



GOV. MSG. NO. 790

EXECUTIVE CHAMBERS  
HONOLULU

LINDA LINGLE  
GOVERNOR

April 24, 2007

The Honorable Colleen Hanabusa, President  
and Members of the Senate  
Twenty-Fourth State Legislature  
State Capitol, Room 409  
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

This is to inform you that on April 24, 2007, the following bill was signed into law:

HB1095 HD1

A BILL FOR AN ACT RELATING TO HOUSING.  
(ACT 037)

Sincerely,

LINDA LINGLE

Approved by the Governor

on APR 24 2007

HOUSE OF REPRESENTATIVES  
TWENTY-FOURTH LEGISLATURE, 2007  
STATE OF HAWAII

**ACT 037**

**H.B. NO.** 1095  
H.D. 1

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## A BILL FOR AN ACT

RELATING TO HOUSING.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Section 46-15.1, Hawaii Revised Statutes, is  
2 amended to read as follows:  
3           "§46-15.1 Housing; county powers. (a) Any law to the  
4 contrary notwithstanding, any county shall have and may exercise  
5 the same powers, subject to applicable limitations, as those  
6 granted the Hawaii housing finance and development corporation  
7 pursuant to chapter [~~201G~~] 201H insofar as [~~such~~] those powers  
8 may be reasonably construed to be exercisable by a county for  
9 the purpose of developing, constructing, and providing low and  
10 moderate income housing; provided that no county shall be  
11 empowered to cause the State to issue general obligation bonds  
12 to finance a project pursuant to this section; provided further  
13 that county projects shall be granted an exemption from general  
14 excise or receipts taxes in the same manner as projects of the  
15 Hawaii housing finance and development corporation pursuant to  
16 section [~~201G-116~~] 201H-36; and provided further that the  
17 provisions of section [~~201G-15~~] 201H-16 shall not apply to this  
18 section unless federal guidelines specifically provide local

HB1095 HD1 HMS 2007-2512



1 governments with that authorization and the authorization does  
2 not conflict with any state laws. The powers shall include the  
3 power, subject to applicable limitations, to:

- 4 (1) Develop and construct dwelling units, alone or in  
5 partnership with developers;
- 6 (2) Acquire necessary land by lease, purchase, exchange,  
7 or eminent domain;
- 8 (3) Provide assistance and aid to a public agency or other  
9 person in developing and constructing new housing and  
10 rehabilitating old housing for elders of low and  
11 moderate income, other persons of low and moderate  
12 income, and persons displaced by any governmental  
13 action, by making long-term mortgage or interim  
14 construction loans available;
- 15 (4) Contract with any eligible bidders to provide for  
16 construction of urgently needed housing for persons of  
17 low and moderate income;
- 18 (5) Guarantee the top twenty-five per cent of the  
19 principal balance of real property mortgage loans,  
20 plus interest thereon, made to qualified borrowers by  
21 qualified lenders;



- 1           (6) Enter into mortgage guarantee agreements with  
2           appropriate officials of any agency or instrumentality  
3           of the United States [~~in order~~] to induce those  
4           officials to commit to insure or insure mortgages  
5           under the provisions of the National Housing Act, as  
6           amended;
- 7           (7) Make a direct loan to any qualified buyer for the  
8           downpayment required by a private lender to be made by  
9           the borrower as a condition of obtaining a loan from  
10          the private lender in the purchase of residential  
11          property;
- 12          (8) Provide funds for a share, not to exceed fifty per  
13          cent of the principal amount of a loan made to a  
14          qualified borrower by a private lender who is unable  
15          otherwise to lend the borrower sufficient funds at  
16          reasonable rates in the purchase of residential  
17          property; and
- 18          (9) Sell or lease completed dwelling units.

19          For purposes of this section, a limitation is applicable to  
20          the extent that it may reasonably be construed to apply to a  
21          county.



1 (b) Any law to the contrary notwithstanding, any county  
2 may:

3 (1) Authorize and issue bonds under chapter 47 and chapter  
4 49 to provide moneys to carry out the purposes of this  
5 section or section 46-15.2, including the satisfaction  
6 of any guarantees made by the county pursuant to this  
7 section;

8 (2) Appropriate moneys of the county to carry out the  
9 purposes of this section;

10 (3) Obtain insurance and guarantees from the State or the  
11 United States, or subsidies from either;

12 (4) Designate, after holding a public hearing on the  
13 matter and with the approval of the respective  
14 council, any lands owned by it for the purposes of  
15 this section;

16 (5) Provide interim construction loans to partnerships of  
17 which it is a partner and to developers whose projects  
18 qualify for federally assisted project mortgage  
19 insurance, or other similar programs of federal  
20 assistance for persons of low and moderate income; and

21 (6) Adopt [such] rules pursuant to chapter 91 as are  
22 necessary to carry out the purposes of this section.



1 (c) The provisions of this section shall be construed  
2 liberally so as to [~~most fully~~] effectuate the purpose of this  
3 section in facilitating the development, construction, and  
4 provision of low- and moderate-income housing by the various  
5 counties.

6 (d) For purposes of this section, "low and moderate income  
7 housing" means any housing project that meets the definition of  
8 "low- and moderate-income housing project" in section 39A-281."

9 SECTION 2. Section 46-15.2, Hawaii Revised Statutes, is  
10 amended to read as follows:

11 "§46-15.2 Housing; additional county powers. In addition  
12 and supplemental to the powers granted to counties by section  
13 46-15.1, any county shall have and may exercise any of the  
14 following powers:

15 (1) To provide assistance and aid to persons of low and  
16 moderate income in acquiring housing by providing  
17 loans secured by a mortgage, including by acquiring  
18 [~~such~~] the loans from private lenders for which [~~such~~]  
19 the county has made advance commitment to acquire  
20 [~~such~~] the loans, and to make and execute contracts  
21 with private lenders or a public agency for the



1 origination and servicing of [~~sueh~~] the loans and pay  
2 the reasonable value of [~~sueh~~] the services;

3 (2) In connection with the exercise of any powers granted  
4 under this section or section 46-15.1, to establish  
5 one or more loan programs and to issue bonds under  
6 chapter 47 or 49 to provide moneys to carry out the  
7 purposes of this section or section 46-15.1; provided  
8 that:

9 (A) If bonds are issued pursuant to chapter 47 to  
10 finance one or more loan programs, the county may  
11 establish [~~sueh~~] qualifications for the program  
12 or programs as it deems appropriate;

13 (B) If bonds are issued pursuant to chapter 49 to  
14 finance one or more loan programs, [~~sueh~~] the  
15 loan program or programs shall comply with the  
16 provisions of part III.B of chapter [~~201G,~~] 201H,  
17 to the extent applicable;

18 (C) If bonds are issued pursuant to section 47-4 or  
19 chapter 49, any loan program established pursuant  
20 to this section or any county-owned dwelling  
21 units constructed under section 46-15.1 shall be  
22 and constitute an "undertaking" under section 49-



1           1 and the provisions of chapter 49 shall apply to  
2           ~~[such]~~ the loan program or county-owned dwelling  
3           units to the extent applicable;

4           (D) In connection with the establishment of any loan  
5           program pursuant to this section, a county may  
6           employ financial consultants, attorneys, real  
7           estate counselors, appraisers, and ~~[such]~~ other  
8           consultants as may be required in the judgment of  
9           the county and fix and pay their compensation  
10          from funds available to the county therefor;

11          (E) Notwithstanding any limitation otherwise  
12          established by law, with respect to the rate of  
13          interest on any loan made under any loan program  
14          established pursuant to this section, ~~[such]~~ the  
15          loan may bear ~~[such]~~ a rate or rates of interest  
16          per year as the county shall determine; provided  
17          that no loan made from the proceeds of any bonds  
18          of the county shall be under terms or conditions  
19          ~~[which]~~ that would cause the interest on ~~[such]~~  
20          the bonds to be deemed subject to income taxation  
21          by the United States of America;



1 (F) Notwithstanding any limitation otherwise  
2 established by law, with respect to the amount of  
3 compensation permitted to be paid for the  
4 servicing of loans made under any loan program  
5 established pursuant to this section, a county  
6 may fix [such] any reasonable compensation as the  
7 county may determine;

8 (G) Notwithstanding the requirement of any other law,  
9 a county may establish [such] separate funds and  
10 accounts with respect to bonds issued pursuant to  
11 chapter 47 or 49 to provide moneys to carry out  
12 the purposes of this section or section 46-15.1  
13 as [such] the county may deem appropriate;

14 (H) Notwithstanding any provision of chapter 47 or 49  
15 or of any other law, but subject to the  
16 limitations of the [~~State Constitution,~~] state  
17 constitution, bonds issued to provide moneys to  
18 carry out the purposes of this section or section  
19 46-15.1 may be sold at public or private sale at  
20 [such] a price, may bear interest at [such] a  
21 rate or rates per year, may be payable at [such]  
22 the time or times, may mature at [such] the time



1 or times, may be made redeemable before maturity  
2 at the option of the county, the holder, or both,  
3 at [~~such~~] the price or prices and upon [~~such~~]  
4 terms and conditions, and may be issued in coupon  
5 or registered form, or both, all as the county  
6 may determine;

7 (I) If deemed necessary or advisable, the county may  
8 designate a national or state bank or trust  
9 company within or without the State to serve as  
10 trustee for the holders of bonds issued to  
11 provide moneys to carry out the purposes of this  
12 section or section 46-15.1 and enter into a trust  
13 indenture, trust agreement, or indenture of  
14 mortgage with [~~such~~] the trustee whereby [~~such~~]  
15 the trustee may be authorized to receive and  
16 receipt for, hold, and administer the proceeds of  
17 [~~such~~] the bonds and to apply the proceeds to the  
18 purposes for which [~~such~~] the bonds are issued,  
19 or to receive and receipt for, hold, and  
20 administer the revenues and other receipts  
21 derived by the county from the application of the  
22 proceeds of [~~such~~] the bonds and to apply [~~such~~]



1           the revenues and receipts to the payment of the  
2           principal of, or interest on [~~such~~] the bonds, or  
3           both. Any [~~such~~] trust indenture, trust  
4           agreement, or indenture of mortgage entered into  
5           with the trustee may contain any covenants and  
6           provisions as may be deemed necessary,  
7           convenient, or desirable by the county [~~in order~~]  
8           to secure [~~such~~] the bonds. The county may  
9           pledge and assign to the trustee any agreements  
10          related to the application of the proceeds of  
11          [~~such~~] the bonds and the rights of the county  
12          thereunder, including the rights to revenues and  
13          receipts derived thereunder. Upon appointment of  
14          the trustee, the director of finance may elect  
15          not to serve as fiscal agent for the payment of  
16          the principal and interest[7] and for the  
17          purchase, registration, transfer, exchange, and  
18          redemption, of [~~such~~] the bonds, or may elect to  
19          limit the functions the director of finance  
20          performs as [~~such~~] the fiscal agent, and may  
21          appoint the trustee to serve as the fiscal agent,  
22          and may authorize and empower the trustee to



1 perform [~~such~~] the functions with respect to  
2 [~~such~~] the payment, purchase, registration,  
3 transfer, exchange, and redemption, as the  
4 director of finance deems necessary, advisable,  
5 or expedient, including[~~7~~] without limitation[~~7~~]  
6 the holding of [~~such~~] the bonds and coupons  
7 [~~which~~] that have been paid and the supervision  
8 and conduction or the destruction thereof in  
9 accordance with law;

10 (J) If a trustee is not appointed to collect, hold,  
11 and administer the proceeds of bonds issued to  
12 provide moneys to carry out the purposes of this  
13 section or section 46-15.1, or the revenues and  
14 receipts derived by the county from the  
15 application of the proceeds of [~~such~~] the bonds,  
16 all as provided in subparagraph (I), the director  
17 of finance of [~~such~~] the county may hold [~~such~~]  
18 the proceeds or revenues and receipts, as the  
19 case may be, in a separate account in the  
20 treasury of the county, to be applied solely to  
21 the carrying out of the ordinance, trust  
22 indenture, trust agreement, or indenture of



- 1 mortgage, if any, authorizing or securing [~~such~~  
2 the bonds; and
- 3 (K) Any law to the contrary notwithstanding the  
4 investment of funds held in reserves and sinking  
5 funds related to bonds issued to provide moneys  
6 to carry out the purposes of this section or  
7 section 46-15.1 shall comply with the provisions  
8 of section [~~201G-167,~~] 201H-77; provided that any  
9 investment [~~which~~] that requires approval by the  
10 county council pursuant to section 46-48 or 46-50  
11 [~~must~~] shall first be approved by the county  
12 council.
- 13 (3) To acquire [~~such~~] policies of insurance and enter into  
14 [~~such~~] banking arrangements as [~~such~~] the county may  
15 deem necessary [~~in order~~] to better secure bonds  
16 issued to provide money to carry out the purposes of  
17 this section or section 46-15.1, including[~~ing~~] without  
18 limitation[~~ing~~] contracting for a support facility or  
19 facilities as may be necessary with respect to bonds  
20 issued with a right of the holders to put [~~such~~] the  
21 bonds and contracting for interest rate swaps; and



1 (4) To do any and all other things necessary or  
2 appropriate to carry out the purposes and exercise the  
3 powers granted in section 46-15.1 and this section."

4 SECTION 3. Section 49-1, Hawaii Revised Statutes, is  
5 amended by amending the definitions of "loan program" and  
6 "undertaking" to read as follows:

7 "Loan program" means the activities and policies  
8 undertaken by any county to provide [~~assistance~~]:

9 (1) Assistance to members of the general public who are  
10 residents of the county by making loans or causing  
11 loans to be made available to them for [~~such~~] purposes  
12 as may be authorized by law[~~-~~]; or

13 (2) Loans to private nonprofit organizations or public  
14 instrumentalities, or to wholly owned affiliates  
15 thereof, for the development of low and moderate  
16 income housing pursuant to section 46-15.1(a).

17 "Undertaking" means any public works and properties,  
18 improvement, or system owned or operated by the county, and from  
19 which the county may derive revenue, or with respect to which  
20 the county may derive user taxes, including[~~7~~] but not limited  
21 to one or a combination of two or more of the following: water,  
22 sewerage, gas or electric, heat, light or power works, solid



1 waste processing and disposal, public off-street parking  
2 facilities, plants, [~~and~~] systems, and low and moderate income  
3 housing projects provided pursuant to section 46-15.1, together  
4 with all parts thereof and appurtenances thereto."

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

7 SECTION 5. This Act shall take effect upon its approval.

APPROVED this 24 day of APR, 2007



GOVERNOR OF THE STATE OF HAWAII

