

**RELOCATION
ASSISTANCE TO
DISPLACED PERSONS
(CHAPTER 24)**

**Kakaako Community
Development District**

Honolulu, Hawaii

**UNOFFICIAL
COMPILATION**

NOVEMBER 1999

KAKAAKO COMMUNITY DEVELOPMENT DISTRICT
UNOFFICIAL COMPILATION
OF THE
RELOCATION ASSISTANCE TO DISPLACED PERSONS RULES

This is the 1999 edition of the Unofficial Compilation of the Relocation Assistance to Displaced Persons Rules. The Relocation Assistance to Displaced Persons Rules are part of the Hawaii Administrative Rules (HAR), Title 15, Department of Business, Economic Development & Tourism, Subtitle 4, Hawaii Community Development Authority (HCDA), Chapter 24, Relocation Assistance to Displaced Persons in the Kakaako Community Development District. Chapter 24, Title 15, Relocation Assistance to Displaced Persons supersedes Chapter 18, Title 15, which was repealed.

This edition includes amendments as of February 22, 1993. See Index of Amendments for a description of the amendment. The official Relocation Assistance to Displaced Persons Rules and its amendments are on file at the Office of the Lieutenant Governor and may also be reviewed at the HCDA office.

Jan S. Yokota
Executive Director

KAKAAKO COMMUNITY DEVELOPMENT DISTRICT
UNOFFICIAL COMPILATION
OF THE
RELOCATION ASSISTANCE TO DISPLACED PERSONS RULES
INDEX OF AMENDMENTS

Hawaii Administrative Rules, Title 15, Subtitle 4, Chapter 24, effective as of February 11, 1991, has subsequently been amended by the following:

SUBJECT	EFFECTIVE DATE
Amends Interest Rate of the Relocation Loan Program	February 22, 1993

TABLE OF CONTENTS

	<u>Page</u>
Subchapter 1 Relocation Program	
§15-24-1	Purpose and applicability.... 1
§15-24-2	Definitions..... 2
§15-24-3	Number..... 4
§15-24-4	Relocation payments..... 4
§15-24-5	Partial acquisition..... 5
§15-24-6	Optional relocation payments for displaced persons - general..... 5
§15-24-7	Ineligible moving and related expenses..... 6
§15-24-8	Displacement by private action..... 6
§15-24-9	Reimbursement..... 7
§15-24-10	Temporary relocation facilities..... 7
§15-24-11	Application and prompt payments..... 8
§15-24-12	Rights to displacees..... 8
§15-24-13	Right to appeal..... 9
§15-24-14	Documentation..... 10
§15-24-15	Relocation assistance programs..... 12
§§15-24-16 to 15-24-20	Reserved..... 15
Subchapter 2 Business Relocation	
§15-24-21	Optional relocation payments for displaced persons - businesses..... 15
§15-24-22	Reestablishment expenses..... 19
§15-24-23	Inspection of books..... 20
§§15-24-24 to 15-24-27	Reserved..... 20
Subchapter 3 Residential Relocation	
§15-24-28	Optional relocation payments for displaced persons - individuals and families..... 21
§15-24-29	Replacement housing payment.. 22

§15-24-30	Replacement housing payment to a one-year owner-occupant who purchases housing.....	24
§15-24-31	Replacement housing payment to owner-occupants who rent.....	26
§15-24-32	Replacement housing payment to owner-occupants for less than one year but not less than ninety days who purchase.....	26
§15-24-33	Replacement housing payment to owner-occupants for less than one year but not less than ninety days who rent.....	27
§15-24-34	Replacement housing payment to tenant-occupants and sleeping room occupants for not less than ninety days who rent.....	27
§15-24-35	Replacement housing payment to tenant-occupants for not less than ninety days who purchase.....	28
§15-24-36	Decent, safe and sanitary housing.....	29
§15-24-37	Assurance of availability of housing.....	30
§§15-24-38 to 15-24-40	Reserved.....	30

Subchapter 4 Relocation Loan Program

§15-24-41	Purpose.....	31
§15-24-42	Purpose of loans.....	31
§15-24-43	Types of loans.....	31
§15-24-44	Eligibility requirements.....	31
§15-24-45	Application procedure.....	32
§15-24-46	Consideration and review of applications.....	32
§15-24-47	Preferences and priorities in granting loans.....	33
§15-24-48	Maximum loan amount; loan terms and restrictions.....	33
§15-24-49	Inspection of premises and records.....	34
§15-24-50	Annual reports required of borrowers; interim	

	reports.....	34
§15-24-51	Default.....	34
§§15-24-52 to 15-24-55	Reserved.....	35

HAWAII ADMINISTRATIVE RULES

TITLE 15
DEPARTMENT OF BUSINESS, ECONOMIC
DEVELOPMENT & TOURISM

SUBTITLE 4
HAWAII COMMUNITY DEVELOPMENT AUTHORITY

CHAPTER 24
RELOCATION ASSISTANCE TO DISPLACED PERSONS

SUBCHAPTER 1

RELOCATION PROGRAM

§15-24-1 Purpose and applicability. (a) The purpose of this chapter is to ensure relocation assistance to individuals, families, businesses, and nonprofit organizations displaced in the Kakaako community development district as a result of development actions.

(b) The provisions of chapter 111, HRS, shall not apply to displacements by state and county agencies within the Kakaako district, and the provisions of this chapter shall apply whenever any individual, family, or business concern occupying property within the Kakaako district is displaced by the Hawaii community development authority or any other governmental agency in the process of acquiring real property for public improvement projects or in carrying out various code enforcement activities consistent with the intent and provisions of the Kakaako community development district plan. The authority shall provide relocation assistance to persons displaced by private sector actions, provided that the assistance shall not include any form of direct monetary payments, except that the authority may make relocation loans to displaced businesses in accordance with this chapter.

(c) If funds for relocating any displaced person have been loaned or furnished, wholly or in part, by the federal government, the terms and provisions required by the United States Uniform Relocation Assistance Act of 1970 shall apply. [Eff 2/11/91] (Auth: HRS §§206E-4, 206E-10.5) (Imp: HRS §§206E-4, 206E-10.5)

Historical Note: §15-24-1 is based substantially upon §15-18-1. [Eff 9/22/84; R 2/11/91]

§15-24-2 Definitions. As used in this chapter, the term:

"Authority" means the Hawaii community development authority.

"Business" means any lawful activity conducted (1) primarily for the purchase and resale, manufacture, processing or marketing of products, commodities, or any other personal property; (2) primarily for the sale of services to the public; or (3) by a nonprofit organization.

"Comparable dwelling" means one which when compared with the dwelling being taken is:

- (1) Decent, safe and sanitary;
- (2) Functionally equivalent and substantially the same with respect to number of rooms, area of living space, type of construction, age, and state of repair;
- (3) In areas not generally less desirable than the dwelling to be acquired with regard to public utilities, and public and commercial facilities;
- (4) Reasonably accessible to the displaced person's place of employment;
- (5) Adequate to accommodate the relocatee;
- (6) In an equal or better neighborhood;
- (7) Available on the market; and
- (8) Open to all persons regardless of race, color, religion, sex or national origin.

"Displaced person" means any person who is lawfully residing on or lawfully occupying real property and is required to move from any real property as a result of the acquisition or imminence of acquisition of the real property, in whole or in part, by the authority or other governmental agency or who moves from the real property as a result of the acquisition or imminence of acquisition by the authority or other governmental agency of other real property on which the person is lawfully conducting a business. "Displaced person" also includes any person lawfully residing on or lawfully occupying real property and is required to move as a result of a governmental program of voluntary rehabilitation or building, zoning, and other similar code enforcement activities. "Displaced person" as defined in this chapter shall not include a tenant upon or occupier of State land under a revocable permit, provided that those persons who are issued revocable permits on State land which they had previously occupied as lawful tenants or lawful occupiers of private virtue of which acquisition the revocable permits are issued immediately upon acquisition, shall be entitled to assistance as displaced persons upon displacement at the termination of the revocable permits. "Displaced persons" as defined in this chapter shall not

include a squatter or trespasser upon State land or any person unlawfully residing on or unlawfully occupying any real property.

"Eligible person" means any displaced person who is, or becomes, lawfully entitled to any payment under this chapter.

"Executive director" means the executive director of the authority.

"Family" means two or more individuals living together in the same dwelling unit who are related to each other by blood, marriage, adoption, or legal guardianship.

"Financial institution" includes, but is not limited to, banks and other lending institutions whose regular course of business entails the making of commercial and industrial loans.

"Governmental agency" includes the authority and any other state or county agency.

"Individual" means a person who is not a member of a family.

"Loan" means a direct loan made by the authority for the purpose of this chapter, or a loan in which the State participates with financial institutions, including the SBA.

"Moves in reasonable expectation". A person who moves from real property subsequently acquired for public purposes as a result of the "reasonable expectation of acquisition of the real property" is one who is in occupancy on the date of the first written offer to purchase the property and meets the occupancy requirements. The occupancy requirements shall be computed from the date of his move.

"Moving expenses" include the cost of dismantling, disconnecting, crating, loading, insuring, temporary storage, transporting, unloading, reinstalling of personal property, including service charge in connection with effecting the reinstallations, excluding the cost of any additions, improvements, alterations, or other physical changes in or to any structure in connection therewith. Reinstallation and reconnection costs required for the relocation of trade fixtures shall qualify as moving expenses.

"Owner" means a person:

- (1) Owning, legally or equitably, the fee simple estate, a life estate, a ninety-nine year lease, or other proprietary interest in the property;
- (2) The contract purchaser of any of the foregoing estates or interest; or
- (3) Who has succeeded to any of the foregoing interests by devise, bequest, inheritance or operation of law. If acquisition of ownership is by such methods, the tenure of the succeeding

UNOFFICIAL COMPILATION
NOVEMBER 1999

owner shall include the tenure of the preceding owner.

"Person" means (1) any individual, partnership, or corporation or association which is the owner of a business; (2) the head of a family; (3) an individual not a member of a family; (4) a nonprofit organization exempted from taxation under section 235-9, Hawaii Revised Statutes.

"Private action displaced business" means a small business which is displaced from its location in the Kakaako community development district due to private sector action and not due to action by any governmental agency.

"SBA" means the Small Business Administration of the United States Government.

"SBIA" means the Small Business Investment Act of 1958 (P.L. 86-699), as amended.

"SBIC" means the Small Business Investment Company which provides venture capital to meet the equity needs of small business concerns.

"Small business" means any business entity, including its affiliates or subsidiaries, which (1) is nondominant in its field and organized for profit, (2) generally conforms with the SBA definition of a small business as defined by title 13, section 121.3-10 of the Code of Federal Regulations, and (3) has conducted ongoing business from a property situated within the Kakaako community development district as set forth in §15-24-44(7).

"State" means the State of Hawaii.

"Trade fixtures" are machinery, equipment and other property attached to the business structure and utilized for the trade or business. Office equipment, furniture, air conditioners, and other general property are not considered trade fixtures. However, air conditioners that are utilized in conjunction with business machinery or equipment shall be considered trade fixtures. [Eff 2/11/91] (Auth: HRS §§206E-4, 206E-10.5) (Imp: HRS §§206E-4, 206E-10.5)

Historical Note: §15-24-2 is based substantially upon §15-18-2. [Eff 9/22/84; am 5/11/85; R 2/11/91]

§15-24-3 Number. The use of all words used in the singular shall extend to and include the plural. [Eff 2/11/91] (Auth: HRS §§206E-4, 206E-10.5) (Imp: HRS §§206E-4, 206E-10.5)

Historical Note: §15-24-3 is based substantially upon §15-18-30. [Eff 9/22/84; am 5/11/85; R 2/11/91]

§15-24-4 Relocation payments. Except as provided as optional payments in §§15-24-6, 15-24-21 and 15-24-28, any person displaced by any governmental agency shall be entitled to receive a payment for actual reasonable moving expenses, supported by a receipted bill or other evidences of expenses incurred. The distance of the move shall not exceed fifty miles measured in a straight line. There is no occupancy time limit for eligibility for moving expense payments. Where it is shown to be in the public interest, the executive director may give prior approval to more than one move of a displaced person. In order to obtain a moving expense payment, a displaced person shall file written claim with the displacing governmental agency on a form provided by the authority. By written prearrangement among the displacing governmental agency, the displaced person, and the mover, the displaced person may present an unpaid moving bill to the displacing governmental agency and the agency may pay the mover directly. The agency may enter into a contract with independent movers on a scheduled basis and furnish a displaced person with a list of movers to choose from to move the person's property. In such instances, the displacing governmental agency shall pay the mover. [Eff 2/11/91] (Auth: HRS §§206E-4, 206E-10.5) (Imp: HRS §§206E-4, 206E-10.5)

Historical Note: §15-24-4 is based substantially upon §15-18-3. [Eff 9/22/84; am 5/11/85; R 2/11/91]

§15-24-5 Partial acquisition. Where partial acquisition of real property occurs, the cost of moving personal property from the area acquired to a remainder area shall be considered moving expenses eligible for compensation if removal of the property is necessary and is not otherwise compensated. [Eff 2/11/91] (Auth: HRS §§206E-4, 206E-10.5) (Imp: HRS §§206E-4, 206E-10.5)

Historical Note: §15-24-5 is based substantially upon §15-18-6. [Eff 9/22/84; R 2/11/91]

§15-24-6 Optional relocation payments for displaced persons - general. (a) Where necessary, a displaced person falling within §15-24-4 may store personal property for a reasonable time pending location of replacement housing or business location but in no event shall the storage be for a period exceeding one year. The cost of storage shall be considered as part of the moving costs. These costs shall be paid only after a showing of necessity for storage and approval by the displacing governmental agency. A displacee

receiving an in-lieu-of payment in accordance with §§15-24-21(b) and 15-24-28(b) shall not be eligible for a storage payment.

(b) In lieu of the payments authorized by §§15-24-4, 15-24-21 and 15-24-28, the displacing governmental agency may, at its expense, undertake to move as applicable the personal effects or business to the site to which the displaced person is to be relocated. [Eff 2/11/91] (Auth: HRS §§206E-4, 206E-10.5) (Imp: HRS §§206E-4, 206E-10.5)

Historical Note: §15-24-6 is based substantially upon §15-18-3. [Eff 9/22/84; am 5/11/85; R 2/11/91]

§15-24-7 Ineligible moving and related expenses. A displaced person is not entitled to payment for:

- (1) The cost of moving any structure or other real property improvement;
- (2) Interest on a loan to cover moving expenses;
- (3) Loss of goodwill;
- (4) Loss of profits;
- (5) Loss of trained employees;
- (6) Any additional operating expenses of a business incurred because of operating in a new location except as provided in §15-24-22(b)(8);
- (7) Personal injury;
- (8) Any legal fee or other cost for preparing a claim for a relocation payment or for representing the claimant before the agency;
- (9) Expenses for searching for a replacement dwelling;
- (10) Physical changes to the real property at the replacement location of a business except as provided in §§15-24-21(e) and 15-24-22(b); or
- (11) Costs for storage of personal property on real property already owned or leased by the displaced person. [Eff 2/11/91] (Auth: HRS §§206E-4, 206E-10.5) (Imp: HRS §§206E-4, 206E-10.5)

§15-24-8 Displacement by private action. (a) The authority may provide advisory services to individuals, families and businesses displaced by private action within the district, provided that the assistance shall not include any form of direct monetary payments, except that the authority may make relocation loans to displaced businesses in accordance with this chapter. The advisory services may include, but not be limited to, assistance in securing relocation sites within and outside the district.

(b) Temporary relocation facilities may be made available to private action displacees provided that those displaced by government action are to be given priority to the use of the facilities. [Eff 2/11/91] (Auth: HRS §§206E-4, 206E-10.5) (Imp: HRS §§206E-4, 206E-10.5)

Historical Note: §15-24-8 is based substantially upon §15-18-21. [Eff 9/22/84; R 2/11/91]

§15-24-9 Reimbursement. (a) Any person displaced as a result of a building, zoning, or other similar code enforcement activity shall be entitled to receive a payment for actual reasonable moving expenses as authorized by this chapter, provided that such displaced person did not lease or rent the premises with knowledge of the violation and was not responsible in any way for the violation. The displacing agency shall have the right to recover from the party responsible for a code violation any monies paid out pursuant to this subsection. Such amount shall be recoverable by the displacing agency in the same manner as a debt due.

(b) If the person responsible for the code violation is the owner of real property from which persons are forced to move because of a code enforcement activity, and such responsible person fails to pay the displacing agency within sixty days after written demand, the displacing agency may claim a lien against the real property from which persons are displaced. This lien shall be in addition to any other remedy the displacing agency may have. Such lien may be foreclosed in the same manner as liens for real property taxes and in accordance with §§246-55 to 246-61, HRS.

(c) Payments in accordance with this section to the displacing agency by the party responsible for the code violation shall not relieve the party from complying with the notices ordering compliance with codes issued by the displacing agency. [Eff 2/11/91] (Auth: HRS §§206E-4, 206E-10.5) (Imp: HRS §§206E-4, 206E-10.5)

Historical Note: §15-24-9 is based substantially upon §15-18-23. [Eff 5/11/85; R 2/11/91]

§15-24-10 Temporary relocation facilities. (a) The authority may provide relocation facilities within or outside the district for temporary occupancy by individuals, families and businesses displaced by development action in the district.

(b) Tenant occupancy in relocation facilities provided by the authority shall be temporary. Displacees may be

issued revocable permits of occupancy, provided that a displacee shall not be allowed to occupy a temporary relocation facility for more than six months after completion of a development project in which said displacee has secured an option to lease, or three years, whichever occurs first.

(c) Temporary relocation facilities provided by the authority shall be made available to displacees at fair market rental.

(d) Eligibility for the use of temporary relocation space shall be based on a priority system, with displacees of government action having precedence over all others. Displacees of private development actions having the longest tenancy in the Kakaako district shall be afforded second priority, provided the displacees are legitimate businesses which will be conducting activities that are permitted at the site on which the temporary relocation facility is located. [Eff 2/11/91] (Auth: HRS §§206E-4, 206E-10.5) (Imp: HRS §§206E-4, 206E-10.5)

Historical Note: §15-24-10 is based substantially upon §15-18-22. [Eff 9/22/84; R 2/11/91]

§15-24-11 Application and prompt payments.

(a) Applications for any relocation or reestablishment payments authorized by this chapter shall be on forms provided by the authority, shall be accompanied by the information and documents as may be required by the authority and shall be filed with the displacing governmental agency.

(b) No application for any relocation or reestablishment payments authorized by this chapter shall be accepted more than eighteen months after the date of the commencement of the move, nor shall any such payment be made prior to the completion of the move except in cases of hardship.

(c) All relocation and reestablishment payments authorized by this chapter shall be paid within thirty days after the completion of the move or within thirty days after the date of application if application is made after the move is completed. [Eff 2/11/91] (Auth: HRS §§206E-4, 206E-10.5) (Imp: HRS §§206E-4, 206E-10.5)

Historical Note: §15-24-11 is based substantially upon §§15-18-4 and 15-18-5. [Eff 9/22/84; R 2/11/91]

§15-24-12 Rights of displacees. All displaced persons shall have the following rights:

**UNOFFICIAL COMPILATION
NOVEMBER 1999**

- (1) Access to information collected by the authority on replacement housing and replacement business sites both temporary and permanent;
- (2) Access to information regarding types of payments;
- (3) That the displacee shall not be required to vacate without 90 days written notice by the displacing governmental agency; and
- (4) That eviction proceedings shall be initiated only in the event that the displacee remains on the property past the 90-day written notice without the displacing governmental agency's written permission. [Eff 2/11/91] (Auth: HRS §§206E-4, 206E-10.5) (Imp: HRS §§206E-4, 206E-10.5)

Historical Note: §15-24-12 is based substantially upon §15-18-15. [Eff 9/22/84; R 2/11/91]

§15-24-13 Right to appeal. (a) An applicant for a payment under this chapter shall be notified promptly in writing concerning the applicant's eligibility for the payment claimed, the amount, if any, the applicant is entitled to receive, and the time and manner in which the payment will be made.

- (1) Any person aggrieved by a determination as to their eligibility for payment authorized by this chapter, or the amount of the payment, may request in writing that the application be reviewed by the authority. The request shall be made within 60 days of receipt of written notification from the displacing governmental agency regarding eligibility and shall contain all necessary data and information in support of the applicant's contention. The executive director shall first review the request and then forward it with recommendations to the authority for review and decision.
- (2) The authority shall hear and determine appeals. An appeal shall be sustained only if the authority finds that the displacing governmental agency's action was based on an erroneous finding of a material fact, or that the agency had acted in an arbitrary or capricious manner or had manifestly abused its discretion.
- (3) Any aggrieved applicant who is not satisfied with the decision of the authority may appeal the determination to the circuit court of the circuit in which the aggrieved applicant resides.

(b) Persons aggrieved by a determination that they are responsible for a zoning code violation may request in

writing that the determination be reviewed by the authority. The request shall be filed with the authority within sixty days after written demand is made by the governmental agency and shall contain the grounds for the appeal, the specific issues involved, the contentions of the aggrieved, and a description of the evidence that the aggrieved intends to introduce in support of the person's contentions.

- (1) The executive director shall first review the request and then forward it with recommendations to the authority for review and decision.
- (2) A person responsible for a zoning code violation who is not satisfied with the decision on review may appeal the authority's determination to the circuit court of the circuit in which the aggrieved applicant resides. [Eff 2/11/91] (Auth: HRS §§206E-4, 206E-10.5) (Imp: HRS §§206E-4, 206E-10.5)

Historical Note: §15-24-13 is based substantially upon §15-18-17. [Eff 9/22/84; R 2/11/91]

§15-24-14 Documentation. (a) A governmental agency which displaces any person shall maintain relocation records for its displacements showing:

- (1) Project and parcel identification;
- (2) Names and addresses of displaced persons and their original and new addresses and telephone numbers (if available);
- (3) Personal contacts made with each displaced person including:
 - (A) Date of notification of availability of relocation payments and services;
 - (B) Name of the official offering or providing relocation assistance;
 - (C) Whether the offer of assistance was declined or accepted and the name of the individual accepting or declining the offer;
 - (D) Dates and substance of subsequent follow-up contacts;
 - (E) Date on which the displaced person was required to move from the property acquired;
 - (F) Date on which actual relocation occurred and whether relocation was accomplished with the assistance of the authority, referrals to other agencies, or without assistance. If the latter, an approximate date for actual relocation is acceptable; and
 - (G) Type of tenure before and after relocation;
- (4) For displacements from dwellings:

UNOFFICIAL COMPILATION
NOVEMBER 1999

- (A) Number in family;
 - (B) Type of property (single detached, multi-family, etc.);
 - (C) Value, or monthly rent; and
 - (D) Number of rooms occupied; and
- (5) For displaced businesses:
- (A) Type of business;
 - (B) Whether continued or terminated; and
 - (C) If relocated, distance moved (estimate acceptable).
- (b) The displacing governmental agency shall maintain records containing the following information regarding moving and reestablishment expense payments:
- (1) The date the removal of personal property was accomplished;
 - (2) The location from which and to which the personal property was moved;
 - (3) If the personal property was stored temporarily, the location where the property was stored, the duration of the storage, and justification for the storage and the storage charges;
 - (4) Itemized statement of the costs incurred supported by receipted bills or other evidence of expense;
 - (5) Amount of reimbursement claimed, amount allowed and an explanation of any difference;
 - (6) Data supporting any determination that a business cannot be relocated without a substantial loss of its existing patronage and that it is not part of a commercial enterprise having at least one other establishment not being acquired;
 - (7) When the payment to a business is based on its average annual net earnings or \$5,000, whichever is less, data showing how the payment was computed; and
 - (8) When fixed moving expense payments are made, the data called for in paragraphs (3) and (4) above need not be maintained. Instead, records showing the basis on which payment was made shall be maintained.
- (c) The displacing governmental agency shall maintain records containing the following information regarding replacement housing payments:
- (1) The date of the governmental agency's receipt of each application for payments;
 - (2) The date on which each payment was made or the application rejected;
 - (3) Supporting data explaining how the amount of the supplemental payment to which the applicant is entitled was calculated. This data shall also clearly establish that as of the date of payment

- replacement housing meeting and criteria established in §15-24-36 was available;
- (4) A signed and dated statement setting forth (1) the determination of the amount of the supplemental payment; and (2) that no official of the governmental agency has a direct or indirect present or contemplated personal interest in this transaction, or will derive any benefit from the supplemental payment, provided that where an individual employed by a governmental agency is displaced by a project, the executive director may authorize payments under this chapter; and
- (5) A statement by the director of the displacing governmental agency that in his opinion the displaced person has been relocated in decent, safe and sanitary housing. [Eff 2/11/91] (Auth: HRS §§206E-4, 206E-10.5) (Imp: HRS §§206E-4, 206E-10.5)

Historical Note: §15-24-14 is based substantially upon §15-18-18. [Eff 9/22/84; R 2/11/91]

§15-24-15 Relocation assistance programs. (a) Any governmental agency which displaces any person shall prepare a relocation program. Planning for relocation programs shall be accomplished in stages:

- (1) Until the time that the final project is approved, the tenant shall not be disturbed in any way. Prior to the completion of this stage, the displacing governmental agency shall make preliminary investigations which will furnish the following information for the project location given final consideration:
- (A) Approximate number of individuals, families, businesses, and nonprofit organizations that would be displaced;
- (B) The probable availability of comparable replacement housing within the financial means of those displaced; and
- (C) The basis upon which the above findings were made.
- (2) The displacing governmental agency, prior to proceeding with acquisition negotiations or construction, shall furnish the following information for the authority's review and approval:
- (A) The methods and procedures by which the needs of every individual to be displaced shall be evaluated and correlated with available

decent, safe, and sanitary housing at reasonable rents or prices and readily accessible to the displaced person's place of employment;

- (B) The methods and procedures by which the displacing governmental agency will assure an inventory of currently available comparable housing which is decent, safe and sanitary, including type of building, state of repair, number of rooms, needs of the person or family being displaced, type of neighborhood, proximity of public transportation and commercial shopping areas, and distance to any pertinent social institutions, such as church and community facilities; and
- (C) An analysis relating to the characteristics of the inventories so as to develop a relocation plan which shall:
 - (i) Outline the various relocation problems disclosed by the above survey;
 - (ii) Provide an analysis of federal, state and community programs affecting the availability of housing currently in operation in the project area;
 - (iii) Provide detailed information on concurrent displacement and relocation by other governmental agencies or private concerns;
 - (iv) Provide an analysis of the problems involved and the method of operation to resolve problems and relocate the relocatees;
 - (v) Estimate the amount of lead time required and demonstrate its adequacy to carry out a timely, orderly and humane relocation program; and
 - (vi) Assure no person lawfully occupying real property shall be required to move without at least ninety days written notice.

(b) The displacing governmental agency shall, in developing relocation assistance programs, consult with the persons to be displaced in order to insure that the programs are realistic and effective.

(c) Each relocation assistance program shall be reviewed and approved by the authority prior to any displacement.

(d) Where a displacing governmental agency other than the authority elects to have the relocation payments and

services required by this chapter administered by the authority, the agency shall enter into a written contract or agreement to that effect with the authority. The contract or agreement shall be subject to the approval of the authority. The contract shall also provide that the records required by §15-24-14 will be turned over to the authority.

(e) Any agency administering a relocation program in accordance with this chapter shall assure that:

- (1) Each project shall have assigned to it one or more individuals whose responsibility is to provide relocation assistance;
- (2) A relocation office will be established which is reasonably convenient to public transportation and within the district. The office shall be open during normal working hours;
- (3) Reasonable efforts shall be made to personally contact each person to be displaced to explain the relocation payments and assistance which are available and to assist in completing any applications required. If the contact is not made, the administering agency shall furnish documentation to show what efforts were expended to achieve this contact;
- (4) Relocation personnel shall maintain personal contact and exchange information with other agencies rendering services useful to displaced persons. These agencies include social welfare agencies, urban renewal agencies, redevelopment authorities, public housing authorities, the Federal Housing Administration (FHA), Veterans Administration (VA) and Small Business Administration (SBA). Personal contact shall also be maintained with local sources of information on private replacement properties, including real estate brokers, real estate boards, property managers, apartment owners and operators, and home building contractors. Subscriptions may be maintained for multiple listing services, apartment directory services, and neighborhood and metropolitan newspapers; and
- (5) The relocation office shall maintain and provide:
 - (A) A list of replacement dwellings and business locations from various sources suitable in price, size and condition for displaced persons;
 - (B) Current data for costs such as security deposits for utilities, damages, and leases, closing costs, typical down payments, and interest rates and terms;

**UNOFFICIAL COMPILATION
NOVEMBER 1999**

- (C) Maps showing the location of schools, parks, playgrounds, shopping and public transportation routes in the area;
- (D) Schedules and costs of public transportation; and
- (E) Copies of local ordinances pertaining to housing, building codes, and open housing; FHA and VA booklets of information on inspecting and evaluating replacement housing and consumer education literature on housing, shelter costs and family budgeting. [Eff 2/11/91] (Auth: HRS §§206E-4, 206E-10.5) (Imp: HRS §§206E-4, 206E-10.5)

Historical Note: §15-24-15 is based substantially upon §15-18-20. [Eff 9/22/84; R 2/11/91]

§§15-24-16 to 15-24-20 Reserved.

SUBCHAPTER 2

BUSINESS RELOCATION

§15-24-21 Optional relocation payments for displaced persons - businesses. (a) In the case of a self-move, the business may be paid an amount to be negotiated between the displacing governmental agency and the displaced business not to exceed the lower of two firm bids or estimates obtained by the displacing governmental agency.

(b) In lieu of the payment authorized by §15-24-4, an owner of a displaced business who moves or discontinues his business may elect to receive a fixed relocation payment in an amount equal to the average annual net earnings of the business, or \$5,000, whichever is less.

(1) For payments to be made under this subsection, the displacing governmental agency shall determine that:

(A) The business cannot be relocated without a substantial loss of its existing patronage; and

(B) The business is not part of a commercial enterprise having at least one other establishment, not being acquired by the displacing governmental agency, which is engaged in the same or similar business.

(2) The term "average annual net earnings" means one-half of any net earnings of the business before federal, state, and local income taxes, during the two taxable years immediately preceding the taxable year in which the business is displaced. "Average annual net earnings" include any compensation paid by the business to the owner, the owner's spouse, or the owner's dependents during the two-year period. Earnings and compensation may be established by federal or state income tax returns filed by the business and its owner and owner's spouse and dependents during the two-year period. In the case of a corporate owner of a business, earnings shall include any compensation paid to the spouse or dependents of

the owner of a majority interest in the corporation. For the purpose of determining majority ownership, stock held by an owner, owner's spouse and their dependent children shall be treated as one unit.

- (3) If the displaced business affected can show that it was in business for twelve consecutive months during the two taxable years prior to the taxable year in which it was displaced, had income during the period and is otherwise eligible, the displaced business is eligible to receive the payment in accordance with subsection (b) and paragraph (b)(2) of this section. Where the business was in operation for twelve consecutive months or more but was not in operation during the entire two preceding years, the payment shall be computed by dividing the net earnings by the number of months the business was operated and multiplying by twelve.
- (4) For multi-family structures leased for business, where the displacing governmental agency reasonably determines that comparable replacement structures to the structure being acquired are not available, the owner may be entitled to the in-lieu-of moving payment authorized by subsection (b). If a multi-family structure is available that has lesser units than the affected structure, the "substantial loss of existing patronage" determination is based not on the loss of living units but upon the estimated net annual average dollar volume difference in net earnings between the two structures. If the net income is not expected to decrease from that derived on the subject property, an in-lieu-of moving payment may not be made even though there may be a loss in the number of living units.
- (5) For the owner of a displaced business to be entitled for payment, the business shall provide information to support its net earnings.

(c) The owner of a business displaced by a governmental agency may be reimbursed for the actual reasonable expenses in searching for a replacement business location, not to exceed \$500. Such expenses may include transportation expenses, meals, and the reasonable value of time actually spent in search, including the fees of real estate agents or real estate brokers. All expenses claimed except value of time actually spent in search shall be supported by receipted bills. Payment for time actually spent in search shall be based on the applicable hourly wage for the person(s) conducting the search but shall not exceed

\$10 per hour. A certified statement of time spent in search and hourly wage rate(s) shall accompany the claim.

(d) A business displaced by a governmental agency shall be eligible for actual direct losses of tangible personal property, not to exceed \$5,000 for all items combined, if it is entitled to relocate said property in whole or in part but elects not to do so. Payments for actual direct losses shall only be made after a bona fide effort has been made by the owner to sell the item(s) involved. When the item(s) is sold, the payment shall be determined in accordance with §15-24-21(d)(1) or (2). If the item(s) cannot be sold, the owner shall be compensated in accordance with §15-24-21(d)(3). The sales prices, if any, and the actual reasonable cost of advertising and conducting the sale shall be supported by a copy of the bills of sale or similar documents and by copies of any advertisements, offers to sell, auction records and other data supporting the bona fide nature of the sale. Any business receiving an in-lieu-of payment in accordance with §15-24-21(b) shall not be eligible for an actual direct loss payment.

- (1) If the business is to be reestablished and an item of personal property which is used in connection with the business is not moved but promptly replaced with a comparable item at the new location, the reimbursement shall be the lesser of:
 - (A) The replacement costs minus the net proceeds of the sale. "Trade in value" may be substituted for net proceeds of sale where applicable, or
 - (B) The estimated cost of moving the item to the replacement site but not to exceed 50 miles.
- (2) If the business is being discontinued or the item is not to be replaced in the reestablished business, the payment shall be the lesser of:
 - (A) The difference between the fair market value of the personal property for continued use at its location prior to displacement less the net proceeds of the sale, or
 - (B) The estimated cost of moving the item to the replacement site but not to exceed 50 miles.
- (3) If a bona fide sale is not affected under §15-24-21(d)(1) or (2) because no offer is received for the property, and the property is abandoned, payment for actual direct loss of that item may not be more than the fair market value of the item for continued use at its location prior to displacement or the estimated cost of moving the item to the replacement business location not

exceeding 50 miles, whichever is less, plus the cost of the attempted sale, irrespective of the cost to the displacing governmental agency of removing the item. In no event shall the total amount compensated to any business for actual direct loss of tangible personal property exceed \$5,000.

- (4) When personal property is abandoned with no effort being made by the owner to dispose of the property by sale, the owner shall not be entitled to moving expenses, or losses, for the items involved.
- (5) The cost of removal of personal property shall not be considered as an offsetting charge against other payments to the displaced persons.

(e) A business displaced by a governmental agency shall be reimbursed its actual reasonable expenses of reconnecting trade fixtures in the replacement site. Reimbursement shall be limited to that work needed to enable the business to operate at the replacement site in a manner comparable to its operations in the former site.

- (1) Expenses for reconnection of trade fixtures may include the utility connection of trade fixtures within the new premises. The adequacy and availability of the utilities in the replacement site and the expenses to resolve any deficiencies or in bringing required utilities from the right-of-way to the replacement premises, or modifications required to be made to trade fixtures or the replacement premises to meet governmental codes shall not be reimbursable items.
- (2) All expenses claimed shall be preapproved by the displacing governmental agency. The claim shall be supported by receipted bills or, in the case of a self-move, the payment shall not exceed the lower of two firm bids or estimates obtained by the displacing governmental agency for the authorized work.
- (3) If the displacing governmental agency determines that the cost to relocate and reconnect a trade fixture is excessive as compared to replacing it with a comparable item, the agency has the option of replacing the item. In this case, the business will not be charged for the removal of the abandoned trade fixture from the displacement site.

(f) A business displaced by a governmental agency shall be compensated for miscellaneous expenses associated with relocation, such as time spent by employees in the coordination, supervision and assistance in relocation,

architectural or engineering services which may be necessary for the reconnection of trade fixtures, and other expenses. This amount shall be 20 per cent of the actual reasonable expenses to be compensated by the displacing agency in accordance with this chapter for the basic mover's charges, and, if applicable, the charges associated with relocating trade fixtures which may include expenses for specialized movers or technicians, and the charges associated with reconnecting trade fixtures as authorized in §15-24-21(e). In the case of a self-move, these costs shall be based upon the lowest bids or estimates obtained by the displacing agency. This subsection shall not apply to businesses electing optional payments defined in §§15-24-6(b) and 15-24-21(b). [Eff 2/11/91] (Auth: HRS §§206E-4, 206E-10.5) (Imp: HRS §§206E-4, 206E-10.5)

Historical Note: §15-24-21 is based substantially upon §15-18-3. [Eff 9/22/84; am 5/11/85; R 2/11/91]

§15-24-22 Reestablishment expenses. (a) In addition to other payments authorized herein, businesses displaced by governmental agencies may be eligible to receive a payment, not to exceed \$10,000, for expenses actually incurred in reestablishment of their businesses.

(b) Reestablishment expenses must be reasonable and necessary, as determined by the displacing agency. They may include, but are not limited to, the following:

- (1) Repairs or improvements to the replacement real property as required by Federal, State or local law, code or ordinance.
- (2) Modifications to the replacement property to accommodate the business operation or make replacement structures suitable for conducting the business.
- (3) Construction and installation costs, not to exceed \$1,500 for exterior signing to advertise the business.
- (4) Provision of utilities from right-of-way to improvements on the replacement site.
- (5) Redecoration or replacement of soiled or worn surfaces at the replacement site, such as paint, panelling, or carpeting.
- (6) Licenses, fees and permits when not paid as part of moving expenses.
- (7) Advertisement of replacement location, not to exceed \$1,500.
- (8) Estimated increased costs of operation during the first two years at the replacement site for such items as:

- (A) Lease or rental charges,
 - (B) Real property taxes,
 - (C) Insurance premiums, and
 - (D) Utility charges, excluding impact fees.
- (9) Impact fees or one-time assessments for anticipated heavy utility usage.
- (10) Other items that the displacing agency considers essential to the reestablishment of the business.
- (c) The following is a nonexclusive listing of reestablishment expenditures not considered to be reasonable, necessary, or otherwise eligible:
- (1) Purchase of capital assets, such as, office furniture, filing cabinets, machinery or trade fixtures.
 - (2) Purchase of manufacturing materials, production supplies, product inventory or other items used in the normal course of the business operation.
 - (3) Interior or exterior refurbishments at the replacement site which are for aesthetic purposes, except as provided in subsection (b)(5) of this section.
 - (4) Interest on money borrowed to make the move or purchase the replacement property.
 - (5) Payment to a part-time business in the home which does not contribute materially to the household income.
- (d) Businesses which qualify for reestablishment expenses benefits are those displaced by the authority or other governmental agency including those businesses displaced by the authority's improvement district 3 as established by chapter 15-20, Hawaii administrative rules, and the Mother Waldron Park expansion projects of the Kakaako community development district. [Eff 2/11/91] (Auth: HRS §§206E-4, 206E-10.5) (Imp: HRS §§206E-4, 206E-10.5)

§15-24-23 Inspection of books. All books and records kept by a business regarding actual moving and reestablishment expenses incurred shall be subject to review and audit by the authority during reasonable business hours. [Eff 2/11/91] (Auth: HRS §§206E-4, 206E-10.5) (Imp: HRS §§206E-4, 206E-10.5)

Historical Note: §15-24-23 is based substantially upon §15-18-7. [Eff 9/22/84; R 2/11/91]

§§15-24-24 to 15-24-27 Reserved.

SUBCHAPTER 3

RESIDENTIAL RELOCATION

§15-24-28 Optional relocation payments for displaced persons - individuals and families. (a) In the case of a self-move, the displacee may be paid an amount negotiated between the displacing governmental agency and the displacee not to exceed the lower of two firm bids or estimates obtained by the displacing governmental agency.

(b) In lieu of the payment authorized by §15-24-4, a displaced individual or family may elect to receive a moving expense allowance, not to exceed \$200, plus a dislocation allowance of \$100.

- (1) The moving expense allowance shall be determined according to the schedules shown in table 1, fixed payment moving cost schedules. Subschedule A applies to any eligible residential displacee who occupies and provides all or most of the furnishings for the dwelling unit from which the displacee is being displaced. Subschedule B applies to tenants who occupy furnished dwelling units (i.e., furnishings are provided by the landlord). In either case, the total fixed schedule payment including both rooms and dislocation allowance cannot exceed \$300.
- (2) Basements, enclosed porches, attics, separate sheds, and other storage areas of this type can qualify as compensable rooms provided that the areas contain furniture, appliances, or other personal property reasonably equivalent to a routinely furnished room. Bathrooms, hallways, and closets do not qualify and shall not be counted as separate rooms.
- (3) If the eligible displacee is conducting a hobby-type or part-time business operation on the residential property, the residential fixed schedule moving cost payment shall include the cost of moving all personal property involved - both residential and business - and no other moving cost payment will be authorized. A displacee involved in a "full-time" business is entitled to a separate business moving cost payment.

TABLE 1

FIXED PAYMENT MOVING COST SCHEDULES

SUBSCHEDULE A: Furnishings Owned by Displacee - Including Partly Furnished Units

1 Room	2 Rooms	3 Rooms	4 Rooms	5 Rooms	6 Rooms	7 Rooms	8 or More Rooms
\$50	\$65	\$80	\$105	\$135	\$160	\$185	\$200

Plus \$100 Dislocation Allowance

Maximum payment authorized \$300 (\$200 moving costs plus \$100 dislocation allowance)

SUBSCHEDULE B: Furnishings Owned by Landlord - Fully Furnished Units and Sleeping Rooms

1 Room	<u>Each additional room</u>
\$25	\$10; but not to exceed \$200

Plus \$100 Dislocation Allowance

Maximum payment authorized \$300

[Eff 2/11/91] (Auth: HRS §§206E-4, 206E-10.5) (Imp: HRS §§206E-4, 206E-10.5)

Historical Note: §15-24-28 is based substantially upon §15-18-3. [Eff 9/22/84; am 5/11/85; R 2/11/91]

§15-24-29 Replacement housing payment. (a) In addition to other payments authorized herein, individuals and families displaced by a governmental agency are entitled to supplementary payments in accordance with this section.

(b) For the purposes of this section, the term "dwelling" also includes a condominium or cooperative apartment.

(c) Application for supplementary payment shall be on a form provided by the authority and shall be filed with the displacing governmental agency no later than eighteen months

after the date on which the displaced individual or family was required to vacate the dwelling taken for the project, or six months after final adjudication of condemnation case, whichever is later.

(d) The payments described in this section shall be made directly to the lessor for rent or to the seller for application on payment for a decent, safe, and sanitary dwelling. Upon specific request in the application, the displacing governmental agency may make payments into escrow prior to the displaced person's moving.

(e) Prior to any payment, the displacing governmental agency shall cause the proposed replacement dwelling to be inspected to ascertain that it meets the standards established herein for decent, safe, and sanitary housing.

(f) A replacement housing payment can be computed and paid to a property owner in advance if the determination of the acquisition price will be delayed pending the outcome of condemnation proceedings. A provisional replacement housing payment shall be calculated by deeming the displacing governmental agency's maximum offer for the property as the acquisition price. Payment of the amount may be made upon the owner-occupant's agreement that:

(1) Upon final determination of the condemnation proceeding the replacement housing payment shall be recomputed using the acquisition price determined by the court as compared to the average price required to acquire a comparable, decent, safe and sanitary dwelling; and

(2) If the amount awarded in the condemnation proceeding as the fair market value of the property acquired together with the amount of the provisional replacement housing payment exceed the cost of an average comparable dwelling, the property owner shall refund to the displacing governmental agency from the judgment, an amount equal to the amount of the excess. However, in no event shall the owner be required to refund more than the total amount of the replacement housing payment advanced. If the property owner does not agree to such adjustment, the replacement housing payment shall be deferred until the case is finally adjudicated and computed on the basis of the final determination, using the award as the acquisition price.

(g) Any eligible person who obtains legal ownership of a replacement dwelling before being displaced and occupies the replacement dwelling within one year from the date the person is required to move is eligible for the replacement housing payment if the dwelling meets the requirements of

§15-24-36 or is improved to meet those requirements within the one-year period.

(h) If two or more eligible displaced persons occupy the same dwelling unit, they should be treated as a single unit in computing the amount of the replacement housing payment due. In order to receive payment, the displaced persons shall not be required to relocate together but all relocatees shall move to decent, safe and sanitary housing. The payment shall be made to them jointly with the apportionment to be made by the relocatees.

(i) Where displaced individuals or families occupy living quarters on the same premises as a displaced business, the individuals or families shall be considered a single unit but separate from the displaced business for purposes of determining entitlement to relocation payments.

(j) The person who establishes the estimate of value of replacement housing payment shall not negotiate for the parcel nor deliver the payment to the displaced person. [Eff 2/11/91] (Auth: HRS §§206E-4, 206E-10.5) (Imp: HRS §§206E-4, 206E-10.5)

Historical Note: §15-24-29 is based substantially upon §15-18-8. [Eff 9/22/84; R 2/11/91]

§15-24-30 Replacement housing payment to a one-year owner-occupant who purchases housing. (a) A displaced owner-occupant of a one-, two- or three-family dwelling acquired by any governmental agency shall be eligible for a replacement housing payment; provided that the dwelling was actually and lawfully occupied by the owner-occupant for not less than one year prior to the first written offer for the acquisition of the property. The payment, not to exceed \$5,000, shall be the amount, if any, which when added to the acquisition payment, equals the average price required for a comparable dwelling. The payment shall be made only to a displaced owner who purchases and occupies a dwelling within one year subsequent to the date on which the owner is required to move from the dwelling on the real property acquired for public purposes.

(b) The average price of a comparable dwelling shall be established by one of the following methods:

(1) The displacing governmental agency may determine the average price of a comparable dwelling by having a qualified appraiser who is familiar with real property values and real estate transactions select at least three comparable dwellings.

(2) In lieu of the above method, the displacing governmental agency may perform a locality-wide study to develop the probable average selling

price of various classes of dwelling units available on the market. In order to assure the greatest comparability of dwellings in any locality-wide study to the dwelling being acquired, the study shall be divided into classifications as to the type of construction, number of rooms and price ranges. Adequate classifications shall be established so that the average prices derived therefrom will provide a meaningful and proper basis for establishing a schedule of fixed payments to owner-occupants.

(c) Where it is not possible to establish the average price of a comparable dwelling by the methods set forth in subsection (b) above, one of the following methods in the order listed shall be acceptable.

- (1) If other housing is available in the area that is comparable except that it is not decent, safe and sanitary, the supplementary payment may be determined by estimating the cost to correct the deficiencies, adding this amount to the selling price of the replacement housing which is not decent, safe and sanitary, and comparing this amount with the amount paid the relocatee for the dwelling on an area of land typical in size for a homesite in the general area.
- (2) When there is no other housing available in the area and the owner elects to retain and move the dwelling which is not decent, safe and sanitary, the replacement housing payment may be determined by estimating the amount paid for the dwelling at the present location on an area of land typical in size for a homesite in the general area and deducting this amount from the estimated selling price of the dwelling, corrected to decent, safe and sanitary standards on a comparable site.
- (3) Where there is no housing available for comparison and the owner elects to retain and move a decent, safe and sanitary dwelling, the replacement housing payment may be determined by estimating the amount paid for the dwelling at the present location on an area of land typical in size for a homesite in the general area and deducting this amount from the estimated selling price of the dwelling relocated to a comparable homesite.
- (4) In the event the cost of replacement housing determined by paragraphs (1), (2) and (3) above exceeds the acquisition cost, plus the \$5,000 replacement housing limit, the replacement housing payment may be determined by estimating the amount paid for the dwelling at the present location on

an area of land typical in size for a homesite in the general area and deducting this amount from the estimated selling price of a new comparable, decent, safe and sanitary dwelling on a comparable homesite.

(d) If an owner-occupant is otherwise qualified for a payment under this section but has previously received a payment under §15-24-31, the amount of such payment received shall be deducted from the amount to which the owner-occupant is entitled under this section. In no event may the combined payments exceed \$5,000. [Eff 2/11/91] (Auth: HRS §§206E-4, 206E-10.5) (Imp: HRS §§206E-4, 206E-10.5)

Historical Note: §15-24-30 is based substantially upon §15-18-9. [Eff 9/22/84; R 2/11/91]

§15-24-31 Replacement housing payment to owner-occupants who rent. (a) A displaced owner-occupant of a one-, two- or three-family dwelling acquired by any governmental agency who elects to rent shall be eligible for a replacement housing payment; provided that the dwelling was actually and lawfully occupied by the owner-occupant for not less than one year prior to the first written offer for acquisition of the property; and provided further that the owner-occupant has rented a comparable dwelling not later than one year subsequent to the date on which the owner-occupant was required to move.

(b) The payment shall be equal to the difference, if any, between the cost of renting a comparable dwelling for the next two years and twelve per cent of the acquisition price of the property taken, not to exceed \$1,500. [Eff 2/11/91] (Auth: HRS §§206E-4, 206E-10.5) (Imp: HRS §§206E-4, 206E-10.5)

Historical Note: §15-24-31 is based substantially upon §15-18-10. [Eff 9/22/84; R 2/11/91]

§15-24-32 Replacement housing payment to owner-occupants for less than one year but not less than ninety days who purchase. (a) A displaced owner-occupant of a one-, two-, or three-family dwelling acquired by any governmental agency, who does not qualify for a replacement housing payment under §15-24-30 shall be eligible for a replacement housing payment; provided that the dwelling was actually and lawfully occupied by the owner-occupant for less than one year but not less than ninety days prior to the first written offer for acquisition of the property; and

provided further that the owner-occupant purchases a comparable dwelling not later than one year subsequent to the date on which the owner-occupant was required to move.

(b) The payment, not to exceed \$1,500, is the amount, if any, which is necessary to make a down payment on a replacement dwelling. The determination of the amount necessary for a down payment shall be based on the amount a relocatee would have had to pay if the purchase of a comparable dwelling was financed with a conventional loan. [Eff 2/11/91] (Auth: HRS §§206E-4, 206E-10.5) (Imp: HRS §§206E-4, 206E-10.5)

Historical Note: §15-24-32 is based substantially upon §15-18-11. [Eff 9/22/84; R 2/11/91]

§15-24-33 Replacement housing payment to owner-occupants for less than one year but not less than ninety days who rent. (a) A displaced owner-occupant of a one-, two- or three-family dwelling acquired by any governmental agency who elects to rent shall be eligible for a replacement housing payment; provided that the dwelling was actually and lawfully occupied by the owner-occupant for less than one year but not less than ninety days prior to the first written offer for acquisition of the property; and provided further that the owner-occupant has rented and occupied a decent, safe and sanitary replacement dwelling not later than one year subsequent to the date on which the owner-occupant was required to move from the dwelling unit taken.

(b) The payment, not to exceed \$1,500, shall be equal to the difference, if any, between the cost of renting a comparable dwelling for the next two years and twelve per cent of the acquisition price of the property taken. [Eff 2/11/91] (Auth: HRS §§206E-4, 206E-10.5) (Imp: HRS §§206E-4, 206E-10.5)

Historical Note: §15-24-33 is based substantially upon §15-18-12. [Eff 9/22/84; R 2/11/91]

§15-24-34 Replacement housing payment to tenant-occupants and sleeping room occupants for not less than ninety days who rent. (a) A displaced tenant of property acquired by any governmental agency who elects to rent shall be eligible for a replacement housing payment; provided that the tenant-occupant has been in occupancy for more than 90 days prior to the first written offer to purchase the dwelling, or if the displaced tenant moves in "reasonable expectation" the tenant shall have been in occupancy for

more than 90 days prior to the date of the move; and provided further that the tenant has rented and occupied a comparable decent, safe and sanitary dwelling not later than one year subsequent to the date on which the tenant was required to move.

(b) The payment, not to exceed \$1,500, shall be determined by subtracting from the actual amount necessary to rent a comparable dwelling or room for the next two years the following amount:

- (1) Twenty-four times the average monthly rental paid by the relocated individual or family during the last six months if the rental is reasonable, or the average rent, if reasonable, during the time of occupancy if the occupancy is less than six months, prior to being required to move; or
- (2) If the rent is not reasonable, twenty-four times the economic rent established by the displacing governmental agency for the dwelling unit. [Eff 2/11/91] (Auth: HRS §§206E-4, 206E-10.5) (Imp: HRS §§206E-4, 206E-10.5)

Historical Note: §15-24-34 is based substantially upon §15-18-13. [Eff 9/22/84; R 2/11/91]

§15-24-35 Replacement housing payment to tenant-occupants for not less than ninety days who purchase. (a) A displaced tenant of property acquired by any governmental agency shall be eligible for a replacement housing payment; provided that the tenant-occupant has been in occupancy for more than 90 days prior to the first written offer to purchase the property, or if the displaced tenant moves in "reasonable expectation" the tenant shall have been in occupancy for more than 90 days prior to the date of the move; and provided further that the tenant has purchased and occupied a comparable dwelling not later than one year subsequent to the date on which the tenant was required to move from the dwelling unit acquired.

(b) The payment, not to exceed \$1,500, shall be the amount necessary to make a down payment on a comparable dwelling. Determination of the amount necessary for the down payment shall be based on the amount that the displaced tenant would have had to pay if the purchase of a comparable dwelling was financed by a conventional loan.

(c) The full amount of the replacement housing payment shall be applied to the down payment, including closing costs.

(d) If a tenant who otherwise qualifies for a payment under this section has previously received a payment under §15-24-34, the amount of the prior payment shall be deducted

from the amount the tenant is otherwise eligible for under this section. [Eff 2/11/91] (Auth: HRS §§206E-4, 206E-10.5) (Imp: HRS §§206E-4, 206E-10.5)

Historical Note: §15-24-35 is based substantially upon §15-18-14. [Eff 9/22/84; R 2/11/91]

§15-24-36 Decent, safe and sanitary housing.

(a) Decent, safe and sanitary housing shall be a dwelling which:

- (1) Conforms with all applicable housing and occupancy codes;
- (2) Has a kitchen area which contains a sink in good working condition and connected to hot and cold water, a sewage disposal system, a stove and refrigerator. When these facilities are not required by local codes, ordinances, or custom, the kitchen area shall have utility service connections and adequate space for the installation of these facilities;
- (3) Has a bathroom, well lighted and ventilated and affording privacy to a person within it, containing a lavatory, basin and a bathtub or stall shower, properly connected to an adequate supply of hot and cold running water, and a flush water closet, all in good working order and properly connected to a sewage disposal system;
- (4) Has provision for artificial lighting for each room;
- (5) Is structurally sound, in good repair and adequately maintained;
- (6) Each building used for dwelling purposes shall have two safe unobstructed means of egress leading to safe open space at ground level. Each dwelling unit in a multi-dwelling building shall have access either directly or through a common corridor to two means of egress to open space at ground level. In buildings of three stories or more, the common corridor on each story shall have at least two means of egress; and
- (7) Has one hundred fifty (150) square feet of habitable floor space for the first occupant in a standard living unit and at least one hundred (100) square feet of habitable floor space for each additional occupant. The floor space is to be subdivided into sufficient rooms to be adequate for the family. All rooms shall be adequately ventilated. Habitable floor space is defined as that space used for sleeping, living, cooking or

dining purposes, and excludes enclosed places such as closets, pantries, bath or toilet rooms, service rooms, connecting corridors, laundries, and unfinished attics, foyers, storage spaces, cellars, utility rooms and similar spaces.

(b) Sleeping rooms shall:

- (1) Include the minimum requirements contained in paragraphs (1), (4), (5), and (6) under subsection (a) above;
- (2) Have at least one hundred (100) square feet of habitable floor space for the first occupant and fifty (50) square feet of habitable floor space for each additional occupant; and
- (3) Lavatory and toilet facilities that provide privacy including a door that can be locked if the facilities are separate from the room.

(c) The executive director may approve exceptions to the standards but requests shall be limited to items and circumstances that are beyond the reasonable control of the relocatee to adhere to the standards. Approved exceptions shall not affect the computation of the replacement housing payment. [Eff 2/11/91] (Auth: HRS §§206E-4, 206E-10.5) (Imp: HRS §§206E-4, 206E-10.5)

Historical Note: §15-24-36 is based substantially upon §15-18-16. [Eff 9/22/84; R 2/11/91]

§15-24-37 Assurance of availability of housing. At least one hundred twenty days prior to any displacement, a displacing governmental agency shall provide the following to the authority:

- (1) A feasible method for the relocation of families and individuals displaced from the property acquired; and
- (2) Assurance that there are or are being provided in areas not generally less desirable with regard to public utilities and public and commercial facilities and at rents or prices within the financial means of the families and individuals displaced, decent, safe and sanitary dwellings equal in number to the number of displaced families and individuals and available to the displaced families and individuals and reasonably accessible to their places of employment. [Eff 2/11/91] (Auth: HRS §§206E-4, 206E-10.5) (Imp: HRS §§206E-4, 206E-10.5)

Historical Note: §15-24-37 is based substantially upon §15-18-19. [Eff 9/22/84; R 2/11/91]

§§15-24-38 to 15-24-40 Reserved.

SUBCHAPTER 4

RELOCATION LOAN PROGRAM

§15-24-41 Purpose. The purpose of this section is to provide rules governing implementation of the Kakaako relocation loan program authorized by §206E-10.5, Hawaii Revised Statutes. [Eff 2/11/91] (Auth: HRS §§206E-4, 206E-10.5) (Imp: HRS §§206E-4, 206E-10.5)

§15-24-42 Purpose of loans. The authority may make loans to displaced small businesses for the purpose of financing certain moving expenses, reestablishment expenses, capital improvements, or other reasonable and necessary expenses resulting from being displaced from its place of business within the Kakaako community development district. The intent of loans is to mitigate the expenses and impacts to small businesses that are displaced from the Kakaako community development district because of the redevelopment activities therein. [Eff 2/11/91] (Auth: HRS §§206E-4, 206E-10.5) (Imp: HRS §§206E-4, 206E-10.5)

§15-24-43 Types of loans. The authority may make direct loans or participation loans made in conjunction with loans made by other financial institutions, including the SBA. [Eff 2/11/91] (Auth: HRS §§206E-4, 206E-10.5) (Imp: HRS §§206E-4, 206E-10.5)

§15-24-44 Eligibility requirements. Consideration for loans under this section shall be extended only to applicants who meet the following requirements:

- (1) The applicant is a small business registered to do business in the State;
- (2) The applicant furnishes information to show that the applicant has the ability to repay the loan out of income from the business;
- (3) The applicant shall have enough equity invested or to invest so that if the loan is approved, it can be repaid in a timely manner;
- (4) Adequate collateral may be required to reasonably protect the State's interest. The amount of collateral needed, considered along with other credit factors, is determined on a case-by-case basis;

- (5) The purpose of the loan is in conformity with provisions of §15-24-42;
- (6) The applicant plans to relocate from its current location within the Kakaako community development district and reestablish elsewhere within the State of Hawaii; and
- (7) The applicant has been at its current location for at least one year prior to the date of the application for loan; or if less than one year, had been located within the Kakaako community development district for at least one year immediately prior to its current location. [Eff 2/11/91] (Auth: HRS §§206E-4, 206E-10.5) (Imp: HRS §§206E-4, 206E-10.5)

§15-24-45 Application procedure. (a) All loan applications shall be submitted on forms provided by the authority.

(b) All financial statements submitted by an applicant shall show the applicable date of the information given and shall be signed and certified by the proprietor, partner, or public accountant. The authority may require that financial statements accompanying applications include balance sheets and profit and loss statements for the past five tax years and a year-to-date interim financial statement dated no later than 90 days of application date. [Eff 2/11/91] (Auth: HRS §§206E-4, 206E-10.5) (Imp: HRS §§206E-4, 206E-10.5)

§15-24-46 Consideration and review of applications.

(a) The authority shall not approve a loan unless the applicant provides reasonable assurance that the loan can and will be repaid pursuant to its terms. Reasonable assurance of repayment shall be based upon consideration of the applicant's record of past earnings or projections of future earnings which indicate that the applicant will be able to repay the loan from the income of the business.

(b) The authority may disapprove the loan for any of the following reasons:

- (1) the purpose of the loan does not conform with the provisions of §15-24-42;
- (2) The applicant cannot meet certain practical credit requirements established by the authority;
- (3) The applicant's character or financial capability is questionable as determined by the authority; or
- (4) The applicant fails to meet other basic criteria deemed necessary in justifying or granting a loan.

(c) Applications meeting the requirements of this chapter shall be reviewed by the staff of the authority or its designated representative for its recommendation before final approval or disapproval by the executive director. This relocation loan program may be administered by the authority or its designated representative, which may include the department of Business, Economic Development & Tourism, or a financial institution.

(d) An applicant shall not be required to pay any fees in connection with filing an application, but shall be required to pay for such costs as appraisals, title searches, documentation of mortgages, and any other work required in processing the loan which is not performed by the authority. When deemed necessary by the authority, an applicant shall be responsible for hiring independent appraisers to determine the value of capital assets or to assess the economic feasibility of a business operation. [Eff 2/11/91] (Auth: HRS §§206E-4, 206E-10.5) (Imp: HRS §§206E-4, 206E-10.5)

§15-24-47 Preferences and priorities in granting loans. In granting loans, the authority may grant preference to small businesses, first, that are displaced as a result of governmental action, second, that are displaced as a result of private redevelopment action approved by the authority and third, that are displaced for other reasons. The authority shall also be guided by the specific condition and needs of the business, including the degree of financial hardship that relocation would place on the business and its possible inability to obtain a conventional loan for this purpose from other financial institutions or governmental agencies. [Eff 2/11/91] (Auth: HRS §§206E-4, 206E-10.5) (Imp: HRS §§206E-4, 206E-10.5)

§15-24-48 Maximum loan amount; loan terms and restrictions. (a) A loan to any one applicant shall not exceed \$50,000. For loans exceeding \$25,000, the authority shall require greater assurances that the loan will be repaid on a case-by-case basis.

(b) Loans shall not be made for relocation or reestablishment expenses for which the applicant receives payments or compensation from the authority or other governmental agency. No applicant shall have more than one active loan at a time.

(c) The executive director shall determine the extent and kinds of security required for each loan. When loans are secured, such security may be subordinated to loans made by financial institutions. The applicant shall execute any

promissory note, mortgage, loan agreement, or other agreement as may be required by the authority.

(d) No loan shall be granted for a period exceeding twenty years. Loans shall be for periods determined by the authority and based upon the security for the loan, the financial capability of the applicant, and other lending practices.

(e) Interest on loans shall be set at the prime interest rate as published in the Wall Street Journal at the date of closing or at a rate of seven and one-half per cent a year, whichever is lower, provided, the total interest paid by an applicant for a loan shall not be less than the loan servicing fees paid by the authority to third parties at the time of loan closing.

(f) The executive director shall determine the commencement date for the repayment of the first installment. The executive director may defer the initial payment on the principal of a loan, but in no event shall the principal payments be deferred in excess of three years from date of issuance of the loan.

(g) The executive director may defer the interest on the principal of a loan, but in no event shall interest payments be deferred in excess of one year from the date of issuance of the loan. [Eff 2/11/91, am 2/22/93] (Auth: HRS §§206E-4, 206E-10.5) (Imp: HRS §§206E-4, 206E-10.5)

§15-24-49 Inspection of premises and records. The authority shall have the right to inspect, at reasonable hours, the plant, physical facilities, equipment, premises, books, and records of any business either in connection with the processing of a loan application or in the administration of a loan granted to that business. [Eff 2/11/91] (Auth: HRS §§206E-4, 206E-10.5) (Imp: HRS §§206E-4, 206E-10.5)

§15-24-50 Annual reports required of borrowers; interim reports. During the life of a loan, each borrower shall submit to the authority, annually, financial reports consisting of a balance sheet and profit and loss statement on either a fiscal year or calendar year basis, depending on the tax reporting period of the borrower. These reports shall be submitted no later than four months after the close of the applicable tax period. The authority may require the filing of interim financial statements and reports and the submission of progress and final reports relating to any aspects of the business. [Eff 2/11/91] (Auth: HRS §§206E-4, 206E-10.5) (Imp: HRS §§206E-4, 206E-10.5)

§15-24-51 Default. (a) Loans that are three installments in arrears shall be considered in default. The borrower shall also be considered to be in default for failure to comply with any term or condition of the loan authorization, loan agreement, or mortgage. If the borrower is in default, the entire balance plus accrued interest, at the option of the executive director, shall become due and payable. The executive director may foreclose any mortgage by any method provided by law. Any expense incurred by the authority for recovering of monies shall be borne by the borrower.

(b) Loans in default shall be referred to the state attorney general for collection and action if the authority is not able to obtain payment. [Eff 2/11/91] (Auth: HRS §§206E-4, 206E-10.5) (Imp: HRS §§206E-4, 206E-10.5)

§§15-24-52 to 15-24-55 Reserved.