant to this chapter and
20 similar programs in the State or its political subdivisions and
21 which are sold on the condition that the purchaser accepts

1 restrictions on the use, sale, or transfer of interest in the
2 real property purchased.

3 (f) The provisions of this section shall be incorporated
4 in any deed, lease, instrument, rule, or regulation relating to
5 restrictions on use, sale, or transfer of dwelling units,
6 entered into after June 20, 1977.

7 (g) The restrictions of this section shall terminate as to
8 a particular real property and shall not attach in subsequent
9 transfers of title of that real property if the corporation
10 releases the restrictions when the real property is financed
11 under a federally subsidized mortgage program.

12 **§ -51 Corporation's right to repurchase or rent real**
13 **property; authority to seek recovery.** (a) Notwithstanding any
14 provisions to the contrary, during the period in which the
15 restrictions in section -47 are in effect, the following
16 provisions shall apply when dwelling units developed,
17 constructed, financed, purchased, or sold pursuant to Act 105,
18 Session Laws of Hawaii 1970, as amended, are found to have a
19 substantial construction defect, or when vacant lands developed,
20 financed, purchased, or sold pursuant to Act 105, Session Laws

1 of Hawaii 1970, as amended, are found to have a substantial soil
2 defect:

3 (1) The corporation shall have the right, but not the
4 obligation, to repurchase a dwelling unit or land
5 which has a defect, regardless of whether or not the
6 owner wishes to sell; provided that such repurchases
7 shall be in accordance with the following provisions:

8 (A) The corporation may repurchase a dwelling unit or
9 land if:

10 (i) The dwelling unit or land is deemed unsafe
11 by the county building department;

12 (ii) The defects are irreparable; or

13 (iii) In the opinion of the corporation, the defect
14 is of such magnitude that it will take
15 longer than a year to repair;

16 (B) The corporation's purchase price shall be based
17 on the formula set forth in section -47(a)(1);

18 (C) After repairs to the unit or land are completed,
19 the former owner shall have the first right of
20 refusal to repurchase the real property;

1 (D) The corporation shall give preference in all
2 other projects of the corporation to all owners
3 whose real property is repurchased by the
4 corporation under this subsection, and the
5 corporation may waive certain eligibility
6 requirements for these owners; and

7 (E) If the corporation exercises its right to
8 purchase defective real property against an
9 owner's wishes pursuant to this paragraph, the
10 corporation shall provide relocation assistance
11 to that owner as provided in chapter 111;

12 (2) If the corporation does not opt to purchase defective
13 real property, the corporation shall also have the
14 right, but not the obligation, to enter into a
15 contract to repair a dwelling unit which has a
16 construction defect or land which has a soil defect.
17 During the period that the real property is being
18 repaired, the corporation shall rent that real
19 property from the owner for an amount not to exceed
20 the owner's present mortgage payments; and

1 (3) If the corporation does not execute either a contract
2 to repurchase the real property or an agreement to
3 repair and rent the real property within ninety days
4 after written notice is given to the corporation of a
5 construction defect, the owner may pursue any other
6 available legal remedies.

7 For the purposes of this subsection, "substantial
8 construction defect" includes but is not necessarily limited to:
9 structural defects such as shifting foundations and bearing
10 walls; structural deficiencies due to the use of defective or
11 undersized materials; and defects affecting the health and
12 safety of occupants; and "substantial soil defect" means
13 shifting, sliding, or sinking ground of such degree as to affect
14 the dwelling unit on the land or the health and safety of the
15 occupants of the land.

16 (b) If moneys are expended by the corporation pursuant to
17 subsection (a)(1) and (2), the corporation shall have the
18 authority to take necessary legal action against the developer,
19 co-developer, general contractor, and their subcontractors,
20 consultants, and other parties notwithstanding any provisions to
21 the contrary in chapter 657.

1 (c) If real property developed, constructed, financed,
2 purchased, or sold pursuant to Act 105, Session Laws of Hawaii
3 1970, as amended, is found to have a substantial construction or
4 soil defect, the corporation shall have the right, but not the
5 obligation, to file or cause to be filed a legal action on
6 behalf of or by, the owner or lessee of the real property for
7 the recovery of damages or for injunctive relief against the
8 developer, co-developer, general contractor, and their
9 subcontractors, consultants, and other parties notwithstanding
10 any provisions to the contrary in chapter 657. Additionally,
11 notwithstanding any provision of rule 23 of the Hawaii rules of
12 civil procedure, the corporation may file or cause to be filed a
13 legal action brought under this subsection as a class action on
14 behalf of or by at least two owners or lessees of real property
15 that have similar substantial construction or soil defects.

16 (d) Nothing in this chapter shall be construed so as to
17 diminish the rights or remedies of the corporation otherwise
18 provided under common law, by statute or by contract.

19 (e) The corporation shall adopt rules pursuant to chapter
20 91 necessary for the purposes of this section.

1 (f) This section shall not apply to a particular real
2 property and shall not apply after subsequent transfers of title
3 of that real property if the corporation releases the
4 restrictions when the real property is financed under a
5 federally subsidized mortgage program.

6 (g) If any subsection, sentence, clause, or phrase of this
7 section, or its application to any person or transaction or
8 other circumstances, is for any reason held to be
9 unconstitutional or invalid, the remaining subsections,
10 sentences, clauses, and phrases of this section, or the
11 application of this section to other persons or transactions or
12 circumstances, shall not be affected. The legislature hereby
13 declares that it would have passed this section and each
14 subsection, clause, or phrase thereof, irrespective of the fact
15 that any one or more subsections, sentences, clauses, or phrases
16 of this section, or its application to any person or transaction
17 or other circumstance, be declared unconstitutional or invalid.

18 § -62 Nonprofit organizations; government agencies. (a)
19 The corporation may retain dwelling units in a project to the
20 extent it determines necessary and appropriate, for sale, lease,
21 or rental to nonprofit organizations and government agencies.

1 The dwelling units shall be used by the nonprofit organizations
2 and government agencies to provide housing opportunities and
3 related support services to special needs individuals or
4 families. These purposes include but are not limited to the use
5 of dwelling units for group homes and congregate living
6 facilities and for government employees in special situations.
7 The corporation, in consultation with other appropriate
8 government agencies, shall adopt rules pursuant to chapter 91
9 necessary to implement this subsection, including but not
10 limited to rules relating to the eligibility and qualifications
11 of nonprofit organizations and government agencies, rules
12 relating to the eligibility and qualifications of clients of
13 nonprofit organizations and government agencies to whom housing
14 opportunities may be made available, and rules restricting the
15 use, sale, or transfer of, and authorizing repurchase of,
16 dwelling units sold, leased, or rented pursuant to this
17 subsection. The corporation, to the extent appropriate, shall
18 have the same powers with respect to nonprofit organizations and
19 government agencies purchasing, leasing, or renting dwelling
20 units as the corporation has with respect to qualified residents
21 purchasing, leasing, or renting dwelling units.

1 (b) In connection with the development of any residential
2 units under this chapter, the corporation may also make
3 provisions for the development of appropriate community
4 facilities. The corporation may:

- 5 (1) Sell, lease, or rent vacant land or land with site
6 improvements to nonprofit organizations or government
7 agencies to develop community facilities; or
8 (2) Develop, on behalf of the State or with an eligible
9 developer, the community facilities and then sell,
10 lease, rent, or otherwise transfer or make available
11 these facilities to nonprofit organizations or
12 government agencies.

13 The corporation shall adopt rules pursuant to chapter 91
14 necessary to implement this subsection.

15 **§ -53 Rate of wages for laborers and mechanics.** The
16 corporation shall require an eligible bidder or eligible
17 developer of a housing project developed under this subpart to
18 comply with the requirements of section 104-2 for those laborers
19 and mechanics hired to work on that housing project; provided
20 that this section shall not apply to a housing project developed
21 under this chapter if the entire cost of the project is less

1 than \$500,000 and the eligible bidder or eligible developer is a
2 private nonprofit corporation.

3 **§ -54 Additional powers.** The powers conferred upon the
4 corporation by this subpart shall be in addition and
5 supplemental to the powers conferred upon it by any other law,
6 and nothing herein shall be construed as limiting any powers,
7 rights, privileges, or immunities so conferred upon it.

8 **PART III. FINANCING PROGRAMS**

9 **A. General Provisions**

10 **§ -61 Bonds; authorization.** (a) The corporation, with
11 the approval of the governor, may issue from time to time bonds
12 (including refunding bonds to pay, retire, or provide for the
13 retirement of bonds previously issued by the corporation) in
14 amounts not exceeding the total amount of bonds authorized to be
15 issued by the legislature for any of its corporate purposes;
16 provided however, that bonds may be issued in connection with
17 any program whose primary purpose is to provide housing for
18 active or retired United States military personnel, their
19 families, and other persons authorized by any branch of the
20 United States military to reside in such housing; provided
21 further that the aggregate principal amount of all outstanding

1 bonds issued by the corporation for such military housing
2 projects shall total no more than \$2,000,000,000.

3 (b) All bonds shall be issued pursuant to part III of
4 chapter 39, except as provided in this part.

5 (c) The bonds shall be issued in the name of the
6 corporation, and not in the name of the State. The final
7 maturity date of the revenue bonds may be any date not exceeding
8 sixty years from the date of issuance.

9 (d) The corporation may issue such types of bonds as it
10 may determine, including, without limitation, bonds payable from
11 and secured, in whole or in part, by:

12 (1) Income and revenues derived from the housing project
13 or projects financed from the proceeds of bonds;

14 (2) Receipts derived from any grant from the federal
15 government made in aid of a housing project or
16 projects financed from the proceeds of bonds;

17 (3) Income and revenues derived from a particular
18 designated housing project or projects whether or not
19 financed, in whole or in part, from the proceeds of
20 bonds;

1 (4) Receipts derived from any payment for "eligible
2 loans", "eligible improvement loans", or "eligible
3 project loans", as such terms are defined in subpart
4 B, or any other agreement or agreements entered into
5 for a "housing loan program", as such term is defined
6 in subpart B or E, or any other loan program
7 administered by the corporation and financed from the
8 proceeds of bonds;

9 (5) Receipts derived from loans to mortgage lenders or
10 from the payment on account of principal of or
11 interest on loans purchased from mortgage lenders, as
12 such terms are defined in subpart B which loans to
13 mortgage lenders or loans purchased are financed from
14 the proceeds of bonds;

15 (6) Moneys in any funds or accounts established in
16 connection with the issuance of bonds, and any
17 earnings thereon;

18 (7) Proceeds derived from any insurance;

19 (8) Income and revenues of the corporation generally; or

20 (9) Any combination of the above.

1 The terms "income and revenues" shall be deemed to include
2 income and revenues derived from the sale of land or from both
3 land and improvements thereon serviced from infrastructure
4 financed from the proceeds of bonds as permitted by this
5 subpart. The provisions of this subsection are in addition and
6 supplemental to part III of chapter 39.

7 (e) Any of the bonds may be additionally secured by a
8 pledge of any revenues or a mortgage of any housing project,
9 other property of the corporation, the pledge or assignment of
10 any loans or other agreements, or any note or other undertaking,
11 obligation, or property held by or on behalf of the corporation
12 to secure loans made from the proceeds of bonds for any housing
13 loan program, as such term is defined in subpart B or E of part
14 VI, or any other loan program administered by the corporation
15 and financed from the proceeds of bonds.

16 (f) Any pledge made by the corporation shall create a
17 perfected security interest in the revenues, moneys, or property
18 so pledged and thereafter received by the corporation from and
19 after the time that a financing statement with respect to the
20 revenues, moneys, or property so pledged and thereafter received
21 shall be filed with the bureau of conveyances. Upon the filing,

1 the revenues, moneys, or property so pledged and thereafter
2 received by the corporation shall immediately be subject to the
3 lien of such pledge without any physical delivery thereof or
4 further act, and the lien of any such pledge shall be prior to
5 the lien of all parties having claims by any kind in tort,
6 contract, or otherwise against the corporation, irrespective of
7 whether such parties have notice thereof. This section shall
8 apply to any financing statement heretofore or hereafter filed
9 with the bureau of conveyances with respect to any pledge made
10 to secure revenue bonds issued under this part.

11 (g) Any housing project or projects authorized by, and
12 undertaken pursuant to, this chapter shall constitute an
13 "undertaking" within the meaning of that term as defined and
14 used in part III, chapter 39; any loan program authorized by,
15 and undertaken pursuant to, this chapter, including without
16 limitation housing loan programs defined in and authorized by
17 subparts B and E of this part, shall constitute a "loan program"
18 within the meaning of that term as defined and used in part III,
19 chapter 39; and the corporation shall constitute a "department"
20 and the board shall constitute a "governing body" within the

1 meaning of those terms as defined and used in part III, chapter
2 39.

3 (h) Neither the members of the corporation nor any person
4 executing the bonds shall be liable personally on the bonds by
5 reason of the issuance thereof.

6 **§ -62 Issuance of bonds for the development of**
7 **infrastructure.** Without limiting section -61, the corporation,
8 pursuant to and in accordance with this subpart, is hereby
9 authorized to issue bonds for the purpose of financing the
10 development of infrastructure on land owned by the corporation.

11 **§ -63 Issuance of bonds for the preservation of low-income**
12 **housing projects.** The corporation, pursuant to and in
13 accordance with this subpart, may issue bonds to purchase low-
14 income housing projects financed by the United States Department
15 of Housing and Urban Development in order to preserve these
16 projects. Upon the payment of all interest and principal
17 stemming from the issuance of these bonds, the corporation may
18 transfer title to these projects to qualified nonprofit
19 organizations. Nothing in this section shall be construed to:

20 (1) Prohibit qualified nonprofit or for profit
21 organizations from operating these projects on behalf

1 of the corporation, or providing for the repair and
2 maintenance of these projects, before the payment of
3 all interest and principal stemming from the issuance
4 of these bonds; or

5 (2) Prohibit the corporation from transferring title to
6 these projects to qualified nonprofit or for profit
7 organizations if these bonds can be secured to the
8 satisfaction of the bondholders.

9 As used in this section, "qualified nonprofit organization"
10 includes community-based nonprofit organizations and resident
11 councils.

12 **§ -64 Bonds; interest rate, price and sale.** (a) The
13 bonds shall bear interest at rates payable at times that the
14 corporation, with the approval of the governor, may determine
15 except for deeply discounted bonds that are subject to
16 redemption or retirement at their accreted value; provided that
17 the discounted value of the bonds shall not exceed ten per cent
18 of any issue; and provided further that no bonds may be issued
19 without the approval of the director of finance and the
20 governor. Notwithstanding any other law to the contrary, the
21 corporation may, subject to the approval of the director of

1 finance and the governor, issue bonds pursuant to section -
2 62, in which the discounted value of the bonds exceeds ten per
3 cent of the issue.

4 (b) The corporation may include the costs of undertaking
5 and maintaining any housing project or projects or loan program
6 for which the bonds are issued in determining the principal
7 amount of bonds to be issued. In determining the cost of
8 undertaking and maintaining the housing projects, the
9 corporation may include the cost of studies and surveys;
10 insurance premiums; underwriting fees; financial consultant,
11 legal, accounting, and other services incurred; reserve account,
12 trustee, custodian, and rating agency fees; and interest on the
13 bonds for a period determined by the corporation, or the
14 estimated expenditure of borrowed funds for any loan program for
15 which the bonds are issued.

16 **§ -65 Trustee; designation, duties.** (a) The corporation
17 may designate a trustee for each issue of bonds secured under
18 the same trust indenture; provided that the trustee shall be
19 approved by the director of finance.

20 (b) The trustee shall be authorized by the corporation to
21 receive and receipt for, hold, and administer the proceeds of

1 the bonds, and to apply the proceeds to the purposes for which
2 the bonds are issued.

3 (c) The trustee shall also be authorized by the
4 corporation to hold and administer any housing project bond
5 special funds established pursuant to section -70, and to
6 receive and receipt for, hold, and administer the revenues
7 derived by the corporation from any housing project or projects
8 or loan program for which the bonds are issued or the projects
9 or loan programs pledged to the payment of the bonds, and to
10 apply the revenues to the payment of the cost of administering,
11 operating, and maintaining the housing project or projects or
12 loan program, to pay the principal of and the interest on the
13 bonds, to the establishment of reserves, and to other purposes
14 as may be authorized in the proceedings providing for the
15 issuance of the bonds.

16 (d) Notwithstanding section 39-68, the director of finance
17 may appoint the trustee to serve as fiscal agent for:

18 (1) The payment of the principal of and interest on the
19 bonds; and

20 (2) The purchase, registration, transfer, exchange, and
21 redemption of the bonds.

1 (e) The trustee shall perform additional functions with
2 respect to the payment, purchase, registration, transfer,
3 exchange, and redemption, as the director of finance may deem
4 necessary, advisable, or expeditious, including the holding of
5 the bonds and coupons, if any, that have been paid and the
6 supervision of their destruction in accordance with law.

7 (f) Nothing in this part shall limit or be construed to
8 limit the powers granted to the director of finance in sections
9 36-3, 39-13, and 39-68(a), to appoint the trustee or others as
10 fiscal agents, paying agents, and registrars for the bonds or to
11 authorize and empower those fiscal agents, paying agents, and
12 registrars to perform the functions referred to in those
13 sections.

14 § -66 Trust indenture. (a) A trust indenture may contain
15 covenants and provisions authorized by part III of chapter 39,
16 and as deemed necessary or convenient by the corporation for the
17 purposes of this part.

18 (b) A trust indenture may allow the corporation to pledge
19 and assign to the trustee agreements related to the housing
20 project or projects or loan program and the rights of the

1 corporation thereunder, including the right to receive revenues
2 thereunder and to enforce the provision thereof.

3 (c) Where a trust indenture provides that any bond issued
4 under that trust indenture is not valid or obligatory for any
5 purpose unless certified or authenticated by the trustee, all
6 signatures of the officers of the State upon the bonds required
7 by section 39-56 may be facsimiles of their signatures.

8 (d) A trust indenture shall also contain provisions as to:

9 (1) The investment of the proceeds of the bonds, the
10 investment of any reserve for the bonds, the
11 investment of the revenues of the housing project or
12 system of housing projects, and the use and
13 application of the earnings from investments; and

14 (2) The terms and conditions upon which the holders of the
15 bonds or any portion of them or any trustee thereof
16 may institute proceedings for the enforcement of any
17 agreement or any note or other undertaking,
18 obligation, or property securing the payment of the
19 bonds and the use and application of the moneys
20 derived therefrom.

1 (e) A trust indenture may also contain provisions deemed
2 necessary or desirable by the corporation to obtain or permit,
3 by grant, interest subsidy, or otherwise, the participation of
4 the federal government in the housing projects or in the
5 financing of the costs of administering, operating, or
6 maintaining the housing projects.

7 § -67 Investment of reserves, etc. The corporation may
8 invest any funds held in reserves or sinking funds or any funds
9 not required for immediate disbursement, including the proceeds
10 of bonds, in property or securities in which the director of
11 finance may legally invest, as provided in section 36-21, except
12 that funds held outside the state treasury may be invested for
13 terms not to exceed thirty-five years. No provisions with
14 respect to the acquisition, operation, or disposition of
15 property by other public bodies shall be applicable to the
16 corporation unless the legislature shall specifically so state.

17 § -68 Security for funds deposited by the corporation.
18 The corporation may by resolution provide that all moneys
19 deposited by it shall be secured:

1 (1) By any securities by which funds deposited by the
2 director of finance may be legally secured as provided
3 in section 38-3; or

4 (2) By an undertaking with sureties as are approved by the
5 corporation faithfully to keep and pay over upon the
6 order of the corporation any deposits and agreed
7 interest thereon, and all banks and trust companies
8 are authorized to give any such security for such
9 deposits.

10 § -69 Arbitrage provisions, interest rate. (a) Any other
11 provision of law to the contrary notwithstanding, neither the
12 corporation nor the director of finance shall make loans or
13 purchase mortgages with the proceeds of general obligation bonds
14 of the State or from a revolving fund established or maintained
15 from the proceeds of bonds, at a rate of interest or upon terms
16 and conditions which would cause any general obligation bond of
17 the State or any bond to be an "arbitrage bond" within the
18 meaning of that term as defined in the Internal Revenue Code of
19 1986, as amended, and the regulations of the Internal Revenue
20 Service promulgated pursuant thereto.

1 (b) The rate of interest on loans made under this chapter
2 from the proceeds of general obligation bonds of the State shall
3 be established by the corporation, with the approval of the
4 director of finance, after each sale of general obligation bonds
5 of the State, the proceeds of which are to be used for the
6 purposes of making loans or purchasing mortgages under this
7 chapter. If no sale of general obligation bonds of the State
8 intervenes in a twelve-month period after the last rate fixing,
9 the corporation may review the then existing rates on loans or
10 mortgages made under this chapter from the proceeds of general
11 obligation bonds of the State and retain the existing rate or,
12 with the approval of the director of finance, establish
13 different rates.

14 (c) The director of finance shall approve those rates so
15 as to produce up to, but not in excess of, the maximum yield to
16 the State or the corporation permitted under the Internal
17 Revenue Code of 1986, as amended, and the regulations of the
18 Internal Revenue Service promulgated pursuant thereto, on the
19 assumption that the general obligation bonds of the State, the
20 proceeds of which have been or are to be used for the purposes
21 of making loans or purchasing mortgages under this chapter,

1 would otherwise be "arbitrage bonds" under the Internal Revenue
2 Code of 1986, as amended, and the regulations of the Internal
3 Revenue Service promulgated pursuant thereto, were the maximum
4 yield to be exceeded. The establishment of the rates of interest
5 shall be exempt from chapter 91.

6 **§ -70 Housing finance revolving fund; housing project bond**
7 **special funds.** (a) There is created a housing finance
8 revolving fund to be administered by the corporation.
9 Notwithstanding sections 36-21 and -171, the proceeds in the
10 fund shall be used for long-term and other special financings of
11 the corporation and for the necessary expenses in administering
12 this part.

13 (b) All moneys received and collected by the corporation,
14 not otherwise pledged or obligated nor required by law to be
15 placed in any other special fund, shall be deposited in the
16 housing finance revolving fund.

17 (c) A separate special fund shall be established for each
18 housing project or system of housing projects or loan program
19 financed from the proceeds of bonds secured under the same trust
20 indenture. Each fund shall be designated "housing project bond
21 special fund" or "housing loan program revenue bond special

1 fund", as appropriate, and shall bear additional designation as
2 the corporation deems appropriate to properly identify the fund.

3 (d) Notwithstanding any other law to the contrary, all
4 revenues, income, and receipts derived from a housing project or
5 system of projects or loan program financed from the proceeds of
6 bonds or pledged to the payment of principal of and interest and
7 premium on bonds, shall be paid into the housing project bond
8 special fund established for the housing project or system of
9 projects or loan program and applied as provided in the
10 proceedings authorizing the issuance of the bonds.

11 **§ -71 Kikala-Keokea housing revolving fund; established.**

12 (a) There is established in the state treasury the Kikala-
13 Keokea housing revolving fund to provide low interest loans for
14 home construction for Kikala-Keokea leaseholders who have been
15 denied loans from traditional financial institutions. The
16 revolving fund shall be administered by the corporation.

17 (b) The rate of interest on loans executed pursuant to
18 this section shall not exceed three per cent per year and
19 interest earnings on loans made pursuant to this section may be
20 used for administrative and other expenses necessary for
21 administering the loan program. Guidelines shall be established

1 by the corporation with respect to loan terms and loan
2 qualification criteria. Moneys appropriated for the purposes of
3 this section shall be deposited into the Kikala-Keokea housing
4 revolving fund; provided that upon fulfillment of the purposes
5 of this section, all unencumbered moneys shall lapse into the
6 state general fund.

7 (c) The corporation shall adopt rules in accordance with
8 chapter 91 to effectuate the purposes of this section.

9 **§ -72 Rate of wages for laborers and mechanics.** The
10 corporation shall require an eligible bidder or eligible
11 developer of a housing project developed under this subpart to
12 comply with the requirements of section 104-2 for those laborers
13 and mechanics hired to work on that housing project; provided
14 that this section shall not apply to a housing project developed
15 under this chapter if the entire cost of the project is less
16 than \$500,000 and the eligible bidder or eligible developer is a
17 private nonprofit corporation.

18 **§ -73 Additional powers.** The powers conferred upon the
19 corporation by this subpart shall be in addition and
20 supplemental to the powers conferred upon it by any other law,

1 and nothing herein shall be construed as limiting any powers,
2 rights, privileges, or immunities so conferred upon it.

3 B. Housing Loan and Mortgage Program

4 § -81 Definitions. The following words or terms as used
5 in this subpart shall have the following meanings unless a
6 different meaning clearly appears from the context:

7 "Eligible borrower" means a person or family, irrespective
8 of race, creed, national origin, or sex, who:

9 (1) Is a citizen of the United States or a resident alien;

10 (2) Is a bona fide resident of the State;

11 (3) Is at least of legal age;

12 (4) Does not personally, or whose spouse does not if the
13 person is married, own any interest in a principal
14 residence within or without the State and who has not
15 owned a principal residence within the three years
16 immediately prior to the application for an eligible
17 loan under this part, except this requirement shall
18 not apply to any eligible loan for a targeted area
19 residence as defined in the Mortgage Subsidy Bond Tax
20 Act of 1980, Public Law 96-499, which residence is to
21 replace a housing unit which has been declared

1 structurally unsalvageable by a governmental board or
2 agency having the power to make the declaration; and
3 provided further that this requirement shall not apply
4 to up to ten per cent of eligible loans of a bond
5 issue made to single parent household borrowers. No
6 loans, however, shall be made if they adversely affect
7 the tax-exempt status of the bonds issued. For the
8 purpose of this section, "single parent household"
9 means a household headed by a single person who has
10 legal custody of one or more dependent children;

11 (5) Has never before obtained a loan under this part; and

12 (6) Meets other qualifications as established by rules
13 adopted by the corporation.

14 "Eligible improvement" means alterations, repairs, or
15 improvements to an existing housing unit which substantially
16 protect or improve the basic livability of the unit.

17 "Eligible improvement loan" means a loan to finance an
18 eligible improvement to the owner of the housing unit, which may
19 be a condominium unit, where the eligible improvement is to be
20 made; provided that the owner meets the requirements of an
21 eligible borrower, except that the requirements of paragraph (4)

1 set forth in the definition of "eligible borrower" need not
2 apply, the unit to be financed is located in the State, the unit
3 will be occupied as the principal place of residence of the
4 borrower, and meets other requirements as established by rules
5 adopted by the corporation.

6 "Eligible loan" means a loan to an eligible borrower for
7 the permanent financing of a dwelling unit, including a
8 condominium unit; provided that the property financed is located
9 in the State, will be occupied as the principal place of
10 residence by the eligible borrower, and meets other requirements
11 as established by rules adopted by the corporation.

12 "Eligible project loan" means an interim or permanent loan,
13 which may be federally insured or guaranteed, made to a
14 qualified sponsor for the financing of a rental housing project,
15 and which meets other requirements as established by rules
16 adopted by the corporation.

17 "Housing loan programs" includes all or any part of the
18 loan to lenders program, the purchase of existing loans program,
19 the advance commitments program, and the loan funding programs
20 authorized under this part.

1 "Qualified sponsor" means any person or entity determined
2 by the corporation:

3 (1) To be qualified by experience, financial
4 responsibility, and support to construct a housing
5 project of the type and magnitude described;

6 (2) To have submitted plans for a project adequately
7 meeting the objectives of this chapter, the
8 maintenance of aesthetic values in the locale of the
9 project, and the requirements of all applicable
10 environmental statutes and rules; and

11 (3) To meet other qualifications as established by rules
12 adopted by the corporation pursuant to chapter 91.

13 § -82 Owner-occupancy requirement. (a) An eligible
14 borrower shall utilize the dwelling unit purchased under this
15 part as the eligible borrower's permanent and primary residence.

16 (b) From time to time, the corporation may submit a
17 verification of owner-occupancy form to the eligible borrower.
18 Failure to respond to this verification in a timely manner may
19 result in an immediate escalation of the interest rate or
20 acceleration of the eligible loan.

1 (c) For eligible borrowers in the process of selling or
2 transferring title to their property, the corporation may grant
3 a waiver of subsection (a) for a period not to exceed three
4 years and for reasons set forth in section -49 on a case-by-
5 case basis.

6 **§ -83 Rules; eligible borrower.** (a) The corporation
7 shall establish the qualifications of the eligible borrower, and
8 may consider the following:

9 (1) The proportion of income spent for shelter;

10 (2) Size of the family;

11 (3) Cost and condition of housing available to the total
12 housing market; and

13 (4) Ability of the person to compete successfully in the
14 normal housing market and to pay the amounts on which
15 private enterprise is providing loans for safe,
16 decent, and sanitary housing in the State.

17 (b) The family income of an eligible borrower shall not
18 exceed the income requirements of section 143(f) of the Internal
19 Revenue Code of 1986, as amended.

20 (c) For the purpose of determining the qualification of an
21 eligible borrower for an eligible improvement loan:

1 (1) The housing unit for which the eligible improvement
2 loan is to be made and the property on which the
3 housing unit is situated shall not be included in the
4 calculation of the eligible borrower's assets; and

5 (2) The mortgage secured by the housing unit and property
6 shall not be included in the calculation of the
7 eligible borrower's liabilities.

8 (d) For the purpose of determining the qualification of an
9 eligible borrower for an eligible loan for a targeted area
10 residence:

11 (1) The housing unit being replaced and the property on
12 which the housing unit is situated shall not be
13 included in the calculation of the eligible borrower's
14 assets; and

15 (2) The mortgage secured by the housing unit and the
16 property shall not be included in the calculation of
17 the eligible borrower's liabilities.

18 § -84 Rules; eligible loans. (a) The corporation shall
19 establish requirements for property financed by an eligible
20 loan, and may consider the location, age, condition, and other
21 characteristics of the property.

1 (b) The corporation shall establish restrictions on the
2 terms, maturities, interest rates, collateral, and other
3 requirements for eligible loans.

4 (c) All eligible loans made shall comply with applicable
5 state and federal laws.

6 **§ -85 Rules; eligible project loans.** (a) The corporation
7 shall establish requirements for projects to be financed by an
8 eligible project loan, and may consider the location, age,
9 condition, and other characteristics of the project.

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

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

16 (d) The corporation shall require that any sums deferred
17 on land leased at nominal rates by the corporation to the owner
18 of an eligible project shall be recovered by the corporation at
19 the time an eligible project loan is prepaid, whether as a
20 result of refinancing of the eligible project loan or otherwise,
21 to the extent that funds are available from the refinancing or

1 other method by which the eligible project loan is paid in full
2 prior to its due date.

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

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

12 **§ -86 Rules; eligible improvement loans.** (a) The
13 corporation shall establish requirements for property financed
14 by an eligible improvement loan, and may consider the location,
15 age, condition, value, and other characteristics of the
16 property.

17 (b) The corporation shall establish restrictions on the
18 terms, maturities, interest rates, collateral, and other
19 requirements for eligible improvement loans.

20 (c) All eligible improvement loans made shall comply with
21 applicable state and federal laws.

1 § -87 Housing loan programs; procedures and requirements.

2 (a) The corporation shall establish procedures for:

3 (1) The submission of requests or the invitation of
4 proposals for loans to mortgage lenders;

5 (2) The purchase of existing loans by auction, invitation
6 of tenders, or negotiation;

7 (3) The making of advance commitments to purchase and the
8 purchasing of eligible loans, eligible improvement
9 loans, or eligible project loans to be made by
10 mortgage lenders by auction, invitation of tenders, or
11 negotiation; and

12 (4) Loan applications made through mortgage lenders to
13 eligible borrowers or qualified sponsors.

14 (b) The corporation shall establish standards and
15 requirements for:

16 (1) The allocation of loans to mortgage lenders;

17 (2) The allocation of funds to purchase existing loans
18 from mortgage lenders;

19 (3) The making of advance commitments and allocation of
20 funds to purchase eligible loans, eligible improvement

1 loans, or eligible project loans from mortgage
2 lenders; and

3 (4) The participation by mortgage lenders as originators
4 and processors of eligible loans, eligible improvement
5 loans, or eligible project loans on behalf of the
6 corporation.

7 (c) The standards and requirements for the allocation of
8 funds to mortgage lenders adopted by the corporation shall be
9 designed to include the maximum number of qualified mortgage
10 lenders as participants in the housing loan programs.

11 § -88 Housing loan programs; general powers. (a) The
12 corporation may make, enter into, and enforce all contracts or
13 agreements which are necessary, convenient, or desirable for the
14 purposes of the performance of its duties in executing the
15 housing loan programs.

16 (b) The corporation may require representations and
17 warranties as it determines necessary to secure its loans.

18 § -89 Housing loan programs; self-supporting. The
19 interest rate, fees, charges, premiums, and other terms of the
20 loans made under the housing loan programs shall be at least
21 sufficient to pay the cost of administering and maintaining the

1 portion of the specific housing loan programs for which the
2 bonds have been issued, and to assure payment of the principal
3 of and interest on the bonds as they become due.

4 **§ -90 Housing loan program; fees.** The corporation may
5 establish, revise, charge, and collect fees, premiums, and
6 charges as necessary, reasonable, or convenient, for its housing
7 loan programs. The fees, premiums, and charges shall be
8 deposited into the housing loan program revenue bond special
9 fund established for the particular housing loan program or part
10 thereof from which the fees, premiums, and charges are derived
11 as determined by the corporation.

12 **§ -91 Housing loan programs; evidence of eligible loan,**
13 **eligible improvement loans, or eligible project loan.** (a) Each
14 mortgage lender who participates in any housing loan program
15 shall submit evidence, as deemed satisfactory by the
16 corporation, that eligible loans, eligible improvement loans, or
17 eligible project loans have been made from the proceeds of the
18 bonds.

19 (b) The corporation may inspect the books and records of
20 the mortgage lenders as may be necessary for this section.

1 § -92 Loans to lenders program. (a) The corporation may
2 make loans to mortgage lenders under terms and conditions
3 requiring that the loan proceeds be used within a time period
4 prescribed by the corporation to make eligible loans, eligible
5 improvement loans, and eligible project loans in an aggregate
6 principal amount substantially equal to the amount of the loan.

7 (b) The loan made to a mortgage lender shall be a general
8 obligation of the respective mortgage lender.

9 (c) The loan as determined by the corporation shall:

10 (1) Bear a date or dates;

11 (2) Mature at a time or times;

12 (3) Be evidenced by a note, bond, or other certificate of
13 indebtedness;

14 (4) Be subject to prepayment; and

15 (5) Contain other provisions consistent with this part.

16 (d) Subject to any agreement with the holders of its
17 bonds, the corporation may consent to any modification to the
18 rate of interest, time, and payment of any installment of
19 principal or interest, security, or any other term of any loan
20 to a mortgage lender or any bond, note, contract, or agreement
21 of any kind to which the corporation is a party.

1 § -93 Loan to lenders program; collateral security. (a)

2 Loans made to mortgage lenders shall be additionally secured by
3 a pledge of a lien upon collateral security in an amount as the
4 corporation deems necessary to assure the payment of principal
5 of and interest on the loans as they become due.

6 (b) The corporation shall determine the nature and type of
7 collateral security required.

8 (c) A statement designating the collateral security
9 pledged, the mortgage lender pledging the collateral, and the
10 corporation's interest in the pledged collateral may be filed
11 with the bureau of conveyances. Where a statement has been
12 filed, no possession, further filing, or other action under any
13 state law shall be required to perfect any security interest
14 which may be deemed to have been created in favor of the
15 corporation. The mortgage lender shall be deemed the trustee of
16 an express trust for the benefit of the corporation in all
17 matters relating to the pledged collateral.

18 (d) Subject to any agreement with the holders of its
19 bonds, the corporation may collect, enforce the collection of,
20 and foreclose on any collateral securing its loans to mortgage
21 lenders. The corporation may acquire, take possession of, sell

1 at public or private sale with or without bidding, or otherwise
2 deal with the collateral to protect its interests.

3 **§ -94 Purchase of existing loans program.** (a) The
4 corporation may contract with a mortgage lender to purchase, in
5 whole or in part, existing loans, whether or not eligible loans,
6 eligible improvement loans, or eligible project loans. The
7 contract may contain provisions as determined by the corporation
8 to be necessary or appropriate to provide security for its
9 bonds, including but not limited to provisions requiring the:

- 10 (1) Repurchase of the loans, in whole or in part, by
11 mortgage lenders at the option of the corporation;
12 (2) Payments of premiums, fees, charges, or other amounts
13 by mortgage lenders to provide a reserve or escrow
14 fund for the purposes of protecting against loan
15 defaults; and
16 (3) Guarantee by, or for recourse against, mortgage
17 lenders, with respect to defaults on these loans of
18 the corporation.

19 (b) The corporation shall require as a condition of each
20 purchase of existing loans from a mortgage lender that the
21 mortgage lender proceed to make and disburse eligible loans,

1 eligible improvement loans, or eligible project loans in an
2 aggregate principal amount substantially equal to the amount of
3 the proceeds from the purchase by the corporation of loans
4 therefrom.

5 **§ -95 Advance commitments program.** (a) The corporation
6 may contract with a mortgage lender for the advance commitment
7 to purchase eligible loans, eligible improvement loans, or
8 eligible project loans.

9 (b) The contract may contain provisions as determined by
10 the corporation to be necessary or appropriate to provide
11 security for its bonds. Notwithstanding any other law to the
12 contrary, project loans may be made available for housing
13 projects on Hawaiian home lands pursuant to the Hawaiian Homes
14 Commission Act, 1920, as amended.

15 **§ -96 Loan funding programs.** (a) The corporation may
16 contract with mortgage lenders to fund eligible loans and
17 eligible improvement loans and may directly make or contract
18 with mortgage lenders to fund eligible project loans.

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

1 § -97 Loans; service and custody. The corporation may
2 contract for the service and custody of its loans. The contract
3 may provide for the payment of fees or charges for the services
4 rendered; provided that the fees or charges shall not exceed the
5 usual, customary, and reasonable charges for the services
6 rendered.

7 § -98 Loans; sale, pledge, or assignment. (a) Subject to
8 any agreements with the holders of its revenue bonds, the
9 corporation may sell its loans at public or private sale at a
10 price and upon terms and conditions as it determines.

11 (b) Subject to any agreements with holders of its revenue
12 bonds, the corporation may pledge or assign its loans, other
13 agreements, notes, or property to secure the loans or
14 agreements.

15 § -99 Loans; insurance and guarantees. The corporation
16 may procure insurance or guarantees against any default of its
17 loans, in amounts and from insurers or guarantors, as it deems
18 necessary or desirable.

19 § -100 Loans; default. The corporation may renegotiate,
20 refinance, or foreclose any loan in default.

1 The corporation may waive any default or consent to the
2 modification of the terms of any loan or security agreement.

3 The corporation may commence any action to protect or
4 enforce any right conferred upon it by any law, mortgage,
5 insurance policy, contract, or other agreement.

6 The corporation may bid for and purchase the property
7 secured by the loan at any foreclosure or other sale, or acquire
8 or take possession of the property secured by the loan.

9 The corporation may operate, manage, lease, dispose of, or
10 otherwise deal with the property secured by the loan.

11 § -101 Additional powers. The powers conferred upon the
12 corporation by this subpart shall be in addition and
13 supplemental to the powers conferred upon it by any other law,
14 and nothing herein shall be construed as limiting any powers,
15 rights, privileges, or immunities so conferred upon it.

16 C. Rental Assistance Program

17 § -111 Purpose; findings and determinations. The
18 legislature finds and declares that the health and general
19 welfare of the people of the State require that the people of
20 this State have safe and sanitary rental housing accommodations
21 available at affordable rents; that a grave shortage in the

1 number of such accommodations affordable by families and
2 individuals of low and moderate income in the State exists; that
3 it is essential that owners of rental housing accommodations be
4 provided with appropriate additional means to assist in reducing
5 the cost of rental housing accommodations to the people of the
6 State.

7 Additionally, the legislature finds that the high cost of
8 infrastructure development and the obtaining of interim
9 construction financing are two of the greatest impediments to
10 the production of affordable rental housing in this State. It
11 is especially difficult for private nonprofit and profit
12 entities to participate in the development of affordable housing
13 due to the difficulty in amassing the capital necessary to plan
14 and carry a project to completion.

15 It is the purpose of this subpart to:

16 (1) Assist owners in maintaining the rentals at levels
17 affordable by families and individuals of low and
18 moderate income by providing owners with rental
19 assistance payments which, with rentals received by
20 tenants of low and moderate income, will provide
21 owners with limited but acceptable rates of return on

1 their investments in rental housing accommodations;
2 and that assisting owners by entering into contracts
3 with them which provide for rental assistance payments
4 is a valid public purpose and in the public interest;
5 and

6 (2) Provide a funding source for interim construction
7 financing for the development of affordable rental
8 housing by private nonprofit and profit entities, as
9 well as the corporation; provided that in allotting
10 this financing, the corporation shall give preference
11 to qualified sponsors who are private nonprofit and
12 profit entities.

13 § -112 Definitions. The following words or terms as used
14 in this subpart shall have the following meanings unless a
15 different meaning clearly appears from the context:

16 "Eligible project" means a rental housing project which:

17 (1) Is financed by the corporation pursuant to subpart B
18 or E, or the corporation determines will require
19 rental assistance to make it financially feasible;

20 (2) Is subject to a regulatory agreement with the
21 corporation;

1 (3) Maintains at least twenty per cent of its units for
2 eligible tenants; and

3 (4) Meets other qualifications as established by rules
4 adopted by the corporation.

5 Notwithstanding any provisions to the contrary, "eligible
6 project" may also include a rental housing project which is
7 financed by the corporation pursuant to part VI.A.

8 "Eligible tenant" means a family or an individual whose
9 income does not exceed eighty per cent of the area median income
10 as determined by the United States Department of Housing and
11 Urban Development.

12 "Owner" means the owner of an eligible project.

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

17 "Rental assistance contract" means an agreement between an
18 owner and the corporation providing for periodic rental
19 assistance payment for units in an eligible project.

1 § -113 Rental assistance revolving fund. (a) There is
2 created a rental assistance revolving fund to be administered by
3 the corporation.

4 (b) The aggregate principal sum in the rental assistance
5 revolving fund which may without limitation include sums made
6 available from any government program or grant, from private
7 grants or contributions, from the proceeds of any bond issue, or
8 by appropriation, shall be invested by the corporation in a
9 manner which will maximize the rate of return on investment of
10 the fund; provided that any investment shall be consistent with
11 section -67 but need not comply with section 36-21.

12 (c) The corporation may use, as needed, the aggregate
13 principal sum and the accumulated earnings in the rental
14 assistance revolving fund to make payments under the rental
15 assistance contracts or to subsidize tenants' rents in projects
16 developed under this part; provided that the corporation shall
17 use up to \$25,000,000 plus any bond proceeds to provide interim
18 construction financing to:

19 (1) Qualified sponsors who are private nonprofit or profit
20 entities; or

1 (2) The corporation, for the development of affordable
2 rental housing; provided further that the corporation,
3 in allotting interim construction financing moneys
4 pursuant to this part, shall give preference to rental
5 housing projects developed by qualified sponsors who
6 are private nonprofit or profit entities.

7 § -114 Rental assistance contracts. (a) The corporation
8 may enter into a rental assistance contract and a regulatory
9 agreement with the owner of an eligible project, when the owner
10 of an eligible project is other than the corporation.

11 (b) Prior to the execution of a rental assistance
12 contract, the corporation may execute an agreement to enter into
13 a rental assistance contract with an owner, which agreement
14 shall provide for the execution of a rental assistance contract
15 upon satisfaction of the terms set forth in such agreement and
16 otherwise established by the corporation. Each rental
17 assistance contract heretofore entered into by the corporation
18 which provided that rental assistance payments shall be made
19 solely from the earnings on the investment of the rental
20 assistance revolving fund shall hereafter, without modification
21 of such contracts, be payable from the aggregate principal sum

1 and the accumulated earnings in the rental assistance revolving
2 fund.

3 (c) A rental assistance contract and any subsidy of
4 tenants' rents in projects developed under this part shall be
5 for a term not in excess of thirty-five years and shall be
6 approved by the board of directors of the corporation. Upon such
7 approval by the corporation, the director of finance shall be
8 authorized to guarantee the obligation of the corporation for
9 the term of the rental assistance contract or the subsidy of
10 tenants' rents in an amount equal to the aggregate obligation of
11 the corporation to make assistance payments; provided that the
12 aggregate of all such outstanding guarantees shall not exceed
13 \$100,000,000. Pursuant to such guarantee, the corporation shall
14 make annual rental payments to the owner in accordance with the
15 approved rental assistance contract or to the tenants in
16 accordance with the approved subsidy.

17 (d) Each rental assistance contract shall set forth a
18 maximum annual rental assistance payment amount. The
19 corporation shall establish procedures for determining the
20 maximum annual rental assistance payment amount and may consider
21 the following:

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

13 § -115 Rules, rental assistance program. (a) Prior to
14 the execution of a rental assistance contract and annually
15 thereafter, the owner shall submit a proposed rental schedule to
16 the corporation for approval, which schedule shall list every
17 rental unit in the project and shall designate which units are
18 to be maintained for eligible tenants.

19 (b) The corporation shall establish procedures for
20 evaluating the rental schedules submitted pursuant to this
21 section, and may consider the following:

- 1 (1) The size of and number of bedrooms in the units
2 comprising the eligible project;
- 3 (2) The location of the project and its type (whether
4 high-rise, mid-rise, or low-rise);
- 5 (3) The percentage of units being maintained for eligible
6 tenants; and
- 7 (4) The rentals prevalent in the open market for
8 comparable units.
- 9 (c) Annually, following the approval of the rental
10 schedule submitted pursuant to the preceding section, the
11 corporation shall determine the amount of rental assistance
12 payments payable to the owner for the forthcoming year, which
13 amount shall under no circumstances exceed the maximum annual
14 rental assistance payment amount determined in accordance with
15 section -114. The amount determined pursuant to this
16 subsection shall take into account the estimated amount to be
17 derived by the owner from rentals to be charged for the
18 forthcoming year and the limited rate of return on equity
19 permitted in accordance with section -114(d)(6).
- 20 (d) The corporation shall establish standards and
21 requirements for:

- 1 (1) The awarding of rental assistance contracts and the
2 allocation of annual rental assistance payments;
- 3 (2) The form of lease to be utilized by the owner in
4 renting units in an eligible project;
- 5 (3) The marketing and tenant selection and admission
6 processes to be employed by the owner with respect to
7 an eligible project; and
- 8 (4) The maintenance and operation of eligible projects.
- 9 (e) The corporation shall establish procedures for:
- 10 (1) The annual review of rental schedules for eligible
11 projects;
- 12 (2) The periodic review of the income of tenants renting
13 units in eligible projects; and
- 14 (3) The periodic inspection of eligible projects to
15 monitor the owners' compliance with the terms and
16 conditions of their rental assistance contracts.
- 17 (f) When an eligible project is not owned by the
18 corporation, the corporation shall be entitled to share in the
19 appreciation in value of units maintained for eligible tenants
20 within an eligible project realized at the time of refinancing
21 or prepayment of the eligible project loan. The corporation's

1 share shall be calculated by multiplying the appreciation in
2 value of units maintained for eligible tenants realized upon
3 refinancing or prepayment by the ratio of the owner's equity to
4 the discounted value of the aggregate rental assistance
5 payments. The discount rate shall be established by rules
6 adopted by the corporation.

7 The corporation shall exempt projects owned by a county
8 from the shared appreciation requirement set forth in this
9 section if all of the following requirements are met:

10 (1) The funds derived by the county as a result of
11 appreciation in value of the units are used for
12 housing projects wherein:

13 (A) At least sixty per cent of the project is
14 affordable to families earning one hundred per
15 cent or below of the applicable area median
16 income; and

17 (B) At least half of the foregoing sixty per cent is
18 affordable to families earning eighty per cent or
19 below of the applicable area median income; and

20 (2) The project from which the appreciation in value is
21 derived remains as affordable as it was prior to the

1 refinancing or prepayment of the eligible project
2 loan.

3 § -116 Benefits of program not exclusive. Nothing in this
4 subpart contained shall be construed to prohibit, with respect
5 to an eligible project, the operation of the rental assistance
6 program in conjunction with other state or federal programs
7 including the state rent supplements provided for in subpart D.

8 § -117 Additional powers. The powers conferred upon the
9 corporation by this subpart shall be in addition and
10 supplemental to the powers conferred upon it by any other law,
11 and nothing herein shall be construed as limiting any powers,
12 rights, privileges, or immunities so conferred upon it.

13 D. Taxable Mortgage Securities Programs

14 § -121 Definitions. Whenever used in this subpart, unless
15 the context otherwise requires:

16 "Eligible borrower" means:

17 (1) Any person or family, irrespective of race, creed,
18 national origin, or sex, who:

19 (A) Is a citizen of the United States or a declarant
20 alien;

21 (B) Is a bona fide resident of the State;

1 "Housing loan programs" include all or any part of the loan
2 programs authorized in section -122.

3 **§ -122 Housing loan programs; authorization.** (a) The
4 corporation may establish under this subpart one or more
5 eligible loan programs.

6 (b) The corporation may invest in, make, purchase, take
7 assignments of, or otherwise acquire or make commitments to
8 invest in, make, purchase, take assignments of, or otherwise
9 acquire any eligible loans or any partial interest or
10 participation therein held by or on behalf of the corporation.

11 (c) The corporation may sell, assign, or otherwise dispose
12 of or enter into commitments to sell, assign, or otherwise
13 dispose of any eligible loans or any partial interest or
14 participation therein held by or on behalf of the corporation.

15 (d) The corporation may acquire any obligation under
16 conditions which require the seller of such obligation to use
17 the proceeds of the sale for the purpose of financing eligible
18 loans.

19 **§ -123 Housing loan programs; procedures and requirements.**

20 (a) The corporation may establish procedures and requirements
21 for:

1 (1) The purchase of loans from mortgage lenders by
2 auction, invitation of tender, advance commitment, or
3 other negotiation;

4 (2) The making of loans through mortgage lenders to
5 eligible borrowers or qualified sponsors;

6 (3) The allocation to mortgage lenders of money made
7 available under this subpart; and

8 (4) The participation by mortgage lenders as originators
9 and processors of loans on behalf of the corporation
10 under this subpart.

11 (b) The corporation may adopt rules necessary or
12 convenient for the operation of the housing loan programs
13 established under this subpart.

14 § -124 Housing loan programs; general powers. (a) The
15 corporation may make, enter into, and enforce all contracts or
16 agreements which are necessary, convenient, or desirable for the
17 purpose of the performance of its powers under this subpart.

18 (b) The corporation may establish, revise, charge, and
19 collect fees, premiums, and charges as necessary, reasonable, or
20 convenient in connection with its housing loan programs
21 established under this subpart. The fees, premiums, and charges

1 shall be deposited into such funds as are determined by the
2 corporation.

3 (c) The corporation may contract for the servicing and
4 custody of any loans or other obligations acquired under this
5 subpart.

6 (d) The corporation may procure insurance against any
7 default of its loans from insurers in amounts deemed necessary
8 or desirable.

9 (e) Subject to any agreements with the holders of its
10 bonds, the corporation may renegotiate, refinance, or foreclose
11 any loan in default; and may commence any action to protect or
12 enforce any right conferred upon it by any law, or as provided
13 in any mortgage, insurance policy, contract, or other agreement;
14 and may bid for and purchase the property secured by the loan at
15 any foreclosure or other sale; or acquire, or take possession of
16 the property secured by the loan and may operate, manage, lease,
17 dispose of, or otherwise deal with the property securing the
18 loan.

19 § -125 Additional powers. The powers conferred upon the
20 corporation by this subpart shall be in addition and
21 supplemental to the powers conferred upon it by any other law,

1 and nothing herein shall be construed as limiting any powers,
2 rights, privileges, or immunities so conferred upon it.

3 E. State Mortgage Guarantee Program

4 § - 131 State mortgage guarantee. (a) The corporation
5 may guarantee:

6 (1) Up to the top twenty-five per cent of the principal
7 balance of real property mortgage loans for the
8 purchase of qualified single-family or multifamily
9 housing units;

10 (2) A maximum of one hundred per cent of the principal
11 balance of real property mortgage loans of qualified
12 single-family housing under section 213 of the
13 Hawaiian Homes Commission Act; or

14 (3) Up to one hundred per cent of the principal balance of
15 real property mortgage loans of single-family or
16 multifamily housing developed under self-help or shell
17 housing programs;

18 plus the interest due thereon, made to qualified borrowers by
19 qualified private lenders; provided that at no time shall the
20 corporation's liability, contingent or otherwise, on these
21 guarantees exceed \$10,000,000. For the purposes of this

1 section, the term "self-help housing program" means development
2 or preservation of housing in which prospective homeowners have
3 contributed labor, materials, or real property; provided that at
4 least two-thirds of the participating homeowners are qualified
5 by income for assistance under this subpart and that the program
6 is carried out under the sponsorship of a nonprofit community
7 development organization. For the purposes of this section, the
8 term "shell housing program" means development of housing which
9 is habitable but unfinished and can be completed or expanded;
10 provided that at least one hundred per cent of the participating
11 homeowners are qualified by income for assistance under this
12 chapter and that the program is carried out under the
13 sponsorship of a public, nonprofit, or private organization.

14 (b) The loans shall be secured by a duly recorded first
15 mortgage upon the fee simple or leasehold interest of the
16 borrower in the single-family or multifamily dwelling owned and
17 occupied by the borrower and the borrower's permitted assigns.
18 Private lenders shall include all banks, savings and loan
19 associations, mortgage companies, and other qualified companies
20 and trust funds whose business includes the making of loans in
21 the State.

1 (c) Loans guaranteed under this section shall be in
2 accordance with rules adopted by the corporation.

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

5 (1) A citizen of the United States or a resident alien;

6 (2) Qualified under the rules adopted by the corporation;

7 and

8 (3) Willing to comply with the rules as may be adopted by
9 the corporation.

10 The corporation may secure the services of a private lender to
11 process all applications and determine who is a qualified
12 borrower under this chapter.

13 (e) When the application for an insured loan has been
14 approved by the corporation, the corporation shall issue to the
15 lender a guarantee for that percentage of the loan on which it
16 guarantees payment of principal and interest. The private
17 lender shall collect all payments from the borrower and
18 otherwise service the loan.

19 (f) In return for the corporation's guarantee, the private
20 lender shall remit out of monthly payments collected an
21 insurance fee as established by the corporation. The funds

1 remitted shall be deposited to the credit of the state general
2 fund.

3 (g) When any installment of principal and interest has
4 been due for sixty days and has not been paid by the borrower,
5 the private lender may file a claim for the guaranteed portion
6 of the overdue payments with the corporation which may then
7 authorize vouchers for these payments, thereby acquiring a
8 division of interest in the collateral pledged by the borrower
9 in proportion to the amount of the payment. The corporation
10 shall be reimbursed for any amounts so paid plus the applicable
11 interest rate when payment is collected from the borrower.

12 (h) If there is any default in any payment to be made by
13 the borrower, the lender shall notify the corporation within
14 fifteen days. Should the lender deem that foreclosure
15 proceedings are necessary to collect moneys due from the
16 borrower, it shall so notify the corporation. Within thirty
17 days of either notification, the corporation may elect to
18 request an assignment of the loan on payment in full to the
19 lender of the principal balance and interest due. Foreclosure
20 proceedings shall be held in abeyance in the interim.

1 (i) Every qualified borrower who is granted a loan under
2 this section shall comply with the following conditions:

3 (1) Extend no portion of the qualified borrower's loan for
4 purposes other than those sanctioned by the
5 corporation;

6 (2) Not sell or otherwise dispose of the mortgaged
7 property except upon the prior written consent of the
8 corporation and except upon any conditions that may be
9 prescribed in writing by the private lender;

10 (3) Undertake to pay when due all taxes, liens, judgments,
11 or assessments which may be lawfully assessed against
12 the property mortgaged, together with cost and expense
13 of any foreclosure of the mortgage;

14 (4) Keep insured to the satisfaction of the private lender
15 all improvements and other insurable property covered
16 by the mortgage. Insurance shall be made payable to
17 the mortgagee as its interest may appear at the time
18 of the loss. At the option of the private lender,
19 subject to the rules and standards of the corporation,
20 sums so received may be used to pay for reconstruction

1 of the improvements destroyed, or for decreasing the
2 amount of the indebtedness;

3 (5) Keep the improvements in good repair; and

4 (6) The private lender may impose any other conditions in
5 its mortgage; provided the form of the mortgage has
6 received the prior approval of the corporation.

7 All of the above conditions shall be held and construed to be
8 provisions of any mortgage executed by virtue of this section
9 regardless of whether or not they are expressly incorporated in
10 the mortgage document.

11 (j) Loans guaranteed and made under this subpart shall be
12 repaid in accordance with a payment schedule specified by the
13 private lender with payments applied first to interest and then
14 to principal. Additional payments in any sums and the payment
15 of the entire principal, may be made at any time within the
16 period of the loan. The private lender for satisfactory cause
17 and at its discretion, may extend the time within which the
18 installments of principal may be made for a period not to exceed
19 two years.

20 (k) All interest and fees collected under this subpart by
21 the corporation shall be deposited into the general fund. All

1 moneys necessary to guarantee payment of loans made under this
2 subpart and to carry on the operations of the corporation in
3 administering and granting loans under this subpart shall be
4 appropriated by the legislature out of the proceeds of the
5 general fund. The corporation shall include in its legislative
6 budgetary request for the upcoming fiscal period, the amounts
7 necessary to effectuate the purposes of this section.

8 **§ -132 Mortgage guaranty agreements.** (a) To induce
9 appropriate officials of any agency or instrumentality of the
10 United States to commit to insure and insure mortgages under the
11 provisions of the National Housing Act, as amended, the
12 corporation may enter into guaranty agreements with such
13 officials whenever:

14 (1) The purchaser-mortgagor in question is ineligible for
15 mortgage insurance purposes under the National Housing
16 Act because of credit standing, debt obligation or
17 income characteristics;

18 (2) The purchaser-mortgagor in question is a "displaced
19 person" as defined in chapter 111 and the guaranty
20 agreement will enable the purchaser-mortgagor to

1 obtain suitable replacement housing in accordance with
2 that chapter; and

3 (3) The corporation finds that the purchaser-mortgagor
4 would be a satisfactory credit risk with ability to
5 repay the mortgage loan if the purchaser-mortgagor
6 were to receive budget, debt, management and related
7 counseling.

8 (b) Such guaranty agreements may obligate the corporation
9 to:

10 (1) Provide or cause to be provided such counseling; and

11 (2) Indemnify an agency or instrumentality of the United
12 States for a period not to exceed five years for any
13 loss sustained by such agency or instrumentality by
14 reason of insurance of a mortgage.

15 (c) The total of guaranties made pursuant to this section
16 and guaranties made pursuant to section -131 shall not exceed
17 \$10,000,000.

18 § -133 Additional powers. The powers conferred upon the
19 corporation by this subpart shall be in addition and
20 supplemental to the powers conferred upon it by any other law,

1 and nothing herein shall be construed as limiting any powers,
2 rights, privileges, or immunities so conferred upon it.

3 **F. Downpayment Loan Program**

4 **§ -141 Downpayment loans.** (a) The corporation may make
5 direct downpayment loans to eligible borrowers. The downpayment
6 loan to any borrower shall not exceed thirty per cent of the
7 purchase price of the residential property or \$15,000, whichever
8 is less. The interest rate on the loans may range from zero per
9 cent to eight per cent, depending on the buyer's incomes.

10 (b) The repayment of every downpayment loan shall be
11 secured by a duly recorded second mortgage executed by the
12 borrower to the State on the residential property purchased with
13 the downpayment loan.

14 (c) The principal of the downpayment loan, together with
15 accrued interest, shall be due and payable upon the sale,
16 transfer, or refinancing of the home, or shall be repaid by the
17 borrower in such installments as determined by the corporation;
18 provided that the corporation may provide a period in which the
19 payment could be waived. The period over which the principal
20 and interest shall be paid need not coincide with the period
21 over which the loan from the mortgage lender for the balance of

1 the purchase price must be repaid. The borrower may repay the
2 whole or any part of the unpaid balance of the downpayment loan,
3 plus accrued interest at any time without penalty.

4 (d) The corporation may secure the services of the
5 mortgage lender who loans to the borrower the balance of the
6 purchase price of the residential property or the services of
7 any other mortgage lender doing business in the State to
8 collect, on behalf of the State, the principal and interest of
9 the downpayment loan and otherwise to service the downpayment
10 loan, for a servicing fee not in excess of the prevailing loan
11 servicing fees.

12 (e) The corporation shall adopt rules pursuant to chapter
13 91 to carry out the purposes of this subpart.

14 **§ -142 Qualifications for downpayment loans.** (a) No
15 person shall be qualified for a downpayment loan unless the
16 person:

17 (1) Is a citizen of the United States or a resident alien;

18 (2) Is at least eighteen years of age;

19 (3) Is a bona fide resident of the State;

20 (4) Will physically reside in the residential property to
21 be purchased for the term of the loan;

1 (5) Is accepted by a mortgage lender as a person to whom
2 it is willing to lend money for the purchase of the
3 residential property provided the required downpayment
4 is made; and

5 (6) Provides a portion of the downpayment which shall be
6 equal to at least three per cent of the sales price.

7 (b) No person who owns in fee simple or in leasehold any
8 other residential property within the State shall be eligible to
9 become a borrower under this section. A person shall be deemed
10 to own a residential property if the person, the person's
11 spouse, or both (unless separated and living apart under a
12 decree of a court of competent jurisdiction) own a majority
13 interest in a residential property.

14 § -143 Restrictions on borrower. Every loan made under
15 this subpart shall be subject to the following conditions:

16 (1) The borrower shall expend no portion of the borrower's
17 downpayment loan for purposes other than to make a
18 downpayment for the purchase of a residential
19 property;

20 (2) The residential property purchased with the
21 downpayment loan and mortgaged to the State to secure

1 the repayment of the loan shall not be sold or
2 assigned without the prior approval in writing of the
3 corporation and the first mortgage lender;

4 (3) The borrower shall pay when due all taxes, liens,
5 judgments, or assessments which may be lawfully levied
6 against the residential property and all costs and
7 expenses of any foreclosure of the mortgage made to
8 the State;

9 (4) The borrower shall maintain fire and casualty
10 insurance in amounts equal to the replacement value of
11 all improvements and insurable portions of the
12 residential property with an insurance company
13 authorized to do business in the State. All proceeds
14 of that insurance shall be made payable to the first
15 mortgage lender and the corporation as their
16 respective interests may appear at the time of any
17 loss or damage. Subject to the rules of the
18 corporation, in the event of any loss or damage to the
19 improvements or property covered by the insurance, the
20 proceeds receivable by the State shall be applied
21 toward the reconstruction of the improvements or

1 property destroyed or damaged, unless otherwise
2 determined by the corporation on behalf of the State;
3 and

4 (5) The borrower shall maintain the improvements in good
5 repair.

6 All of the above conditions shall be a part of any
7 downpayment mortgage executed under this part, regardless of
8 whether or not they are expressly incorporated in the mortgage
9 document.

10 § -144 Default. If the borrower defaults in the payment
11 of any installment of principal or interest of the downpayment
12 loan, the corporation or mortgage lender shall take all
13 necessary action to collect the delinquent amounts and may take
14 all actions generally allowed holders of mortgages, including
15 the power to foreclose. Upon any foreclosure of the second
16 mortgage, the corporation or mortgage lender on behalf of the
17 corporation, may purchase the interest of the borrower in and to
18 the residential property, take possession thereof and assume all
19 of the obligations of the borrower under the first mortgage held
20 by the private lender and any other liens having priority over
21 the second mortgage that may then exist. On the acquisition of

1 the borrower's interest, the corporation, at its option, may pay
2 in full the unpaid balance of the borrower's obligation secured
3 by the first mortgage and other prior liens, repair, renovate,
4 modernize, or improve the residential property, and, with or
5 without clearing the property of all prior mortgages and liens,
6 sell, lease, or rent the property or use or dispose of the same
7 in any manner that the corporation is authorized by law.

8 **§ -145 Additional powers.** The powers conferred upon the
9 corporation by this subpart shall be in addition and
10 supplemental to the powers conferred upon it by any other law,
11 and nothing herein shall be construed as limiting any powers,
12 rights, privileges, or immunities so conferred upon it.

13 **G. Homebuyers' Club**

14 **§ -151 Homebuyers' club program.** (a) The corporation may
15 establish a homebuyers' club program for participants who are
16 desirous of purchasing a home and who have adequate incomes but
17 who lack sufficient funds for the downpayment and closing costs.
18 The primary focus of this program is to facilitate the purchase
19 of homes by providing participants with strategies to save
20 money, to resolve credit problems, and to educate participants
21 on how to shop for and purchase a home.

1 (b) In establishing such a program, the corporation shall
2 adopt rules pursuant to chapter 91 relating to establishing a
3 savings program for participants based upon individual analyses
4 of income and family expenses. The rules may also provide for
5 integration of the homebuyers' club program with other
6 governmental programs including but not limited to individual
7 housing accounts under section 235-5.5, the state mortgage
8 guarantee program under part VI.F, the downpayment loan program
9 established under part VI.G, and the rent-to-own program
10 established under part VI.I.

11 (c) The corporation may secure the services of another
12 public or private entity to carry out the purposes of this
13 section.

14 § -152 Additional powers. The powers conferred upon the
15 corporation by this subpart shall be in addition and
16 supplemental to the powers conferred upon it by any other law,
17 and nothing herein shall be construed as limiting any powers,
18 rights, privileges, or immunities so conferred upon it.

19 H. Rent-to-Own Program

20 § -161 Rent-to-own program. (a) The corporation may
21 establish a rent-to-own program under which housing units that

1 are for sale may be rented to program participants. Under this
2 program, the corporation shall credit a portion of the rent
3 received toward the purchase of the unit.

4 (b) The sales price shall be established at the beginning
5 of the rental term and shall remain fixed for the first five
6 years after the rental agreement is executed. During this
7 period, the participant shall have the option of purchasing the
8 unit at the designated sales price. If the participant does not
9 elect to purchase the unit within the five-year period, the
10 renter shall forfeit the right to continue living in the unit
11 and the unit shall be made available to another purchaser or
12 renter.

13 (c) The corporation shall have the right to re-establish
14 the sales price upon expiration of the option period or upon
15 resale of the unit.

16 § -162 Additional powers. The powers conferred upon the
17 corporation by this subpart shall be in addition and
18 supplemental to the powers conferred upon it by any other law,
19 and nothing herein shall be construed as limiting any powers,
20 rights, privileges, or immunities so conferred upon it.

21

1 **I. Dwelling Unit Revolving Fund**

2 **§ -171 Dwelling unit revolving fund.** There is created a
3 dwelling unit revolving fund. The funds appropriated for the
4 purpose of the dwelling unit revolving fund and all moneys
5 received or collected by the corporation for the purpose of the
6 revolving fund shall be deposited in the revolving fund. The
7 proceeds in the revolving fund shall be used to reimburse the
8 general fund to pay the interest on general obligation bonds
9 issued for the purposes of the revolving fund, for the necessary
10 expenses in administering part III, and for carrying out the
11 purposes of part III, including but not limited to the expansion
12 of community facilities constructed in conjunction with housing
13 projects, permanent primary or secondary financing, and
14 supplementing building costs, federal guarantees required for
15 operational losses, and all things required by any federal
16 agency in the construction and receipt of federal funds or low-
17 income housing tax credits for housing projects.

18 **§ -172 Additional powers.** The powers conferred upon the
19 corporation by this subpart shall be in addition and
20 supplemental to the powers conferred upon it by any other law,

1 and nothing herein shall be construed as limiting any powers,
2 rights, privileges, or immunities so conferred upon it.

3 **J. Rental Housing Trust Fund**

4 **§ -181 Additional definitions.** As used in this subpart,
5 unless a different meaning is clearly required by the context:

6 "Develop" or "development" means the planning, financing,
7 or acquisition of real and personal property; demolition of
8 existing structures; clearance of real property; construction,
9 reconstruction, alteration, or repairing of approaches, streets,
10 sidewalks, utilities, and services, or other site improvements;
11 construction, reconstruction, repair, remodeling, extension,
12 equipment, or furnishing of buildings or other structures; or
13 any combination of the foregoing, of any housing project. It
14 also includes any undertakings necessary therefor, and the
15 acquisition of any housing, in whole or in part.

16 "Fund" means the rental housing trust fund established in
17 this subpart.

18 **§ -182 Rental housing trust fund.** (a) There is hereby
19 established a rental housing trust fund to be placed within the
20 corporation.

1 (b) An amount from the fund, to be set by the corporation
2 and authorized by the legislature, may be used for
3 administrative expenses incurred by the corporation in
4 administering the fund; however, fund moneys may not be used to
5 finance day-to-day administrative expenses of projects allotted
6 fund moneys.

7 (c) The following may be deposited into the fund:
8 appropriations made by the legislature, private contributions,
9 repayment of loans, interest, other returns, and moneys from
10 other sources.

11 (d) The fund shall be used to provide loans or grants for
12 the development, pre-development, construction, acquisition,
13 preservation, and substantial rehabilitation of rental housing
14 units. Permitted uses of the fund may include but are not
15 limited to planning, design, land acquisition, costs of options,
16 agreements of sale, downpayments, equity financing, capacity
17 building of nonprofit housing developers, or other housing
18 development services or activities as provided in rules adopted
19 by the corporation pursuant to chapter 91. The rules may
20 provide for a means of recapturing loans or grants made from the
21 fund if a rental housing project financed under the fund is

1 refinanced or sold at a later date. The rules may also provide
2 that moneys from the fund shall be leveraged with other
3 financial resources to the extent possible.

4 (e) Moneys available in the fund shall be used for the
5 purpose of providing, in whole or in part, loans or grants for
6 rental housing projects in the following order of priority:

7 (1) Projects or units in projects that are allocated low-
8 income housing credits pursuant to the state housing
9 credit ceiling under section 42(h) of the Internal
10 Revenue Code of 1986, as amended, or projects or units
11 in projects that are funded by programs of the United
12 States Department of Housing and Urban Development and
13 United States Department of Agriculture Rural
14 Development wherein:

15 (A) At least fifty per cent of the available
16 units are for persons and families with
17 incomes at or below eighty per cent of the
18 median family income of which at least five
19 per cent of the available units are for
20 persons and families with incomes at or

1 below thirty per cent of the median family
2 income; and

3 (B) The remaining units are for persons and
4 families with incomes at or below one
5 hundred per cent of the median family
6 income; provided that the corporation may
7 establish rules to ensure full occupancy of
8 fund projects; and

9 (2) Mixed-income rental projects or units in a mixed-
10 income rental project wherein all of the available
11 units are for persons and families with incomes at or
12 below one hundred forty per cent of the median family
13 income.

14 (f) The corporation shall submit an annual report to the
15 legislature no later than twenty days prior to the convening of
16 each regular session describing the projects funded and, with
17 respect to rental housing projects targeted for persons and
18 families with incomes at or below thirty per cent of the median
19 family income, its efforts to develop those rental housing
20 projects, a description of proposals submitted for this target

1 group and action taken on the proposals, and any barriers to
2 developing housing units for this target group.

3 (g) For the purposes of this subpart, the applicable
4 median family income shall be the median family income for the
5 county or standard metropolitan statistical area in which the
6 project is located as determined by the United States Department
7 of Housing and Urban Development, as adjusted from time to time.

8 (h) The corporation may provide loans and grants under
9 this section; provided that the corporation shall establish
10 loan-to-value ratios to protect the fund from inordinate risk
11 and that under no circumstances shall the rules permit the loan-
12 to-value ratio to exceed one hundred per cent; and provided
13 further that the underwriting guidelines include a debt-coverage
14 ratio of not less than 1.0 to 1.

15 (i) For the period commencing July 1, 2005, through June
16 30, 2007, the fund may be used to provide grants for rental
17 units set aside for persons and families with incomes at or
18 below thirty per cent of the median family income in any project
19 financed in whole or in part by the fund in proportion of those
20 units to the total number of units in the project. At the
21 conclusion of the period described in this subsection, the

1 corporation shall report to the legislature on the number and
2 use of grants provided and whether the grants were an effective
3 use of the funds for purposes of developing rental housing for
4 families at or below thirty per cent of median family income.

5 **§ -183 Eligible applicants for funds.** Eligible applicants
6 for funds shall include nonprofit and for-profit corporations,
7 limited liability companies, partnerships, and government
8 agencies, who are qualified in accordance with rules adopted by
9 the corporation pursuant to chapter 91.

10 **§ -184 Eligible projects.** (a) Activities eligible for
11 assistance from the fund shall include but not be limited to:

12 (1) New construction, rehabilitation, or preservation of
13 low-income rental housing units that meet the criteria
14 for eligibility described in subsection (c);

15 (2) The leveraging of moneys with the use of fund assets;

16 (3) Pre-development activity grants or loans to nonprofit
17 organizations; and

18 (4) Acquisition of housing units for the purpose of
19 preservation as low-income or very low-income housing.

20 (b) Preference shall be given to projects producing units
21 in at least one of the following categories:

- 1 (1) Multifamily units;
- 2 (2) Attached single-family units;
- 3 (3) Apartments;
- 4 (4) Townhouses;
- 5 (5) Housing units above commercial or industrial space;
- 6 (6) Single room occupancy units;
- 7 (7) Accessory apartment units;
- 8 (8) Employee housing;
- 9 (9) United States Department of Housing and Urban
- 10 Development mixed finance development of public
- 11 housing units; and
- 12 (10) Other types of units meeting the criteria for
- 13 eligibility set forth in subsection (c).
- 14 (c) The corporation shall establish an application process
- 15 for fund allocation that gives preference to projects meeting
- 16 the criteria set forth below that are listed in descending order
- 17 of priority:
- 18 (1) Serve the original target group;
- 19 (2) Provide at least five per cent of the total number of
- 20 units for persons and families with incomes at or
- 21 below thirty per cent of the median family income;

- 1 (3) Provide maximum number of units for persons or
2 families with incomes at or below eighty per cent of
3 the median family income;
- 4 (4) Are committed to serving the target population over a
5 longer period of time;
- 6 (5) Increase the integration of income levels of the
7 immediate community area;
- 8 (6) Meet the geographic needs of the target population of
9 the proposed rental housing project, such as proximity
10 to employment centers and services; and
- 11 (7) Have favorable past performance in developing, owning,
12 managing, or maintaining affordable rental housing.

13 The corporation may include other criteria in the above
14 process as it deems necessary to carry out the purposes of this
15 part.

16 If the corporation, after applying the process described in
17 this subsection, finds a nonprofit project equally ranked with a
18 for-profit or government project, the corporation shall give
19 preference to the nonprofit project in allotting fund moneys.

20 § -185 Additional powers. The powers conferred upon the
21 corporation by this subpart shall be in addition and

1 supplemental to the powers conferred upon it by any other law,
2 and nothing in this subpart shall be construed as limiting any
3 powers, rights, privileges, or immunities conferred upon the
4 corporation.

5 PART IV. EXPENDITURES OF REVOLVING FUNDS UNDER THE
6 CORPORATION EXEMPT FROM APPROPRIATION AND ALLOTMENT

7 § -191 Expenditures of revolving funds under the
8 corporation exempt from appropriation and allotment. Except as
9 to administrative expenditures, and except as otherwise provided
10 by law, expenditures from these revolving funds administered by
11 the corporation under subparts I and J, part III, or sections -
12 70, -113, 201G-142, or 516-44 may be made by the corporation
13 without appropriation or allotment of the legislature; provided
14 that no expenditure shall be made from and no obligation shall
15 be incurred against any revolving fund in excess of the amount
16 standing to the credit of the fund or for any purpose for which
17 the fund may not lawfully be expended. Nothing in sections 37-
18 31 to 37-41 shall require the proceeds of the revolving funds
19 identified in subparts I and J, part III, or sections -70, -
20 113, 201G-142, or 516-44 to be reappropriated annually.

1 certificates, mortgage-backed obligations, or other evidences of
2 indebtedness of the corporation issued pursuant to this chapter.

3 "Community facilities" includes real and personal property,
4 and buildings, equipment, lands, and grounds for recreational or
5 social assemblies, for educational, health, or welfare purposes
6 and necessary or convenient utilities, when designed primarily
7 for the benefit and use of the authority or the occupants of the
8 dwelling accommodations.

9 "Contract" means any agreement of the corporation with an
10 obligee or a trustee for the obligee, whether contained in a
11 resolution, trust indenture, mortgage, lease, bond, or other
12 instrument.

13 "Dwelling", "dwelling unit", or "unit" means any structure
14 or room, for sale, lease, or rent, that provides shelter.

15 "Elder" or "elderly" means a person who is a resident of
16 the State and has attained the age of sixty-two years.

17 "Elder or elderly households" means households in which at
18 least one member is sixty-two years of age, the spouse or
19 partner has attained the age of majority, and the remaining
20 members have attained the age of fifty-five years at the time of
21 application to the project. A live-in aide shall cease to be a

1 resident therein upon the recovery of, or removal from the
2 project of, the elder.

3 "Elder or elderly housing" means:

4 (1) A housing project intended for and occupied by elder
5 or elderly households; or

6 (2) Housing provided under any state or federal program
7 that the Secretary of the United States Department of
8 Housing and Urban Development determines is
9 specifically designed and operated to assist elder or
10 elderly persons, or if the Secretary makes a
11 determination, the project may also be occupied by
12 persons with disabilities who have reached the age of
13 majority.

14 "Executive director" means the executive director of the
15 Hawaii public housing authority.

16 "Federal government" includes the United States and any
17 agency or instrumentality, corporate or otherwise, of the United
18 States.

19 "Government" includes the State and the United States and
20 any political subdivision, agency, or instrumentality, corporate
21 or otherwise, of either of them.

1 "Household member" means a person who:

2 (1) Is a co-applicant; or

3 (2) Will reside in the dwelling unit leased or rented from
4 the authority.

5 "Land" or "property" includes vacant land or land with site
6 improvements whether partially or entirely finished in
7 accordance with governmental subdivision standards, or with
8 complete dwellings.

9 "Live-in aide" means a person who:

10 (1) Is eighteen years of age or older;

11 (2) Is living in the unit solely to assist the elder or
12 elderly person in daily living activities including
13 bathing, meal preparation and delivery, medicinal
14 care, transportation, and physical activities;

15 (3) Is not legally obligated to support the elder or
16 elderly person; and

17 (4) Is verified by the authority as meeting these
18 requirements.

19 "Mortgage holder" includes the United States Department of
20 Housing and Urban Development, Federal Housing Administration,
21 the United States Department of Agriculture, or other federal or

1 state agency engaged in housing activity, Administrator of
2 Veterans Affairs, Federal National Mortgage Association,
3 Government National Mortgage Association, Federal Home Loan
4 Mortgage Corporation, private mortgage lender, private mortgage
5 insurer, and their successors, grantees, and assigns.

6 "Mortgage lender" means any bank, trust company, savings
7 bank, national banking association, savings and loan
8 association, building and loan association, mortgage banker,
9 credit union, insurance company, or any other financial
10 institution, or a holding company for any of the foregoing,
11 which:

- 12 (1) Is authorized to do business in the State;
13 (2) Customarily provides service or otherwise aids in the
14 financing of mortgages on single-family or multifamily
15 residential property; and
16 (3) Is a financial institution whose accounts are
17 federally insured or is an institution that is an
18 approved mortgagee for the Federal Housing
19 Administration, an approved lender for the Department
20 of Veterans Affairs or the United States Department of
21 Agriculture, or an approved mortgage loan servicer for

1 the Federal National Mortgage Association or the
2 Federal Home Loan Mortgage Corporation.

3 "Nonprofit organization" means a corporation, association,
4 or other duly chartered entity that is registered with the State
5 and has received a written determination from the Internal
6 Revenue Service that it is exempt under either section
7 501(c)(3), section 501(c)(4), or so much of section 501(c)(2) as
8 applies to title holding corporations that turn over their
9 income to organizations that are exempt under either section
10 501(c)(3) or 501(c)(4), of the Internal Revenue Code of 1986, as
11 amended.

12 "Obligee of the authority" or "obligee" includes any
13 bondholder, trustee or trustees for any bondholders, any lessor
14 demising property to the authority used in connection with a
15 housing project, or any assignee or assignees of the lessor's
16 interest or any part thereof, and the United States, when it is
17 a party to any contract with the authority.

18 "Public housing project" or "complex" means a housing
19 project directly controlled, owned, developed, or managed by the
20 authority pursuant to the federal low rent public housing
21 program.

1 "Real property" includes lands, land under water,
2 structures, and any and all easements, franchises, and
3 incorporeal hereditaments and every estate and right therein,
4 legal and equitable, including terms for years and liens by way
5 of judgment, mortgage, or otherwise.

6 "Trustee" means a national or state bank or trust company
7 located within or outside the State which enters into a trust
8 indenture.

9 "Trust indenture" means an agreement by and between the
10 authority and the trustee, which sets forth the duties of the
11 trustee with respect to the bonds, the security therefor, and
12 other provisions as deemed necessary or convenient by the
13 authority to secure the bonds.

14 § -2 Hawaii public housing authority; establishment,
15 staff. (a) There is established the Hawaii public housing
16 authority to be placed within the department of human services
17 for administrative purposes only. The authority shall be a
18 public body and a body corporate and politic.

19 (b) The authority shall employ, exempt from chapter 76 and
20 section 26-35(a)(4), an executive director and an executive
21 assistant. The salary of the executive director and executive

1 assistant shall be set by the board of directors of the
2 authority with the approval of the governor. The authority may
3 employ, subject to chapter 76, technical experts and officers,
4 agents, and employees, permanent and temporary, as required.
5 The authority may also employ officers, agents, and employees;
6 prescribe their duties and qualifications; and fix their
7 salaries, not subject to chapter 76, when in the determination
8 of the authority, the services to be performed are unique and
9 essential to the execution of the functions of the authority.
10 The authority may call upon the attorney general for legal
11 services as it may require. The authority may delegate to one
12 or more of its agents or employees the powers and duties as it
13 deems proper.

14 **§ -3 Board; establishment, functions, duties.** (a) There
15 is created a board consisting of nine members, of whom eight
16 shall be public members appointed by the governor as provided in
17 section 26-34. Public members shall be appointed from each of
18 the counties of Honolulu, Hawaii, Maui, and Kauai. At least one
19 public member shall be a person who is directly assisted by the
20 authority under the federal low-rent public housing or federal
21 section 8 tenant-based housing assistance payments program while

1 serving on the board. The public members of the board shall
2 serve four-year staggered terms; provided that the initial
3 appointments shall be as follows: three members to be appointed
4 for four years; two members to be appointed for three years; and
5 two members to be appointed for two years. The director of
6 human services, or a designated representative, and a
7 representative of the governor's office, shall be ex officio
8 voting members. The authority shall be headed by the board.

9 (b) The board of directors shall select a chairperson and
10 vice-chairperson from among its members. The director of human
11 services and the governor's representative shall be ineligible
12 to serve as chairperson of the board.

13 § -4 General powers. (a) The authority may:

14 (1) Sue and be sued;

15 (2) Have a seal and alter the same at pleasure;

16 (3) Make and execute contracts and other instruments

17 necessary or convenient to the exercise of its powers;

18 and

19 (4) Adopt bylaws and rules in accordance with chapter 91

20 for its organization, internal management, and to

21 carry into effect its purposes, powers, and programs.

1 (b) In addition to other powers conferred upon it, the
2 authority may do all things necessary and convenient to carry
3 out the powers expressly provided in this chapter.

4 § -5 Resident advisory boards; establishment. (a) The
5 authority may establish a resident advisory board or boards,
6 which shall be comprised of federal public housing residents or
7 section 8 tenant-based housing assistance recipients, to assist
8 and make recommendations to the authority regarding the
9 development of the public housing agency plan and any
10 significant amendments or modifications to it. The members of
11 the resident advisory board or boards shall adequately reflect
12 and represent residents of federal public housing projects and
13 recipients of section 8 tenant-based assistance administered by
14 the authority.

15 (b) The members of the resident advisory board shall not
16 be compensated for their services but shall be reimbursed for
17 necessary expenses, including travel expenses, incurred while
18 engaged in business for the resident advisory board.

19 (c) The authority may adopt rules in accordance with
20 chapter 91 with respect to the establishment of the resident
21 advisory board or boards including, but not limited to, rules

1 concerning the composition, eligibility, selection, and term of
2 members. This section shall not apply if it conflicts with any
3 federal law.

4 **§ -6 Nomination of resident board member.** (a) In the
5 event of a vacancy for the resident member seat on the authority
6 board, the resident advisory board shall compile a list of five
7 individuals for the governor's consideration for appointment to
8 the board; provided the nominees to the board shall be:

9 (1) Participants who are directly assisted by the
10 authority under the federal public housing or section
11 8 tenant-based programs and who need not be members of
12 the resident advisory board;

13 (2) At least eighteen years of age; and

14 (3) Authorized members of the assisted household.

15 (b) Any individual satisfying the requirements of
16 subsections (1), (2), and (3) may also submit that individuals'
17 name for the governor's consideration for appointment to the
18 board.

19 **§ -7 Fair housing law to apply.** Notwithstanding any law
20 to the contrary, the provisions of chapter 515 shall apply in
21 administering this chapter.

1 § -8 Acquisition, use, disposition of property. (a) The
2 authority may acquire any real or personal property or interest
3 therein by purchase, exchange, gift, grant, lease, or other
4 means from any person or government to provide public housing.
5 Exchange of real property shall be in accordance with section
6 171-50.

7 (b) The authority may own or hold real property. All real
8 property owned or held by the authority shall be exempt from
9 mechanics' or materialmen's liens and also from levy and sale by
10 virtue of an execution, and no execution or other judicial
11 process shall issue against the same nor shall any judgment
12 against the authority be a charge or lien upon its real
13 property; provided that this subsection shall not apply to or
14 limit the right of obligees to foreclose or otherwise enforce
15 any mortgage of the authority or the right of obligees to pursue
16 any remedies for the enforcement of any pledge or lien given by
17 the authority on its rents, fees, or revenues. The authority
18 and its property shall be exempt from all taxes and assessments.

19 (c) The authority may lease or rent all or a portion of
20 any public housing project and establish and revise the rents or
21 charges therefor. The authority may sell, exchange, transfer,

1 assign, or pledge any property, real or personal, or any
2 interest therein to any person or government.

3 (d) The authority may insure or provide for the insurance
4 of its property or operations against risks as it deems
5 advisable.

6 **§ -9 Cooperative agreements with other governmental**
7 **agencies.** (a) The authority may:

8 (1) Obtain the aid and cooperation of governments in the
9 planning, construction, and operation of public
10 housing projects and enter into agreements and
11 arrangements as it deems advisable to obtain aid and
12 cooperation;

13 (2) Arrange or enter into agreements with any government
14 for the acquisition by the government of property,
15 options, or property rights or for the furnishing,
16 installing, opening, or closing of streets, roads,
17 alleys, sidewalks, or other places, or for the
18 furnishing of property, services, parks, sewage,
19 water, and other facilities in connection with public
20 housing projects, or for the changing of the map of a
21 political subdivision or the planning, replanning,

1 zoning, or rezoning of any part of a political
2 subdivision;

3 (3) Procure insurance or guarantees from any government
4 for the payment of any debts or parts thereof incurred
5 by the authority, including the power to pay premiums
6 on any such insurance; and

7 (4) Agree to make payments to the state or county
8 government, if the government is authorized to accept
9 payments, as the authority deems consistent with the
10 maintenance of the character of public housing
11 projects or the purposes of this chapter.

12 (b) For the purpose of aiding and cooperating in the
13 planning, construction, and operation of public housing projects
14 located within their respective territorial boundaries, the
15 state or county government, upon those terms, with or without
16 consideration, as it determines, may:

17 (1) Dedicate, grant, sell, convey, or lease any of its
18 property, or grant easements, licenses, or any other
19 rights or privileges therein to the authority or to
20 the federal government;

1 (2) To the extent that it is within the scope of each of
2 their respective functions:

3 (A) Cause the services customarily provided by each
4 of them to be rendered for the benefit of public
5 housing projects and the occupants thereof;

6 (B) Provide and maintain parks and sewage, water,
7 lights, and other facilities adjacent to or in
8 connection with public housing projects;

9 (C) Open, close, pave, install, or change the grade
10 of streets, roads, roadways, alleys, sidewalks,
11 or other related facilities; and

12 (D) Change the map of a political subdivision or
13 plan, replan, zone, or rezone any part of a
14 political subdivision;

15 (3) Enter into agreements with the authority with respect
16 to the exercise of their powers relating to the
17 repair, closing, or demolition of unsafe, unsanitary,
18 or unfit dwellings;

19 (4) Employ, notwithstanding any other law as to what
20 constitutes legal investments, any available funds
21 belonging to them or within their control, including

1 funds derived from the sale or furnishing of property
2 or facilities to the authority, in the purchase of the
3 bonds or other obligations of the authority to the
4 extent provided by section -21; and exercise all the
5 rights of any holder of the bonds or other
6 obligations;

7 (5) Do any and all things necessary or convenient to aid
8 and cooperate in the planning, undertaking, and
9 construction of such public housing projects; and

10 (6) Enter into contracts with the authority or the federal
11 government for any period agreeing to exercise any of
12 the powers conferred hereby or to take any other
13 action in aid of such public housing projects.

14 In connection with the exercise of this power, any
15 political subdivision may incur the entire expense of any such
16 public improvements located within its territorial boundaries
17 without assessment against abutting property owners.

18 For the purpose of aiding and cooperating in the planning,
19 construction, and operation of public housing projects, the
20 department of land and natural resources, the Hawaiian homes
21 commission, and any other agency of the State having power to

1 manage or dispose of its public lands, may, with the approval of
2 the governor and with or without consideration, grant, sell,
3 convey, or lease for any period, any parts of such public lands,
4 without limit as to area, to the authority or to the federal
5 government.

6 Any law to the contrary notwithstanding, any gift, grant,
7 sale, conveyance, lease, or agreement provided for in this
8 section may be made by the state or county government without
9 appraisal, public notice, advertisement, or public bidding.

10 If at any time title to, or possession of, any public
11 housing project is held by any government authorized by law to
12 engage in the development or authority of low-rent housing or
13 slum clearance projects, any agreement made under this chapter
14 relating to the project shall inure to the benefit of and may be
15 enforced by that government.

16 Insofar as this subsection is inconsistent with the
17 provisions of any other law, this subsection shall be
18 controlling.

19 (c) The government of any county in which a public housing
20 project is located or is about to be located may make donations
21 or advances to the authority in sums as the county in its

1 discretion may determine. The advances or donations shall be
2 made for the purpose of aiding or cooperating in the
3 construction and operation of the public housing project. The
4 authority, when it has money available therefor, shall reimburse
5 the county for all advances made by way of a loan to it.

6 **§ -10 Agents, including corporations.** The authority may
7 exercise any or all of the powers conferred upon it, either
8 generally or with respect to any specific public housing project
9 through an agent that it may designate, including any
10 corporation that is formed under the laws of this State, and for
11 such purposes the authority may cause one or more corporations
12 to be formed under the laws of this State or may acquire the
13 capital stock of any corporation. Any corporate agent, all of
14 the stock of which shall be owned by the authority or its
15 nominee, may to the extent permitted by law, exercise any of the
16 powers conferred upon the authority herein.

17 **§ -11 Development of property.** (a) The authority, in its
18 own behalf or on behalf of any government, may:

- 19 (1) Clear, improve, and rehabilitate property; and
20 (2) Plan, develop, construct, and finance public housing
21 projects.

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

12 (c) The authority may develop or assist in the development
13 of federal lands with the approval of appropriate federal
14 authorities.

15 (d) The authority shall not develop any public land where
16 the development may endanger the receipt of any federal grant,
17 impair the eligibility of any public body for a federal grant,
18 prevent the participation of the federal government in any
19 government program, or impair any covenant between the
20 government and the holder of any bond issued by the government.

1 (e) The authority may contract or sponsor with any county,
2 housing authority, or person, subject to the availability of
3 funds, an experimental or demonstration housing project designed
4 to meet the needs of elders, disabled, displaced or homeless
5 persons, low and moderate income persons, employees, teachers,
6 or other government workers, or university and college students
7 and faculty.

8 § -12 Development of property; additional powers.

9 Notwithstanding any provision to the contrary, whenever the bids
10 submitted for any development or rehabilitation project
11 authorized pursuant to part II exceed the amount of funds
12 available for that project, the authority, with the approval of
13 the governor, may disregard the bids and enter into an agreement
14 to carry out the project, or undertake the project or
15 participate in the project under the agreement; provided that
16 the total cost of the agreement and the authority's
17 participation, if any, shall not exceed the amount of funds
18 available for the project; provided further that if the
19 agreement is with a nonbidder, the scope of the project under
20 agreement shall remain the same as that for which bids were
21 originally requested.

1 **§ -13 Administration of federal programs.** (a) The
2 authority may carry out federal programs designated to be
3 carried out by a public housing agency, or entity designated by
4 the authority.

5 (b) The authority shall adopt necessary rules in
6 accordance with chapter 91, including the establishment and
7 collection of reasonable fees for administering the program, to
8 carry out any federal program in subsection (a).

9 (c) All fees collected for administering the program may
10 be deposited into an appropriate special fund of the authority
11 and may be used to cover the administrative expenses of the
12 authority.

13 **§ -14 Federal funds outside of state treasury.**
14 Notwithstanding chapter 38, the authority may establish and
15 manage federal funds outside of the state treasury to be used
16 for federal housing programs. The authority shall invest such
17 funds in permitted investments in accordance with chapter 36.

18 **§ -15 Eminent domain, exchange or use of public property.**
19 The authority may acquire any real property, including fixtures
20 and improvements, or interest therein, through voluntary
21 negotiation; through exchange of land in accordance with section

1 171-50, provided that the public land to be exchanged need not
2 be of like use to that of the private land; or by the exercise
3 of the power of eminent domain which it deems necessary by the
4 adoption of a resolution declaring that the acquisition of the
5 property described therein is in the public interest and
6 required for public use. The authority shall exercise the power
7 of eminent domain granted by this section in the same manner and
8 procedure as is provided by chapter 101, and otherwise in
9 accordance with all applicable provisions of the general laws of
10 the State; provided that condemnation of parcels greater than
11 fifteen acres shall be subject to legislative disapproval
12 expressed in a concurrent resolution adopted by majority vote of
13 the senate and the house of representatives in the first regular
14 or special session following the date of condemnation.

15 The authority may acquire by the exercise of the power of
16 eminent domain property already devoted to a public use,
17 provided that no property belonging to any government may be
18 acquired without its consent, and that no property belonging to
19 a public utility corporation may be acquired without the
20 approval of the public utilities commission, and subject to
21 legislative disapproval expressed in a concurrent resolution

1 adopted by majority vote of the senate and the house of
2 representatives in the first regular or special session
3 following the date of condemnation.

4 **§ -16 Contracts with federal government.** (a) The
5 authority may:

6 (1) Borrow money or accept grants from the federal
7 government for or in aid of any public housing project
8 that the authority is authorized to undertake;

9 (2) Take over any land acquired by the federal government
10 for the construction or operation of a public housing
11 project;

12 (3) Take over, lease, or manage any public housing project
13 constructed or owned by the federal government, and to
14 these ends, enter into contracts, mortgages, leases,
15 or other agreements as the federal government may
16 require including agreements that the federal
17 government shall have the right to supervise and
18 approve the construction, maintenance, and operation
19 of the public housing project;

20 (4) Procure insurance or guarantees from the federal
21 government of the payment of any debts or parts

1 thereof secured by mortgages made or held by the
2 authority on any property included in any public
3 housing project;

4 (5) Agree to any conditions attached to federal financial
5 assistance relating to the determination of prevailing
6 salaries or wages or payment of not less than
7 prevailing salaries or wages or compliance with labor
8 standards, in the development or administration of
9 projects, and include in any construction contract let
10 in connection with a project, stipulations requiring
11 that the contractor and any subcontractors comply with
12 requirements as to minimum salaries or wages and
13 maximum hours of labor;

14 (6) Comply with any conditions required by the federal
15 government in any contract for financial assistance;
16 and

17 (7) Execute contracts with the federal government.

18 (b) In any contract for annual contributions with the
19 federal government, the authority may obligate itself to convey
20 to the federal government possession of or title to the project
21 to which the contract relates, if a substantial default, as

1 defined by contract, occurs. Notwithstanding any other law to
2 the contrary, this obligation shall be specifically enforceable
3 and shall not constitute a mortgage.

4 The contract may provide further that if a conveyance
5 occurs, the federal government may complete, operate, manage,
6 lease, convey, or otherwise deal with the project in accordance
7 with the terms of the contract; provided that the contract shall
8 require that as soon as practicable after the federal government
9 is satisfied that all defaults with respect to the project have
10 been cured and that the project will thereafter be operated in
11 accordance with the terms of the contract, the federal
12 government shall reconvey to the authority the project as then
13 constituted.

14 (c) It is the purpose and intent of this part to authorize
15 the authority to do any and all things necessary to secure the
16 financial aid and the cooperation of the federal government in
17 the undertaking, construction, maintenance, and operation of any
18 public housing project that the authority is empowered to
19 undertake.

20 § -17 Public works contracts. The authority may make,
21 execute, and carry out contracts for, or in connection with, any

1 housing project in the manner provided in chapter 103D and
2 section 103-53; and, with regard to the contracts, the term
3 "officers", as used in chapter 103D, shall mean the authority or
4 officer authorized by the authority to act as its contracting
5 officer. Unless made and executed in the name of the State,
6 each contract made and executed as authorized in this section
7 shall state therein that it is so made and executed.

8 **§ -18 Remedies of an obligee; mandamus; injunction;**
9 **possessory action; receiver; accounting; etc.** An obligee of the
10 authority shall have the right, in addition to all other rights
11 that may be conferred on the obligee subject only to any
12 contractual restrictions binding upon the obligee, and subject
13 to the prior and superior rights of others:

14 (1) By mandamus, suit, action, or proceeding in law or
15 equity to compel the authority, and the members,
16 officers, agents, or employees thereof to perform each
17 and every item, provision, and covenant contained in
18 any contract of the authority, and to require the
19 carrying out of any or all covenants and agreements of
20 the authority and the fulfillment of all duties
21 imposed upon the authority by this chapter;

1 (2) By suit, action, or proceeding in equity to enjoin any
2 acts or things which may be unlawful, or the violation
3 of any of the rights of the obligee of the authority;

4 (3) By suit, action, or proceeding in any court of
5 competent jurisdiction to cause possession of any
6 public housing project or any part thereof to be
7 surrendered to any obligee having the right to
8 possession pursuant to any contract of the
9 administration;

10 (4) By suit, action, or proceeding in any court of
11 competent jurisdiction, upon the happening of an event
12 of default (as defined in a contract of the
13 authority), to obtain the appointment of a receiver of
14 any public housing project of the corporation or any
15 part or parts thereof, and if the receiver is
16 appointed, the receiver may enter and take possession
17 of the public housing project or any part or parts
18 thereof and operate and maintain same, and collect and
19 receive all fees, rents, revenues, or other charges
20 thereafter arising therefrom in the same manner as the
21 authority itself might do and shall keep the moneys in

1 a separate account or accounts and apply the same in
2 accordance with the obligations of the authority as
3 the court shall direct; and

4 (5) By suit, action, or proceeding in any court of
5 competent jurisdiction to require the authority and
6 the members thereof to account as if it and they were
7 the trustees of an express trust.

8 § -19 Subordination of mortgage to agreement with
9 government. The authority may agree in any mortgage made by it
10 that the mortgage shall be subordinate to a contract for the
11 supervision by a government of the operation and maintenance of
12 the mortgaged property and the construction of improvements
13 thereon. In that event, any purchaser or purchasers at a sale
14 of the property of the authority pursuant to a foreclosure of
15 the mortgage or any other remedy in connection therewith shall
16 obtain title subject to the contract.

17 § -20 Duty to make reports. Except as otherwise provided
18 by law, the authority shall be responsible for the following
19 reports:

1 (1) The authority shall file at least once a year with the
2 governor a report of its activities for the preceding
3 fiscal year;

4 (2) The authority shall report to the state comptroller on
5 moneys deposited in depositories other than the state
6 treasury under section 40-81, and rules adopted
7 thereunder;

8 (3) The authority shall submit an annual report to the
9 legislature on all program areas no later than twenty
10 days prior to the convening of each regular session,
11 which shall provide the following information on the
12 status of its programs and finances:

13 (A) A financial audit and report conducted on an
14 annual basis by a certified public accounting
15 firm; and

16 (B) Recommendations with reference to any additional
17 legislation or other action that may be necessary
18 in order to carry out the purposes of this part.

19 § -21 Bonds; authorization. (a) The authority, with the
20 approval of the governor, may issue from time to time bonds
21 (including refunding bonds to pay, retire, or provide for the

1 retirement of bonds previously issued by the authority) in
2 amounts not exceeding the total amount of bonds authorized to be
3 issued by the legislature for any of its corporate purposes.

4 (b) All bonds shall be issued pursuant to part III of
5 chapter 39, except as provided in this part.

6 (c) The bonds shall be issued in the name of the
7 authority, and not in the name of the State. The final maturity
8 date of the revenue bonds may be any date not exceeding sixty
9 years from the date of issuance.

10 (d) The authority may issue such types of bonds as it may
11 determine, including, without limitation, bonds payable from and
12 secured, in whole or in part, by:

13 (1) Income and revenues derived from the public housing
14 project or projects financed from the proceeds of
15 bonds;

16 (2) Receipts derived from any grant from the federal
17 government made in aid of a public housing project or
18 projects financed from the proceeds of bonds;

19 (3) Income and revenues derived from a particular
20 designated public housing project or projects whether

1 or not financed, in whole or in part, from the
2 proceeds of bonds;

3 (4) Income and revenues of the authority generally; or

4 (5) Any combination of the above.

5 (e) Any pledge made by the authority shall create a
6 perfected security interest in the revenues, moneys, or property
7 so pledged and thereafter received by the authority from and
8 after the time that a financing statement with respect to the
9 revenues, moneys, or property so pledged and thereafter received
10 shall be filed with the bureau of conveyances. Upon the filing,
11 the revenues, moneys, or property so pledged and thereafter
12 received by the authority shall immediately be subject to the
13 lien of such pledge without any physical delivery thereof or
14 further act, and the lien of any such pledge shall be prior to
15 the lien of all parties having claims by any kind in tort,
16 contract, or otherwise against the authority, irrespective of
17 whether such parties have notice thereof. This section shall
18 apply to any financing statement heretofore or hereafter filed
19 with the bureau of conveyances with respect to any pledge made
20 to secure revenue bonds issued under this part.

1 (f) Any public housing project or projects authorized by,
2 and undertaken pursuant to, this chapter shall constitute an
3 "undertaking" within the meaning of that term as defined and
4 used in part III, chapter 39; and the authority shall constitute
5 a "department" and the board shall constitute a "governing body"
6 within the meaning of those terms as defined and used in part
7 III, chapter 39.

8 (g) Neither the members of the authority nor any person
9 executing the bonds shall be liable personally on the bonds by
10 reason of the issuance thereof.

11 § -22 Bonds; interest rate, price, and sale. (a) The
12 bonds shall bear interest at rates payable at times that the
13 authority, with the approval of the governor, may determine
14 except for deeply discounted bonds that are subject to
15 redemption or retirement at their accreted value; provided that
16 the discounted value of the bonds shall not exceed ten per cent
17 of any issue; and provided further that no bonds may be issued
18 without the approval of the director of finance and the
19 governor. Notwithstanding any other law to the contrary, the
20 authority may, subject to the approval of the director of
21 finance and the governor, issue bonds pursuant to section -21,

1 in which the discounted value of the bonds exceeds ten per cent
2 of the issue.

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

13 **§ -23 Trustee; designation, duties.** (a) The authority
14 may designate a trustee for each issue of bonds secured under
15 the same trust indenture; provided that the trustee shall be
16 approved by the director of finance.

17 (b) The trustee shall be authorized by the authority to
18 receive and receipt for, hold, and administer the proceeds of
19 the bonds, and to apply the proceeds to the purposes for which
20 the bonds are issued.

1 (c) The trustee shall also be authorized by the authority
2 to hold and administer any public housing project bond special
3 funds established pursuant to section -28, and to receive and
4 receipt for, hold, and administer the revenues derived by the
5 corporation from any public housing project or projects for
6 which the bonds are issued or the projects pledged to the
7 payment of the bonds, and to apply the revenues to the payment
8 of the cost of administering, operating, and maintaining the
9 public housing project or projects, to pay the principal of and
10 the interest on the bonds, to the establishment of reserves, and
11 to other purposes as may be authorized in the proceedings
12 providing for the issuance of the bonds.

13 (d) Notwithstanding section 39-68, the director of finance
14 may appoint the trustee to serve as fiscal agent for:

15 (1) The payment of the principal of and interest on the
16 bonds; and

17 (2) The purchase, registration, transfer, exchange, and
18 redemption of the bonds.

19 (e) The trustee shall perform additional functions with
20 respect to the payment, purchase, registration, transfer,
21 exchange, and redemption, as the director of finance may deem

1 necessary, advisable, or expeditious, including the holding of
2 the bonds and coupons, if any, that have been paid and the
3 supervision of their destruction in accordance with law.

4 (f) Nothing in this part shall limit or be construed to
5 limit the powers granted to the director of finance in sections
6 36-3, 39-13, and 39-68(a), to appoint the trustee or others as
7 fiscal agents, paying agents, and registrars for the bonds or to
8 authorize and empower those fiscal agents, paying agents, and
9 registrars to perform the functions referred to in those
10 sections.

11 § -24 Trust indenture. (a) A trust indenture may contain
12 covenants and provisions authorized by part III of chapter 39,
13 and as deemed necessary or convenient by the authority for the
14 purposes of this part.

15 (b) A trust indenture may allow the authority to pledge
16 and assign to the trustee agreements related to the public
17 housing project or projects and the rights of the authority
18 thereunder, including the right to receive revenues thereunder
19 and to enforce the provision thereof.

20 (c) Where a trust indenture provides that any bond issued
21 under that trust indenture is not valid or obligatory for any

1 purpose unless certified or authenticated by the trustee, all
2 signatures of the officers of the State upon the bonds required
3 by section 39-56 may be facsimiles of their signatures.

4 (d) A trust indenture shall also contain provisions as to:

5 (1) The investment of the proceeds of the bonds, the
6 investment of any reserve for the bonds, the
7 investment of the revenues of the public housing
8 project or system of public housing projects, and the
9 use and application of the earnings from investments;
10 and

11 (2) The terms and conditions upon which the holders of the
12 bonds or any portion of them or any trustee thereof
13 may institute proceedings for the enforcement of any
14 agreement or any note or other undertaking,
15 obligation, or property securing the payment of the
16 bonds and the use and application of the moneys
17 derived therefrom.

18 (e) A trust indenture may also contain provisions deemed
19 necessary or desirable by the authority to obtain or
20 permit, by grant, interest subsidy, or otherwise, the
21 participation of the federal government in the public

1 housing projects or in the financing of the costs of
2 administering, operating, or maintaining the public
3 housing projects.

4 § -25 Investment of reserves, etc. The authority may
5 invest any funds held in reserves or sinking funds or any funds
6 not required for immediate disbursement, including the proceeds
7 of bonds, in property or securities in which the director of
8 finance may legally invest, as provided in section 36-21, except
9 that funds held outside the state treasury may be invested for
10 terms not to exceed thirty-five years. No provisions with
11 respect to the acquisition, operation, or disposition of
12 property by other public bodies shall be applicable to the
13 authority unless the legislature shall specifically so state.

14 § -26 Security for funds deposited by the authority. The
15 authority may by resolution provide that all moneys deposited by
16 it shall be secured:

17 (1) By any securities by which funds deposited by the
18 director of finance may be legally secured as provided
19 in section 38-3; or

20 (2) By an undertaking with sureties as are approved by the
21 authority faithfully to keep and pay over upon the

1 order of the authority any deposits and agreed
2 interest thereon, and all banks and trust companies
3 are authorized to give any such security for such
4 deposits.

5 **§ -27 Arbitrage provisions; interest rate.** (a) Any other
6 provision of law to the contrary notwithstanding, neither the
7 authority nor the director of finance shall make loans or
8 purchase mortgages with the proceeds of general obligation bonds
9 of the State or from a revolving fund established or maintained
10 from the proceeds of bonds, at a rate of interest or upon terms
11 and conditions which would cause any general obligation bond of
12 the State or any bond to be an "arbitrage bond" within the
13 meaning of that term as defined in the Internal Revenue Code of
14 1986, as amended, and the regulations of the Internal Revenue
15 Service promulgated pursuant thereto.

16 (b) The rate of interest on loans made under this chapter
17 from the proceeds of general obligation bonds of the State shall
18 be established by the authority, with the approval of the
19 director of finance, after each sale of general obligation bonds
20 of the State, the proceeds of which are to be used for the
21 purposes of making loans or purchasing mortgages under this

1 chapter. If no sale of general obligation bonds of the State
2 intervenes in a twelve-month period after the last rate fixing,
3 the authority may review the then existing rates on loans or
4 mortgages made under this chapter from the proceeds of general
5 obligation bonds of the State and retain the existing rate or,
6 with the approval of the director of finance, establish
7 different rates.

8 (c) The director of finance shall approve those rates so
9 as to produce up to, but not in excess of, the maximum yield to
10 the State or the authority permitted under the Internal Revenue
11 Code of 1986, as amended, and the regulations of the Internal
12 Revenue Service promulgated pursuant thereto, on the assumption
13 that the general obligation bonds of the State, the proceeds of
14 which have been or are to be used for the purposes of making
15 loans or purchasing mortgages under this chapter, would
16 otherwise be "arbitrage bonds" under the Internal Revenue Code
17 of 1986, as amended, and the regulations of the Internal Revenue
18 Service promulgated pursuant thereto, were the maximum yield to
19 be exceeded. The establishment of the rates of interest shall
20 be exempt from chapter 91.

1 § -28 Public housing revolving fund; housing project bond

2 special funds. (a) There is established the public housing
3 revolving fund to be administered by the authority.

4 Notwithstanding section 36-21, the proceeds in the fund shall be
5 used for long-term and other special financings of the authority
6 and for necessary expenses in administering this chapter.

7 (b) All moneys received and collected by the authority,
8 not otherwise pledged or obligated nor required by law to be
9 placed in any other special fund, shall be deposited into the
10 public housing revolving fund.

11 (c) A separate special fund shall be established for each
12 public housing project or projects financed from the proceeds of
13 bonds secured under the trust indenture. Each fund shall be
14 designated "housing project bond special fund" and shall bear
15 additional designation as the authority deems appropriate to
16 properly identify the fund.

17 (d) Notwithstanding any other law to the contrary, all
18 revenues, income, and receipts derived from a public housing
19 project or projects financed from the proceeds of bonds or
20 pledged to the payment of principal of and interest and premium
21 on bonds, shall be paid into the housing project bond special

1 fund established for the public housing project or projects and
2 applied as provided in the proceedings authorizing the issuance
3 of bonds.

4 **§ -29 Quitclaim deeds.** Unless otherwise provided by law,
5 the authority shall issue quitclaim deeds and leases whenever it
6 conveys, transfers, sells, or assigns any property developed,
7 constructed, or sponsored under this chapter.

8 **PART II. FEDERAL LOW INCOME HOUSING**

9 **§ -31 Rentals and tenant selection.** (a) In the operation
10 or management of public housing projects, the authority (acting
11 directly or by an agent or agents) shall at all times, observe
12 the following duties with respect to rentals and tenant
13 selections:

14 (1) It may establish maximum limits of annual net income
15 for tenant selection in any public housing project,
16 less such exemptions as may be authorized by federal
17 regulations pertaining to public housing. The
18 authority may agree to conditions as to tenant
19 eligibility or preference required by the federal
20 government pursuant to federal law in any contract for
21 financial assistance with the authority;

1 (2) It may rent or lease the dwelling accommodations
2 therein only at rentals within the financial reach of
3 persons who lack the amount of income which it
4 determines to be necessary in order to obtain safe,
5 sanitary, and uncongested dwelling accommodations
6 within the area of operation of the authority and to
7 provide an adequate standard of living; and

8 (3) It may rent or lease to a tenant a dwelling consisting
9 of the number of rooms (but no greater number) which
10 it deems necessary to provide safe and sanitary
11 accommodations to the proposed occupants thereof,
12 without overcrowding.

13 (b) Nothing in this part shall be construed as limiting
14 the power of the authority:

15 (1) To vest in an obligee the right, in the event of a
16 default by the authority, to take possession of a
17 public housing project or cause the appointment of a
18 receiver thereof, free from all the restrictions
19 imposed by this part with respect to rentals, tenant
20 selection, manner of operation, or otherwise; or

1 (2) To vest in obligees the right, in the event of a
2 default by the authority, to acquire title to a public
3 housing project or the property mortgaged by the
4 authority, free from all the restrictions imposed by
5 this part.

6 § -32 Delinquent accounts. (a) Notwithstanding section
7 40-82, the authority, with the approval of the attorney general,
8 may delete from its accounts receivable records delinquent
9 accounts for vacated units within federal low rent public
10 housing projects that have been delinquent for at least ninety
11 days.

12 (b) The delinquent accounts may be assigned to a
13 collection agency.

14 (c) Before the authority seeks eviction of a tenant due to
15 delinquency in payment of rent, the authority shall comply with
16 the procedures set forth in section 201G-52(b) before proceeding
17 with the eviction hearing.

18 § -33 Investigatory powers. (a) The authority may:

19 (1) Investigate living, dwelling, and housing conditions
20 and the means and methods of improving such
21 conditions;

- 1 (2) Enter upon any building or property in order to
2 conduct investigations or to make surveys or
3 soundings;
- 4 (3) Conduct examinations and investigations and hear
5 testimony and take proof under oath at public or
6 private hearings on any matter material for its
7 information;
- 8 (4) Issue subpoenas requiring the attendance of witnesses
9 or the production of books and papers, and order the
10 examination of witnesses who are unable to attend
11 before the authority, are excused from attendance, or
12 by leave of courts as provided by chapter 624, are out
13 of the State; and
- 14 (5) Make available to any government agency charged with
15 the duty of abating or requiring the correction of
16 nuisances or like conditions, or of demolishing unsafe
17 or unsanitary structures within its territorial
18 limits, its findings and recommendations with regard
19 to any building or property where conditions exist
20 which are dangerous to the public health, morals,
21 safety, or welfare.

1 (b) Investigations or examinations may be conducted by the
2 authority or by a committee appointed by it, consisting of one
3 or more members, or by counsel, or by an officer or employee
4 specially authorized by the authority to conduct it. Any person
5 designated by the authority to conduct an investigation or
6 examination shall have power to administer oaths, take
7 affidavits, and issue subpoenas or orders for the taking of
8 depositions.

9 **§ -34 Additional powers.** The powers conferred upon the
10 corporation by this subpart shall be in addition and
11 supplemental to the powers conferred upon it by any other law,
12 and nothing herein shall be construed as limiting any powers,
13 rights, privileges, or immunities so conferred upon it.

14 **PART III. State Low Income Housing**

15 **A. State low income housing; administration**

16 **§ -41 Definitions.** The following terms, wherever used or
17 referred to in this subpart, shall have the following respective
18 meanings, unless a different meaning clearly appears from the
19 context:

20 "Administer" or "administration" means the management,
21 operation, maintenance, and regulation of any state low income

1 housing project. It also includes any and all undertakings
2 necessary therefor.

3 "Veteran" includes any person who served in the military or
4 naval forces of the United States during World War II and who
5 has been discharged or released therefrom under conditions other
6 than dishonorable. The term "veteran" includes Filipino World
7 War II veterans who served honorably in an active duty status
8 under the command of the United States Armed Forces in the Far
9 East (USAFFE), or within the Philippine Army, the Philippine
10 Scouts, or recognized guerilla units. The Filipino World War II
11 veterans must have: served at any time between September 1,
12 1939, and December 31, 1946; been born in the Philippines; and
13 resided in the Philippines prior to the military service.

14 § -42 Housing, tenant selection. Subject to the following
15 limitations and preferences, the authority shall select tenants
16 upon the basis of those in greatest need for such housing. The
17 authority may limit the tenants of any state low income housing
18 project to classes of persons when required by federal law or
19 regulation as a term or condition of obtaining assistance from
20 the federal government. Within the priorities established by
21 the authority recognizing need, veterans with a permanent

1 disability of ten per cent or more as certified by the United
2 States Department of Veterans' Affairs, the dependent parents of
3 the veteran and the deceased veteran's widow shall be given
4 first preference.

5 § -43 Rentals. (a) Notwithstanding any provision of law
6 to the contrary, the authority shall fix the rates of the
7 rentals for dwelling accommodations and other facilities in the
8 state low income housing projects provided for by this subpart,
9 at rates that will produce revenues that will be sufficient to
10 pay all expenses of management, operation, and maintenance,
11 including the cost of insurance, a proportionate share of the
12 administrative expenses of the authority to be fixed by it, and
13 the costs of repairs, equipment, and improvements, to the end
14 that the state low income housing projects shall be and always
15 remain self-supporting. The authority, in its discretion, may
16 fix the rates in such amounts as will produce additional
17 revenues (in addition to the foregoing) sufficient to amortize
18 the cost of the state low income housing project or projects,
19 including equipment, over a period or periods of time that the
20 authority may deem advisable.

1 (b) Notwithstanding any provision of law to the contrary,
2 if any such state low income housing project or projects have
3 been specified in any resolution of issuance adopted pursuant to
4 part I or if the income or revenues from any such project or
5 projects have been pledged by the authority to the payment of
6 any bonds issued under part I, or if any of the property of any
7 such state low income housing project or projects is security
8 for any such bonds, the authority shall fix the rates of the
9 rentals for dwelling accommodations and other facilities in the
10 state low income housing project or projects so specified or
11 encumbered at increased rates that will produce the revenues
12 required by subsection (a) and, in addition, those amounts that
13 may be required by part I, by any resolution of issuance adopted
14 under part I and by any bonds or mortgage or other security
15 issued or given under part I.

16 **§ -44 Administration of state low income housing projects**
17 **and programs.** (a) The authority may construct, develop, and
18 administer property or housing for the purpose of state low
19 income housing projects and programs.

20 (b) State low income housing projects shall be subject to
21 chapter 521, Hawaii Revised Statutes.

1 (c) The authority shall adopt necessary rules in
2 accordance with chapter 91 including the establishment and
3 collection of reasonable fees for administering the state low
4 income housing projects or programs and to carry out any state
5 program under subsection (a).

6 § -45 State low income housing revolving fund. The
7 director of finance shall establish a revolving fund to be known
8 as "the state low income housing revolving fund".
9 Notwithstanding any law to the contrary, moneys received by the
10 authority under or pursuant to this subpart, including refunds,
11 reimbursements, rentals, fees, and charges received from
12 tenants, shall be deposited in the state low income housing
13 revolving fund. Except as otherwise provided in this chapter,
14 the state low income housing revolving fund may be expended by
15 the authority for any and all of the purposes of this subpart,
16 including, without prejudice to the generality of the foregoing,
17 the expenses of management, operation, and maintenance of state
18 low income housing, including but not limited to the cost of
19 insurance, a proportionate share of the administrative expenses
20 of the authority, and the cost of repairs, equipment, and
21 improvement; the acquisition, clearance, and improvement of

1 property; the construction and reconstruction of building sites;
2 the construction, reconstruction, repair, remodeling, extension,
3 equipment, and furnishing of any state low income housing
4 project; the development and administration of any state low
5 income housing project; the payment of rentals; and
6 administration and other expenses.

7 **§ -46 Investigatory powers.** (a) The authority may:

8 (1) Investigate living, dwelling, and housing conditions
9 and the means and methods of improving those
10 conditions;

11 (2) Enter upon any building or property in order to
12 conduct investigations or to make surveys or
13 soundings;

14 (3) Conduct examinations and investigations, hear
15 testimony and take proof under oath at public or
16 private hearings on any matter material for its
17 information;

18 (4) Issue subpoenas requiring the attendance of witnesses
19 or the production of books and papers, and order the
20 examination of witnesses who are unable to attend
21 before the authority, are excused from attendance, or

1 by leave of courts as provided by chapter 624, are out
2 of the State; and

3 (5) Make available to any government agency charged with
4 the duty of abating or requiring the correction of
5 nuisances or like conditions, or of demolishing unsafe
6 or unsanitary structures within its jurisdictional
7 limits, its findings and recommendations with regard
8 to any building or property where conditions exist
9 which are dangerous to the public health, morals,
10 safety, or welfare.

11 (b) Investigations or examinations may be conducted by the
12 authority or by a committee appointed by it, consisting of one
13 or more members, or by counsel, or by an officer or employee
14 specially authorized by the authority to conduct it. Any person
15 designated by the authority to conduct an investigation or
16 examination may administer oaths, take affidavits, and issue
17 subpoenas or orders for the taking of depositions.

18 § -47 Housing, government aid, political subdivisions.
19 Any political subdivision may appropriate money for the purposes
20 of meeting any local participation in housing costs or expenses
21 required in order to obtain assistance from the federal

1 government in the development and administration of state low
2 income housing projects and programs under this subpart, or of
3 providing funds for use by the authority in developing and
4 administering state low income housing projects.

5 § -48 Additional powers. The powers conferred upon the
6 authority by this subpart shall be in addition and supplemental
7 to the powers conferred upon it by any other law, and nothing in
8 this subpart shall be construed as limiting any powers, rights,
9 privileges, or immunities conferred upon it.

10 B. State low income housing; liens

11 § -51 Definitions. The following terms wherever used or
12 referred to in this subpart shall have the following respective
13 meanings, unless a different meaning clearly appears from the
14 context:

15 "State low income housing project" means and includes any
16 state low income housing project or projects owned, managed,
17 administered, or operated by the authority.

18 "Tenant" includes any person occupying a room, dwelling
19 accommodation, living quarters, or space in any state low income
20 housing project, under or by virtue of any tenancy lease,
21 license, or permit under or from the authority.

1 § -52 Lien on personalty for rent, etc. The authority
2 shall have a statutory lien on all personal property, not exempt
3 from execution, belonging to, or in the lawful possession of,
4 every tenant while the personal property is in or upon any state
5 low income housing project, for the amount of its proper charges
6 against the tenant for rent of a room, dwelling accommodation,
7 living quarters, or space in the state low income housing
8 project, or for utilities, facilities, or services in the state
9 low income housing project. The lien shall commence with the
10 tenancy or occupancy of the tenant and continue for one year
11 after the charge or charges are due and owing to the authority.
12 Whenever any tenant fails or refuses to pay the charge or
13 charges after the same are so due and owing, the authority shall
14 have the right and power, acting by its authorized agents or
15 representatives, without process of law and without any
16 liability for the taking, seizure, and retention of the personal
17 property, to take and seize any of the personal property
18 belonging to, or in the lawful possession of, the tenant which
19 is found in or upon the public housing project, and to hold and
20 retain the same, as security for the payment of the charge or
21 charges, until the amount of the charge or charges is paid and

1 discharged. If the charge or charges, so due and owing, are not
2 paid and discharged within thirty days after the taking and
3 seizure, the authority may sell the personal property in the
4 manner provided in section -203.

5 **§ -53 Foreclosure of lien, notice, etc.** The lien of the
6 authority upon personal property which has been taken and
7 retained by it as provided in section -202 may be foreclosed by
8 the authority by selling the same at public auction:

9 (1) After first mailing by United States mail, postage
10 prepaid, a notice of the foreclosure, addressed to the
11 tenant who owns, or was in possession of, the personal
12 property, at the tenant's last address shown on the
13 records of the authority, stating that, unless the
14 charge or charges then due and owing from the tenant
15 to the authority are paid within ten days from the
16 time of mailing the notice, the personal property will
17 be sold at public auction; and

18 (2) After first giving public notice of the foreclosure
19 and sale at least two times in the county in which the
20 personal property is located. Each notice shall
21 contain a brief description of the personal property;

.B. NO.

1 the name of the tenant, if known; the name of the
2 owner of the personal property, if known; the amount
3 of the charge or charges; and the time and place of
4 the sale. Notices of several foreclosures and sales
5 may be combined in one notice; and whenever so
6 combined and given, the expenses of notice and sale
7 shall be a statutory lien upon the property described
8 in the notice in a ratable proportion according to the
9 amount received for each lot of property so noticed
10 for sale.

11 If the tenant fails to pay to the authority within ten days
12 after the mailing of the notice of foreclosure the charge or
13 charges, the authority may sell the property at public auction
14 at the time and place stated in the notice, or at a time or
15 times or place or places to which the sale may be postponed or
16 adjourned at the time and place stated in the notices, and may
17 apply the proceeds thereof to the payment of the charge or
18 charges and the expenses of notice and sale. The balance, if
19 any remaining, shall be paid over to the tenant who formerly
20 owned, or was in possession of, the property. If the balance is
21 not claimed by the tenant within thirty days after the sale,

1 then the balance shall be paid over to the director of finance
2 and it shall be kept by the director in a special deposit for a
3 period not to exceed six months. If claimed by the tenant
4 during that period it is paid over to the tenant. If no claim
5 shall be made during the period, the sum shall become a
6 government realization and be paid into the general fund.

7 **§ -54 Sheriff or police to assist.** The authority, in
8 taking, seizing, holding, retaining, or selling any personal
9 property pursuant to sections -52 and -53, may require the
10 assistance of the sheriff or any authorized police officer of
11 any county. Any sheriff or officer, when required shall so
12 assist the authority.

13 **§ -55 Existing contracts not impaired.** Sections -52 and
14 -53 shall not be construed as to impair or affect the obligation
15 of any contract existing on or before May 9, 1949.

16 **§ -56 Lien on abandoned personalty, sale, etc.** Whenever
17 the authority has in its possession for four months after the
18 termination of any residence or occupancy herein mentioned any
19 personal property that has been left in or about any state low
20 income housing project by any person who formerly resided in, or
21 occupied a room, dwelling accommodation, living quarters, or

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1 space in the state low income housing project, the authority may
2 sell the same at public auction and apply the proceeds thereof
3 to the payment of its charges for storage of the personal
4 property, and for public notice and sale, and to the payment of
5 other amounts, if any, then due and owing to it from the former
6 resident or occupant for rent or for any utility or service.
7 Before any sale is made, the authority shall first give public
8 notice of the time and place of sale at least two times in the
9 county in which the personal property is located. The notice
10 shall contain a brief description of the property; the name, if
11 known, of the former resident or occupant who so left the
12 property in or about the housing project; the amount of the
13 charges for storage, if any, and the indebtedness, if any; and
14 the time and place of the sale. The charges for storage, if
15 any, and for notice and sale, and the indebtedness, if any,
16 shall be a lien upon the personal property. Notices of several
17 sales may be combined and given in one notice, and whenever so
18 combined and given the expenses of notice and sale shall be a
19 lien and shall be satisfied in ratable proportion according to
20 the amount received for each lot of property so noticed for
21 sale.

1 **§ -57 Disposition of surplus proceeds.** After the sale
2 the authority shall apply the proceeds as provided in section
3 -56. The balance, if any remaining, shall be paid over to the
4 former resident or occupant. If the balance is not claimed by
5 the former resident or occupant within thirty days after the
6 sale thereof, then the balance shall be paid over to the
7 director of finance and shall be kept by the director in a
8 special deposit for a period not to exceed six months. If
9 claimed by the former resident or occupant during that period it
10 shall be paid to the former resident or occupant. If no claim
11 is made during the period, the sum shall become a government
12 realization and shall be paid into the general fund.

13 **§ -58 Lien attaches to personalty in possession.**
14 Sections -56 and -57 shall also apply to any personal property
15 which, before May 2, 1949, was left in or about any public
16 housing project, and was taken into the possession of the
17 authority, as herein set forth and provided.

18 **§ -59 Priority of housing lien.** The statutory liens
19 provided for in this subpart shall be preferred and have
20 priority over all other liens or claims and over all attachments
21 or other process.

1 § -60 Rights, powers, supplemental. The rights conferred
2 upon the authority by this subpart shall be in addition and
3 supplemental to the rights or powers conferred upon the
4 authority by any other law.

5 PART IV. Housing for Elders

6 § -71 Resident selection; dwelling accommodations;
7 rentals. In the administration of elder or elderly housing, the
8 authority shall observe the following with regard to resident
9 selection, dwelling accommodations, and rentals:

- 10 (1) Except as hereinafter provided, it shall accept elder
11 or elderly households as residents in the housing
12 projects;
- 13 (2) It may accept as residents in any housing unit one or
14 more persons, related or unrelated by marriage. It may
15 also accept as a resident in any dwelling
16 accommodation or in any project, in the case of
17 illness or other disability of an elder who is a
18 resident in the dwelling accommodation or in the
19 project, a person designated by the elder as the
20 elder's live-in aide whose qualifications as a live-in
21 aide are verified by the authority, although the

1 person is not an elder; provided that the person shall
2 cease to be a resident therein upon the recovery of,
3 or removal from the project of, the elder;

4 (3) It may rent or lease to an elder a dwelling
5 accommodation consisting of any number of rooms as the
6 authority deems necessary or advisable to provide safe
7 and sanitary accommodations to the proposed resident
8 or residents without overcrowding;

9 (4) Notwithstanding that the elder has no written rental
10 agreement or that it has expired, so long as the elder
11 continues to tender the usual rent to the authority or
12 proceeds to tender receipts for rent lawfully
13 withheld, no action or proceeding to recover
14 possession of the dwelling unit may be maintained
15 against the elder, nor shall the authority otherwise
16 cause the elder to quit the dwelling unit
17 involuntarily, demand an increase in rent from the
18 elder, or decrease the services to which the elder has
19 been entitled during hospitalization of the elder due
20 to illness or other disability; and

1 (5) Elder or elderly housing shall be subject to chapter
2 521, Hawaii Revised Statutes.

3 § -72 Housing for elders revolving fund. There is
4 created a housing for elders revolving fund to be administered
5 by the authority. Notwithstanding any law to the contrary,
6 moneys received or collected by the authority pursuant to this
7 subpart shall be deposited into the revolving fund. Revenues
8 from the fund may be used to pay the expenses of management,
9 operation, and maintenance of housing, including but not limited
10 to the cost of insurance, a proportionate share of the
11 administrative expenses of the authority, and the costs of
12 repairs, equipment, and improvements.

13 § -73 Additional powers. The powers conferred upon the
14 authority by this subpart shall be in addition and supplemental
15 to the powers conferred upon it by any other law, and nothing
16 herein shall be construed as limiting any powers, rights,
17 privileges, or immunities so conferred upon it.

18 PART V. AUTHORITY-COUNTY COOPERATION

19 § -81 Gifts, etc. to counties from authority. The
20 authority may make and pay gifts, or donations, of money
21 directly to any county. Any county may receive the gifts or

1 donations as a general fund realization, and expend the same for
2 any purpose authorized by law.

3 **§ -82 Facilities and services by counties to authority and**
4 **tenants.** Each county within which the authority may own,
5 operate, or administer any public housing project or complex
6 under any law or laws, and to which, or for whose benefit, the
7 authority has made (by payment to the county) or may hereafter
8 make, gifts or donations, including any payment in lieu of
9 taxes, shall, upon request of the authority, provide and furnish
10 to the authority, in regard to every such public housing project
11 or complex within the county, and to the tenants and other
12 occupants of the same, free of charge and without condition or
13 other requirement, all the facilities, services, and privileges
14 as it provides or furnishes, with or without charge or other
15 consideration, to any person or persons whomsoever, including,
16 without limitation to the generality of the foregoing, police
17 protection, fire protection, street lighting, or paving
18 maintenance, traffic control, garbage or trash collection and
19 disposal, use of streets or highways, use of county incinerators
20 or garbage dumps, storm drainage, and sewage disposal. In
21 addition, each county, upon request of the authority and free of

1 charge and without condition or other requirement, shall open or
2 close, but not construct or reconstruct, streets, roads,
3 highways, alleys, or other facilities within any public housing
4 project or complex within the county. Nothing in this section
5 shall be construed to restrict or limit the power of the
6 authority to agree to pay, or to pay, for any and all of the
7 facilities, services, and privileges, if in its discretion it
8 deems such payment advisable."

9 **§ -83 Construction of additional powers.** Sections -41
10 and -42 shall not be construed as abrogating, limiting, or
11 modifying part II, including amendments thereto.

12 **§ -84 Charges for prior services by counties to authority.**
13 Every county (including departments, boards, or
14 instrumentalities thereof) which has, prior to May 14, 1949,
15 provided or furnished any facilities, services, or privileges,
16 including, without limitation to the generality of the
17 foregoing, garbage and trash collection and disposal, use of
18 streets or highways, and use of county incinerators or garbage
19 dumps, to the authority in regard to any public housing project
20 or complex owned, operated, or administered by the authority
21 under any law or laws, or to the tenants or occupants of the

1 public housing project or complex, for which facilities,
2 services, or privileges the authority, or the tenants or
3 occupants have not paid, is prohibited from charging,
4 collecting, or receiving any privileges, except such sum or sums
5 as the authority, in its discretion, may hereafter agree to pay
6 for the same.

7 **§ -85 Garbage, trash disposal.** Every county that
8 maintains or operates any garbage or trash collection and
9 disposal service shall, free of charge, collect and dispose of
10 garbage and trash at and from any public housing project or
11 complex located within a county, which is owned, operated, or
12 administered by the authority. Upon request of the authority,
13 each county shall allow the authority to establish, maintain, or
14 operate its own garbage and trash collection and disposal
15 service for any or all public housing project or complex located
16 within the county, and in regard to such service, shall allow
17 the authority to use, free of charge, all incinerators, garbage
18 dumps, and other facilities that the county may own, control, or
19 operate.

20 Nothing in this section shall prohibit or prevent the
21 authority from paying, and any such county from receiving, any

1 sum or sums which the authority in its discretion may agree to
2 pay as reasonable compensation for the services or facilities
3 provided by any county pursuant to this section.

4 **§ -86 Furnishing of free water not required.** Sections -
5 82 to -85 shall not be construed to require the furnishing of
6 any free water to the authority or to the tenants or occupants
7 of any public housing project or complex owned, operated, or
8 administered by the authority.

9 **§ -87 Powers, etc., supplemental.** The powers conferred
10 upon the authority by sections -41 to -45 shall be in
11 addition and supplemental to the powers conferred by any other
12 law, and nothing in the sections shall be construed as limiting
13 any other powers, rights, privileges, or immunities of the
14 authority.

15 **§ -88 Regulation of traffic within public housing projects**
16 **in city and county of Honolulu.** Any law to the contrary
17 notwithstanding, the city council of the city and county of
18 Honolulu may regulate traffic within the various public housing
19 projects of the authority in the city and county of Honolulu by
20 ordinance.

1 A. General Provisions

2 § -101 Additional definitions. As used in this part:

3 "Donor" means any individual, partnership, corporation,
4 joint-stock company, unincorporated organization, foundation,
5 estate, trust, or any other person or firm that donates money,
6 real property, goods, or services to a homeless facility, or any
7 other program for the homeless authorized by this part,
8 including board members, trustees, officers, partners,
9 principals, stockholders, members, managers, employees,
10 contractors, agents of these entities, or any person who was
11 involved with the donation.

12 "Emergency shelter" means a homeless facility designed to
13 provide temporary shelter and appropriate and available services
14 to homeless families or individuals for up to six weeks.

15 "Homeless" means:

16 (1) An individual or family who lacks a fixed, regular,
17 and adequate nighttime residence; and

18 (2) An individual or family who has a primary nighttime
19 residence that is:

- 1 (A) A supervised publicly or privately operated
2 shelter designed to provide temporary living
3 accommodations;
- 4 (B) An institution that provides temporary residence
5 for individuals intended to be institutionalized;
6 or
- 7 (C) A public or private place not designed for or
8 ordinarily used as sleeping accommodations for
9 human beings.

10 This term does not include any individual imprisoned or
11 otherwise detained under an act of Congress or a state law.

12 "Homeless facility" means a development designed to provide
13 shelter for homeless families or individuals pursuant to this
14 part, or to facilitate any other homeless program authorized by
15 this part, and may include emergency or transitional shelters.

16 "Homeless shelter stipend" means a payment to a provider
17 agency or to the authority on behalf of a homeless family or
18 individual to assist with the costs of operating a homeless
19 facility and providing appropriate services.

20 "Provider agency" means an organization, including its
21 board and officers and any employees, contractors, or agents,

1 contracted by the authority to provide labor and services to any
2 homeless facility, or any other program for the homeless
3 authorized by this part, that is:

4 (1) A profit organization incorporated under the laws of
5 the State or a nonprofit organization determined by
6 the Internal Revenue Service to be exempt from the
7 federal income tax; or

8 (2) A nonprofit organization, with a governing board whose
9 members have no material conflict of interest and
10 serve without compensation with bylaws or policies
11 that describe the manner in which business is
12 conducted and policies that relate to nepotism and
13 management of potential conflict of interest
14 situations.

15 In addition, the organization shall be qualified by the
16 authority to operate and manage a homeless facility, or any
17 other program for the homeless authorized by this part, pursuant
18 to standards and criteria established by duly adopted rules for
19 eligibility.

20 "Transitional shelter" means a homeless facility designed
21 to provide temporary shelter and appropriate and available

1 services to homeless families or individuals for up to twenty-
2 four months, pursuant to rule.

3 **§ -102 Duties.** (a) In addition to any other power or
4 duty prescribed by law, the authority shall administer and
5 operate homeless facilities and any other program for the
6 homeless authorized by this part; establish programs for the
7 homeless; and take any other actions necessary to effectuate the
8 purposes of this part.

9 (b) The authority shall adopt rules pursuant to chapter 91
10 for the purposes of this part; provided that these rules or any
11 rules relating directly to homelessness authorized by any
12 statute, shall be exempt from the requirements of chapter 91,
13 and shall take effect immediately upon filing with the office of
14 the lieutenant governor.

15 **§ -103 Exception to liability for donors.** (a) Any donor
16 who gives money to a provider agency, to a homeless facility, to
17 or through the authority, or for any other program for the
18 homeless authorized by this part, shall not be liable for any
19 civil damages resulting from the donation.

20 (b) Any donor who gives land and improvements, or who
21 leases land and improvements at a nominal consideration, to a

1 provider agency, to a homeless facility, to or through the
2 authority, or for any other program for the homeless authorized
3 by this part, shall not be liable for any civil damages
4 resulting from the donation except as may result from the
5 donor's gross negligence or wanton acts or omissions; provided
6 that, if the donor at the time of donation gave the authority a
7 full accounting of all the dangers concerning the land and
8 improvements known to the donor, then the donor shall not be
9 liable for any civil damages resulting from the donation.

10 (c) Any donor who in good faith and without remuneration
11 or expectation of remuneration provides services or materials
12 used to build and construct a facility for the homeless, or who
13 renovates, repairs, or maintains an existing or acquired
14 facility for the homeless, or who provides shelter to homeless
15 persons, shall not be liable for any civil damages resulting
16 from the donor's acts or omissions, except for damages resulting
17 from the donor's gross negligence relating to the donation.

18 (d) The authority shall be responsible for inspecting,
19 reviewing, analyzing, qualifying, and determining that the land,
20 structures, materials, or services donated to the authority for

1 use by the authority in facilities for the homeless are
2 reasonably safe for public use.

3 **§ -104 Contract or conveyance to the authority.**

4 Notwithstanding any other law to the contrary, the board of land
5 and natural resources or other state agency holding such lands
6 and improvements, for purposes of this part, may contract or
7 otherwise convey at a nominal consideration, by direct
8 negotiation and without recourse to public auction, the land and
9 improvements, or the management, operation, and administrative
10 responsibility over the land and improvements, to the authority
11 or its designee. The land and improvements shall be used by the
12 authority or its designee for homeless facilities, or for any
13 other program for the homeless authorized by this part.

14 **§ -105 Program administration.** To the extent that
15 appropriations are made available, the authority may contract
16 with a provider agency to administer homeless facilities, or any
17 other program for the homeless created by this part. The
18 selection of provider agencies to administer homeless
19 facilities, or any other program for the homeless authorized by
20 this part, shall not be subject to chapters 42F, 102, 103, and

1 103F. The selection of provider agencies shall be subject to
2 qualifying standards and criteria established by rule.

3 § -106 Time limits. To the extent that appropriations
4 are made available, a provider agency shall provide shelter or
5 any other program assistance authorized by this part to eligible
6 homeless families and homeless individuals not later than two
7 days, or such time as is set by rule which shall not be later
8 than seven days, after they apply and qualify for the shelter or
9 other program assistance, pursuant to rule. Such time limits
10 may be waived at the discretion of the authority for a maximum
11 period of fourteen days for the purpose of implementing repairs
12 to the subject shelter, which repairs the authority deems major
13 or extensive.

14 § -107 Determination of eligibility and need. (a) The
15 provider agency operating and managing a homeless facility, or
16 any other program for the homeless authorized by this part, or
17 the authority operating and managing its own homeless facility,
18 shall be responsible for determining if an applicant is eligible
19 for shelter or other services at the homeless facility or
20 through any other program for the homeless, pursuant to
21 standards and criteria established by rule.

1 (b) The provider agency or the authority operating and
2 managing its own homeless facility shall determine the degree of
3 need for each homeless family or individual and in its
4 determination shall consider the resources available and the
5 number of potential eligible applicants in the area served by
6 the homeless facility or other program for the homeless
7 authorized by this part.

8 (c) The authority may establish by rule standards and
9 criteria for eligibility, need, and priority for each program;
10 provided that the authority may establish by rule exceptions to
11 these eligibility requirements based on special circumstances.

12 § -108 Abuse of assistance. (a) The provider agency
13 operating and managing a homeless facility, or any other program
14 for the homeless authorized by this part, or the authority
15 operating and managing its own homeless facility, shall be
16 responsible for determining if a participant is no longer
17 eligible for shelter or other services at the homeless facility
18 or through any other program for the homeless, pursuant to
19 standards and criteria established by rule.

20 (b) Pursuant to rule and the right of due process, the
21 authority or its designee, or provider agencies together with

1 the authority, may act to bar homeless families or individuals
2 from participating further in any homeless facility, may issue a
3 writ of possession, and take such other actions as provided by
4 rule.

5 The enforcement of a writ of possession shall be effected
6 either by an officer appointed by the authority, who shall have
7 all of the powers of a police officer for all action in
8 connection with the enforcement of the writ, or any other law
9 enforcement officer of the State or any county, whose duty it
10 shall be to enforce the writ. The person enforcing the writ
11 shall remove all persons from the premises and put the authority
12 or its designee, or the provider agency designated by the
13 authority, in full possession thereof.

14 Upon eviction, the household goods and personal effects of
15 the person against whom the writ is entered, and those of any
16 persons using the premises incident to the person's holding, may
17 be removed from the premises immediately and sold or otherwise
18 disposed of by the authority or its designee, or the provider
19 agency. If the action is taken, the authority or its designee,
20 or the provider agency, shall have a lien on the property so
21 removed for the expenses incurred by it in moving the property.

1 (c) Any person who enters or remains unlawfully in or upon
2 the premises or living quarters of any homeless facility, or any
3 other program for the homeless authorized by this part, after
4 reasonable warning or request to leave by that provider agency's
5 authorities, the authority or its designee, or a police officer,
6 shall be guilty of a misdemeanor; provided that the offense in
7 this subsection shall be in addition to any other applicable
8 offense in the Hawaii Penal Code. A warning or request shall
9 only be issued if the person has engaged in unlawful conduct or
10 has violated house rules and regulations; provided that the
11 warning or request for violation of house rules and regulations
12 shall be issued only if that provider agency, or the authority
13 or its designee, has filed a copy of its current house rules and
14 regulations governing tenancy or participation at the shelter,
15 facility, or program, and any changes thereto, with the director
16 of commerce and consumer affairs. The house rules and
17 regulations shall be reasonable and a copy shall be provided to
18 each tenant or participant. The warning or request shall
19 supersede any invitation by a tenant or participant at the
20 shelter, facility, or program to that person to visit the
21 premises or living quarters.

1 **§ -109 Exemptions.** (a) Any compensation received by a
2 provider agency for services rendered to homeless families or
3 individuals, or in operating or managing a homeless facility
4 authorized by this part, is exempt from taxes under chapter 237.

5 (b) Any county mayor may exempt by executive order, donors
6 and homeless provider agencies from real property taxes, water
7 and sewer development fees, rates collected for water supplied
8 to consumers and for use of sewers, and any other county taxes,
9 charges, or fees; provided that any county may enact ordinances
10 to regulate the exemptions granted by this subsection.

11 (c) Any provider agency operating or managing a homeless
12 facility, or any other program for the homeless authorized by
13 this part, is exempt, for purposes of those facilities or
14 programs, from any requirements contained in part VIII of
15 chapter 346 and chapters 467 and 521.

16 **§ -110 Emergency/transitional shelter volunteers**
17 **exempted.** (a) For the purposes of this section,
18 "emergency/transitional shelter volunteer" means an individual
19 who:

20 (1) Is a tenant at an emergency or transitional shelter
21 administered pursuant to this part;

1 (2) Is not an employee of the provider agency operating or
2 managing the shelter;

3 (3) Is under the direction of the provider agency
4 operating or managing the shelter and not the
5 corporation or State; and

6 (4) Provides up to eighty hours of volunteer labor or
7 services per month to the provider agency operating or
8 managing the shelter, notwithstanding payment of
9 stipends or credits for such labor and services.

10 (b) Provider agencies may accept labor and services from
11 emergency/transitional shelter volunteers.

12 (c) In addition to any exemptions granted to nonpaid
13 labor, emergency/transitional shelter volunteers who acknowledge
14 in writing that they are emergency/transitional shelter
15 volunteers, shall not be construed to be in the employ of the
16 provider agency operating or managing the shelter. The
17 volunteers' labor and services provided to the provider agency
18 operating or managing the shelter shall not be construed to
19 constitute employment, and the volunteers shall not be construed
20 to be employees of the provider agency operating or managing the
21 shelter, under any labor law.

1 § -111 Annual performance audits. (a) The authority
2 shall require any provider agency that dispensed shelter or
3 assistance for any homeless facility or any other program for
4 the homeless authorized by this part to submit to the
5 corporation a financial audit and report on an annual basis
6 conducted by a certified public accounting firm. This audit and
7 report shall contain information specific to the funds received
8 under state homeless programs contracts. The audit shall
9 include recommendations to address any problems found.

10 (b) Continuing contracts with provider agencies to
11 participate in any program for the homeless authorized by this
12 part shall require that the provider agency address the
13 recommendations made by the auditing agency, subject to
14 exceptions as set by the authority.

15 (c) Failure to carry out the recommendations made by the
16 auditing agency may be grounds for the authority to bar a
17 provider agency from further contracts for programs authorized
18 by this part until the barred provider has addressed all
19 deficiencies.

20 § -112 Provider agency and donor cooperation are not in
21 restraint of trade. No provider agency or any other agency, or

1 donor or donors, or method or act thereof that complies with
2 this part, shall be deemed a conspiracy or combination in
3 restraint of trade or an illegal monopoly, or an attempt to
4 lessen competition or fix prices arbitrarily, or the creation of
5 a combination or pool, or to accomplish any improper or illegal
6 purpose. Any cooperation or agreement established pursuant to
7 rule shall not be considered as illegal, in restraint of trade,
8 or as part of a conspiracy or combination to accomplish an
9 illegal purpose or act.

10 **§ -113 Construction of part.** If there is any conflict
11 between this part and any other law, this part shall control.

12 **§ -74 Homeless shelter stipends.** (a) The stipend limits
13 per shelter unit of zero bedrooms shall be adjusted by the
14 authority each first day of July pursuant to standards
15 established by rule which may consider changes in the cost of
16 operating homeless facilities, the fair market rents, the
17 consumer price index, or other relevant factors. A "shelter
18 unit of zero bedrooms" means a living unit which is a studio
19 unit or a single-room occupancy unit. The homeless shelter
20 stipend at transitional shelters for larger shelter unit sizes

1 shall be related to the difference in unit size, pursuant to
2 standards established by rule.

3 (b) The authority may make or may contract to make
4 homeless shelter stipend payments on behalf of one or more
5 homeless families or individuals to a provider agency operating
6 or managing an emergency or transitional shelter or, in the case
7 that the authority itself operates and manages a homeless
8 facility, to the authority in such amounts and under such
9 circumstances as provided by rule. The contract may specify a
10 minimum total amount of homeless shelter stipends to be received
11 by a provider agency for making its shelter and services
12 available to eligible homeless families or individuals, pursuant
13 to rule.

14 (c) In making homeless shelter stipend payments to a
15 provider agency the authority may establish minimal services to
16 be provided by the provider agency to homeless families or
17 individuals at the agency's shelter. The authority may also
18 direct provider agencies to establish and manage a savings
19 account program as described in subsection (d). Additionally,
20 the authority may direct provider agencies to subcontract for

1 outreach services from other private agencies specializing in
2 programs for the unsheltered homeless.

3 (d) Provider agencies and the authority may establish and
4 collect shelter and services payments from homeless families or
5 individuals in addition to the amount received in homeless
6 shelter stipend payments pursuant to rule. Provider agencies
7 and the authority may also set aside a portion of the payments
8 in a savings account to be made available to homeless families
9 or individuals when these families and individuals vacate the
10 shelter.

11 § -115 Additional powers. The powers conferred upon the
12 authority by this part shall be in addition and supplemental to
13 the powers conferred upon it by any other law, and nothing in
14 this part shall be construed as limiting any powers, rights,
15 privileges, or immunities conferred upon the authority.

16 **B. Hale Kokua Program**

17 § -121 Findings and purpose. The legislature finds that
18 the issue of homelessness should be regarded as one of the
19 State's most significant social problems. The severity of the
20 problem is visible in every area of the State, and evidence that
21 the problem is escalating is becoming more and more apparent.

1 The problem of homelessness impacts everyone, and the burden of
2 rectifying this problem should be approached comprehensively and
3 as a collective responsibility.

4 The purpose of this subpart is to establish a homeless
5 assistance program known as the "Hale Kokua" program which would
6 authorize the payment of a state grant and a monthly rent
7 supplement to any interested property owner who sets aside any
8 existing rental space or undertakes the improvement or
9 construction of any adjoining or separate dwelling unit for the
10 purpose of renting the unit to any family or individual
11 classified as employed but homeless under the program for a
12 period of five years.

13 The program will place a priority on assisting homeless
14 families in the greatest need. To ensure that no particular
15 district or community of the State is unduly burdened by the
16 sudden influx of homeless families holding rental contracts with
17 qualified homeowners under the program, the number of homeowners
18 authorized to take part in the Hale Kokua program will be
19 limited to ten per census tract.

20 The Hale Kokua program will assist homeless families and
21 individuals who are willing to engage in self-improvement

1 programs and regular employment with an alternative to living in
2 homeless shelters where homeless families as well as the special
3 needs homeless are indiscriminately grouped together.

4 Developing the employment skills of participating tenants is an
5 integral component of the program.

6 Accordingly, the program will allow other available
7 programs to focus more intently on the special needs of the
8 homeless. The program also calls for the establishment of a
9 cooperative effort between the State, the counties, and the
10 federal government to provide the community and the Hale Kokua
11 program with the resources and the incentives to eliminate the
12 condition of homelessness. Since the Hale Kokua program
13 involves the public and private sectors, the cost of
14 implementing this program should be far less than the cost of
15 building new homeless shelter facilities.

16 The program has the potential to drastically reduce the
17 actual number of homeless families and individuals living in
18 public areas, to ultimately provide full and free access to
19 Hawaii's malls, streets, parks, and campgrounds. As a result,
20 Hawaii's overall quality of life will be enriched and Hawaii's

1 reputation as one of the most beautiful visitor destinations
2 will be enhanced.

3 **§ -122 Definitions.** As used in this subpart, unless the
4 context clearly requires otherwise:

5 "Employed but homeless" means any person that is homeless
6 as defined in subpart A who is employed at a minimum of nineteen
7 hours a week or participates in an employment training program
8 and does volunteer work for a total of nineteen hours per week
9 until employment can be found.

10 **§ -123 Hale Kokua program; established.** There is
11 established, within the Hawaii public housing authority, a
12 homeless assistance program known as the "Hale Kokua" program,
13 to provide incentives and assistance to private homeowners
14 throughout the State who set aside existing dwelling units, or
15 construct or renovate dwelling units, for rental for a period of
16 five years by families or individuals classified as employed but
17 homeless. The Hawaii public housing authority shall administer
18 the Hale Kokua program and adopt the standards and framework
19 necessary to implement the program statewide after the initial
20 phase of the program.

1 § -124 Powers and duties. (a) The authority may
2 contract with private services to carry out the duties and
3 responsibilities of the program.

4 Notwithstanding any other law to the contrary, any
5 contracts entered into by the authority with a private sector
6 entity pursuant to this subsection shall not be subject to
7 chapters 76 and 89.

8 (b) The duties of the authority or contracted agency shall
9 include:

10 (1) Carrying out the requirements of the Hale Kokua
11 program under this subpart;

12 (2) Developing and adopting the requirements, eligibility
13 qualifications, registration, background check,
14 initial screening procedures, and procedures for
15 follow-up after placement to determine the ability to
16 make rental payments and the need for social services
17 and referrals for homeless families and individuals to
18 qualify them as tenants under this program;

19 (3) Developing and adopting the requirements,
20 qualifications, and the registration procedures for
21 property owners who provide rental housing to

1 qualified homeless tenants; provided that priority
2 shall be given to those not requesting construction
3 grants;

4 (4) Developing appropriate procedures to address potential
5 liabilities of the State; and adopting the procedures
6 to place qualified homeless tenants with property
7 owners participating in the program. Participating
8 property owners shall interview and make final tenant
9 selection from lists of prospective tenants compiled
10 by the administrator or the contracted agency;

11 (5) Establishing the procedures and requirements for the
12 disbursement of building improvement grants and rental
13 subsidies and the amounts thereof to property owners
14 participating in the program;

15 (6) Working with the counties to develop and propose
16 uniform incentives to encourage and facilitate the
17 participation of property owners, including real
18 property tax waivers or reductions, and exemptions in
19 zoning or building code requirements which shall be
20 conditioned on participation in the program and which
21 shall lapse when program participation ends;

1 (7) Monitoring the financial status and progress of
2 homeless tenants and cooperating with other agencies
3 in establishing and coordinating job training, and
4 other programs to help tenants to progress toward
5 self- sufficiency;

6 (8) Promoting and assisting in the development of
7 employer- employee relationships between homeless
8 tenants and participating property owners, including
9 but not limited to tenant caretaker, housekeeper, or
10 groundskeeper employment situations;

11 (9) Working towards securing financial, in-kind, and
12 administrative assistance from law enforcement and
13 other state and county agencies and the private sector
14 to implement the program;

15 (10) Working towards securing funding assistance from
16 federal agencies and programs involved in housing
17 development, job-training, or homeless assistance;

18 (11) Monitoring the progress of the Hale Kokua program, and
19 collecting annual statistics showing the numbers of
20 homeless people, homeless families, and homeless
21 children, using appropriate measurement systems; and

1 (12) Preparing recommendations to improve and expand the
2 program, including but not limited to incentives for
3 participating property owners to sign up for
4 additional terms.

5 § -125 Homeowner participation; limitation; payments and
6 assistance. (a) The administrator shall limit the

7 participation of not more than ten property owners within each
8 census tract at any given period in time, without regard to the
9 existence or operation of shelters and other facilities to aid
10 the homeless in the tract. The authority or contracted agency
11 shall notify prospective participants registered on the waiting
12 list in each census tract of the opportunity to participate in
13 the program as these opportunities may arise in each tract.

14 (b) Assistance to any qualified property owner providing
15 rental housing to any homeless tenant under this subpart for a
16 period of five years shall include, but not be limited to, at
17 least one of the following:

18 (1) The payment of a state grant to offset the cost of
19 renovating, building any adjoining addition, or
20 constructing any separate structure upon the premises

1 of the owner's property in preparation for its use as
2 a homeless assistance unit under the program;

3 (2) The payment of a monthly state rent subsidy to
4 supplement the monthly rental payments made by the
5 homeless tenant;

6 (3) Real property tax rate waivers or reductions proposed
7 by the administrator and approved by the council of
8 the county in which the property is located;

9 (4) Zoning and building code exemptions applicable to the
10 construction of adjoining or separate dwelling units
11 on the owner's property, provided that the county, by
12 ordinance, may establish minimum development and
13 construction standards for these units and procedures
14 for approval thereto; and

15 (5) Other incentives consistent with the purposes of this
16 subpart to assist in the participation of property
17 owners under the program.

18 § -126 Early withdrawal from program; recovery of grant.

19 (a) Any property owner who withdraws without just cause from
20 the Hale Kokua program prior to five years shall return the
21 state grant for construction improvements within ninety days of

1 the date of withdrawal. The authority shall effect the recovery
2 of the grant, including but not limited to the filing of liens
3 against the real property of withdrawing property owners. The
4 administrator shall be awarded reasonable attorneys' fees and
5 costs as determined by the court in any action brought to
6 enforce this subpart.

7 (b) The respective county government whose jurisdiction
8 includes the site shall determine the disposition of the
9 additional unit constructed with the grant.

10 § -127 Availability of funding. All rental subsidies,
11 grants, and payments allocated by the Hale Kokua program under
12 this subpart shall be subject to the availability of funds.

13 **PART VII. STATE RENT SUPPLEMENT PROGRAM**

14 § -131 Rent supplements. The authority is authorized to
15 make, and contract to make, annual payments to a "housing owner"
16 on behalf of a "qualified tenant", as those terms are defined in
17 this subpart, in such amounts and under such circumstances as
18 are prescribed in or pursuant to this subpart. No payment on
19 behalf of a qualified tenant shall exceed a segregated amount of
20 \$160 a month.

1 § -132 Housing owner defined. As used in this subpart,
2 the term "housing owner" means:

3 (1) A private nonprofit corporation or other private
4 nonprofit legal entity, a limited dividend corporation
5 or other limited dividend legal entity, or a
6 cooperative housing corporation, that is a mortgagor
7 under section 202, 207, 213, 221(d)(3), 221(d)(5), or
8 231 of the National Housing Act, as amended, or that
9 conforms to the standards of those sections but that
10 is not a mortgagor under those sections or any other
11 private mortgagor under the National Housing Act, as
12 amended, for very low income, low-income, or moderate-
13 income family housing, regulated or supervised under
14 federal or state laws or by political subdivisions of
15 the State, or agencies thereof, as to rents, charges,
16 capital structure, rate of return, and methods of
17 operation, from the time of issuance of the building
18 permit for the project;

19 (2) Any other owner of a standard housing unit or units
20 deemed qualified by the authority; and

21 (3) The authority.

1 § -133 Qualified tenant defined. As used in this subpart,
2 the term "qualified tenant" means any single person or family,
3 pursuant to criteria and procedures established by the
4 authority, that has been determined to have an income not
5 exceeding the very low income limit as determined by the
6 authority pursuant to rules adopted by the authority; provided
7 that the qualified tenant's primary place of residence shall be
8 in the State of Hawaii or that the qualified tenant intends to
9 make the State of Hawaii the qualified tenant's primary place of
10 residence. The terms "qualified tenant" and "tenant" include a
11 member of a cooperative who satisfies the foregoing requirements
12 and who, upon resale of the member's membership to the
13 cooperative, will not be reimbursed for more than fifty per cent
14 of any equity increment accumulated through payments under this
15 subpart. With respect to members of a cooperative, the terms
16 "rental" and "rental charges" mean the charges under the
17 occupancy agreements between the members and the cooperative.
18 The term "qualified tenant" shall not include any person
19 receiving money payments for public assistance from the
20 department of human services; provided that the term "public

1 assistance" shall exclude aid provided through the federal
2 Supplemental Security Income Program.

3 § -134 Relationship of annual payment to rental and
4 income. The amount of the annual payment with respect to any
5 dwelling unit shall not exceed the amount by which the fair
6 market rental for that unit exceeds thirty per cent of the
7 tenant's income as determined by the authority pursuant to
8 procedures and regulations established by it.

9 § -135 Determination of eligibility of occupants and
10 rental charges. (a) For purposes of carrying out this subpart,
11 the authority shall establish criteria and procedures for
12 determining the eligibility of occupants and rental charges,
13 including criteria and procedures with respect to periodic
14 review of tenant incomes and periodic adjustment of rental
15 charges. The authority shall issue, upon the request of a
16 housing owner, certificates as to the income of the single
17 persons and families applying for admission to, or residing in,
18 dwellings of that owner.

19 (b) Procedures adopted by the authority hereunder shall
20 provide for recertification of the incomes of occupants, except
21 elders, at intervals of two years, or at shorter intervals, for

1 the purpose of adjusting rental charges and annual payments on
2 the basis of occupants' incomes, but in no event shall rental
3 charges adjusted under this subpart for any dwelling exceed the
4 fair market rental of the dwelling.

5 (c) No payments under this subpart may be made with
6 respect to any property for which the costs of operation,
7 including wages and salaries, are determined by the authority to
8 be greater than similar costs of operation of similar housing in
9 the community where the property is situated.

10 § -136 Rules. The authority may adopt all rules necessary
11 to carry out the purpose of this subpart, including rules
12 relating to determining preference among applicants for state
13 rent supplements.

14 § -137 Additional powers. The powers conferred upon the
15 authority by this subpart shall be in addition and supplemental
16 to the powers conferred upon it by any other law, and nothing
17 herein shall be construed as limiting any powers, rights,
18 privileges, or immunities so conferred upon it.

19 PART VIII. STATE SALES HOUSING PROGRAM

20 § -141 State sales housing. Notwithstanding any law to
21 the contrary, but subject to any resolution of issuance under

1 subpart A, the authority may permit any member of a tenant
2 family of a public housing project, or any individual meeting
3 the income standards under section 221(d)(3) of the National
4 Housing Act to enter into a contract for the acquisition of a
5 dwelling unit and lot or the acquisition of a dwelling unit and
6 the lease of its lot, the lease to conform to chapter 171 with
7 the exception that the lease shall not require bid, auction, or
8 negotiation, in any public housing project, state low income
9 housing project, or elderly housing project which is suitable
10 for sale and for occupancy by such purchaser or a member or
11 members of the purchaser's family, upon the following terms:

12 (1) The purchaser shall pay at least:

13 (A) A pro rata share cost of any services furnished
14 the purchaser by the authority, including but not
15 limited to administration, maintenance, repairs,
16 utilities, insurance, provision of reserves, and
17 other expenses;

18 (B) Taxes on the purchaser's dwelling unit; and

19 (C) Monthly payments of interest and principal
20 sufficient to amortize a sales price, equal to
21 the greater of the unamortized debt or the

1 appraised value (at the time such purchase
2 contract is entered into) of the dwelling unit,
3 in not more than forty years;

4 (2) The interest rate shall be fixed at not less than the
5 average interest cost of loans outstanding on the
6 project, except that in the case of a project on which
7 bonds are not outstanding the interest rate shall be
8 fixed at not less than the going rate applicable to
9 that project;

10 (3) The principal payments shall be not less than one-half
11 of one per cent a year of the sales price during the
12 first five years after purchase, one per cent a year
13 during the next five years, one and one-half per cent
14 a year during the third five years, and thereafter not
15 less than the principal payments resulting from a
16 level debt service of interest and principal over the
17 balance of the payment period; and

18 (4) If at any time:
19 (A) A purchaser fails to carry out the purchaser's
20 contract with the authority and if no member of

1 (a) All references to the "housing and community
2 development corporation of Hawaii", or "corporation" or similar
3 terms as the case may be [~~in chapter 201G, and~~] chapter 201G,
4 part II, subparts C, D and G, sections 27-11, 53-6, 76-16, 209-
5 16(b), 290-1(b), 290-8, and 521-7, Hawaii Revised Statutes,
6 shall be amended to "Hawaii public housing [~~administration~~]
7 authority", "~~administration~~ authority", or similar terms, as
8 the case may be, as the context requires.

9 (b) All references to the "housing and community
10 development corporation of Hawaii", or "corporation", or similar
11 terms as the case may be in chapter 516, and sections 10-2, 10-
12 13.6, 36-24, 46-15.1, 53-17, 53-22(e), 111-8, 111-9, 171-2, 171-
13 18.5, 171-50.2, 206E-15, 209-16(a), 209-17, 237-29, 290-1(c),
14 519-2(b), and 519-3(b), Hawaii Revised Statutes, shall be
15 amended to [~~"Hawaii housing finance and development~~
16 ~~administration", "administration",~~] "Hawaii housing and finance
17 development corporation", "corporation", or similar terms, as
18 the case may be, as the context requires."

19 SECTION 5. Chapter 201G, parts I, III, and IV, Hawaii
20 Revised Statutes, are repealed. Chapter 201G, part II, subparts
21 A, B, E, F, and H, Hawaii Revised Statutes, are repealed.

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PART IV

SECTION 6. The purpose of this part is to:

- (1) Amend Act 196, Session Laws of Hawaii 2005 to transfer appropriate housing functions to the Hawaii housing and development corporation; and
- (2) Make additional technical and conforming amendments to ensure that references to chapter 201G throughout the Hawaii Revised Statutes are amended to the new chapter designated "Hawaii housing finance and development administration."

SECTION 7. Act 196, Session Laws of Hawaii 2005, is amended by amending sections 21, 22, 23, 24, and 25 by substituting the words "Hawaii housing finance and development corporation", or like term, wherever the words "Hawaii housing finance and development administration", or like term, appears, as the context requires.

SECTION 8. Section 46-15.1, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Any law to the contrary notwithstanding, any county shall have and may exercise the same powers, subject to applicable limitations, as those granted the housing and

1 community development corporation of Hawaii pursuant to chapter
2 [~~2016~~]_____ insofar as such powers may be reasonably construed
3 to be exercisable by a county for the purpose of developing,
4 constructing, and providing low and moderate income housing;
5 provided that no county shall be empowered to cause the State to
6 issue general obligation bonds to finance a project pursuant to
7 this section; provided further that county projects shall be
8 granted an exemption from general excise or receipts taxes in
9 the same manner as projects of the housing and community
10 development corporation of Hawaii pursuant to section [~~116~~]
11 [~~116~~] -36; and provided further that the provisions of section
12 [~~2016-15~~] -16 shall not apply to this section unless federal
13 guidelines specifically provide local governments with that
14 authorization and the authorization does not conflict with any
15 state laws. The powers shall include the power, subject to
16 applicable limitations, to:

- 17 (1) Develop and construct dwelling units, alone or in
18 partnership with developers;
19 (2) Acquire necessary land by lease, purchase, exchange,
20 or eminent domain;

- 1 (3) Provide assistance and aid to a public agency or
2 person in developing and constructing new housing and
3 rehabilitating old housing for elders of low and
4 moderate income, other persons of low and moderate
5 income, and persons displaced by any governmental
6 action, by making long-term mortgage or interim
7 construction loans available;
- 8 (4) Contract with any eligible bidders to provide for
9 construction of urgently needed housing for persons of
10 low and moderate income;
- 11 (5) Guarantee the top twenty-five per cent of the
12 principal balance of real property mortgage loans,
13 plus interest thereon, made to qualified borrowers by
14 qualified lenders;
- 15 (6) Enter into mortgage guarantee agreements with
16 appropriate officials of any agency or instrumentality
17 of the United States in order to induce those
18 officials to commit to insure or insure mortgages
19 under the provisions of the National Housing Act, as
20 amended;

1 (7) Make a direct loan to any qualified buyer for the
2 downpayment required by a private lender to be made by
3 the borrower as a condition of obtaining a loan from
4 the private lender in the purchase of residential
5 property;

6 (8) Provide funds for a share, not to exceed fifty per
7 cent of the principal amount of a loan made to a
8 qualified borrower by a private lender who is unable
9 otherwise to lend the borrower sufficient funds at
10 reasonable rates in the purchase of residential
11 property; and

12 (9) Sell or lease completed dwelling units.

13 For purposes of this section, a limitation is applicable to
14 the extent that it may reasonably be construed to apply to a
15 county."

16 SECTION 9. (a) Section 53-1, Hawaii Revised Statutes, is
17 amended by repealing the definition of "Housing and community
18 development corporation of Hawaii", "corporation", "government",
19 "federal government", and "real property".

1 (b) Section 53-1, Hawaii Revised Statutes, is amended by
2 adding a new definition to be appropriately inserted and to read
3 as follows:

4 " "Hawaii housing finance and development corporation",
5 "corporation", "government", "federal government", and "real
6 property" have the respective meanings set forth for these terms
7 in chapter ____."

8 SECTION 10. Section 53-17, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "**§53-17 Bonds of agency to be legal investments.** Bonds
11 issued by a redevelopment agency in connection with one or more
12 redevelopment plans or redevelopment projects pursuant to this
13 part shall be legal investments and security for public deposits
14 to the same extent and for the same public officers and bodies,
15 political subdivisions, persons, companies, corporations,
16 associations, banks, institutions, and fiduciaries as bonds or
17 obligations issued by the housing and community development
18 corporation of Hawaii under chapter [~~2016~~] in connection
19 with slum clearance and housing projects."

20 SECTION 11. Section 171-18.5, Hawaii Revised Statutes, is
21 amended by amending subsection (a) to read as follows:

1 "(a) This section applies to the amount to which the
2 department of Hawaiian home lands is entitled pursuant to
3 Article XII, Section 1 of the State Constitution from land
4 previously cultivated as sugarcane land under any provision of
5 law which is conveyed by the department to the [~~housing and~~
6 ~~community development corporation of Hawaii~~] Hawaii housing
7 finance and development corporation for the development of
8 housing projects as defined under section [~~201G-1~~] ____-1. The
9 amount to which the department of Hawaiian home lands is
10 entitled shall be determined by multiplying the fair market
11 value of the land by thirty per cent. For the purpose of this
12 section, "fair market value" means the amount of money which a
13 purchaser willing but not obliged to buy the land would pay to
14 an owner willing but not obliged to sell it, taking into
15 consideration the highest and best use of the land. For the
16 purpose of this section, "highest and best use" means the most
17 profitable, probable, and legal use to which the land can be
18 put."

19 SECTION 12. Section 237-29, Hawaii Revised Statutes, is
20 amended by amending subsection (a) to read as follows:

