

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND  
TOURISM

Adoption of Chapter 15-223  
Hawaii Administrative Rules

March 6, 2025

SUMMARY

Chapter 15-223, Hawaii Administrative Rules,  
entitled "Ninety-nine Year Leasehold Residential  
Condominium Program", is adopted.

HAWAII ADMINISTRATIVE RULES

TITLE 15

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND  
TOURISM

SUBTITLE 4

HAWAII COMMUNITY DEVELOPMENT AUTHORITY

CHAPTER 15-223

NINETY-NINE YEAR LEASEHOLD RESIDENTIAL CONDOMINIUM  
PROGRAM

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SUBCHAPTER 1

GENERAL PROVISIONS

**§15-223-1 Purpose and intent.** Consistent with the intent of section 206E-282, Hawaii Revised Statutes, the purpose of this chapter is to establish the ninety-nine year leasehold program for the purpose of providing low-cost, leasehold residential condominium units for sale to Hawaii residents on state-owned lands within an urban redevelopment site. This chapter is adopted under chapter 91, HRS, and implements the provisions of chapter 206E, HRS, part XII.

[Eff **AUG 24 2025** ] (Auth: HRS §§206E-282, 206E-284, 206E-292) (Imp: HRS §§206E-283, 206E-284)

**§15-223-2 Administration.** The Hawaii community development authority, through its executive director, shall administer the provisions of this chapter. [Eff **AUG 24 2025** ] (Auth: HRS §§206E-292, 206E-283, 206E-284) (Imp: HRS §§206E-283, 206E-284)

**§15-223-3 Severability.** If a court of competent jurisdiction finds any provision or provisions of this chapter to be invalid or ineffective in whole or in part, the effect of that decision shall be limited to those provisions which are expressly stated in the decision to be invalid or ineffective, and all other provisions of this chapter shall continue to be separately and fully effective. [Eff **AUG 24 2025** ] (Auth: HRS §§206E-292, 206E-283, 206E-284) (Imp: HRS §§206E-283, 206E-284)

**§15-223-4 Rules of interpretation.** (a) Provisions of the rules are activated by "shall" when required; and "may" when optional.

(b) Terms not defined in section 15-223-6 shall be accorded their commonly accepted meanings. In the event of conflicts between these definitions and those found elsewhere within the Hawaii community

development authority's administrative rules, these rules shall take precedence for this chapter.

(c) Words used in the singular include the plural; words used in plural include the singular.

(d) Words used in the present tense include the future tense; words used in future tense include the present tense. [Eff **AUG 24 2025** ] (Auth: HRS §§206E-292, 206E-283, 206E-284) (Imp: HRS §§206E-283, 206E-284)

**§15-223-5 Interpretation by the executive director.** (a) In administering this chapter, the executive director, when deemed necessary by the executive director, may render written interpretations to clarify or elaborate upon the meaning of specific provisions of this chapter for intent, clarity, and applicability to a particular situation.

(b) A written interpretation shall be signed by the executive director and include the following:

- (1) Identification of the section of this chapter in question;
- (2) A statement of the question;
- (3) A statement of interpretation; and
- (4) A statement of justification.

(c) A written interpretation issued by the executive director shall be the basis for administering and enforcing the pertinent sections of this chapter. All written interpretations rendered pursuant to this chapter shall be public record and shall be effective on the date signed by the executive director. [Eff **AUG 24 2025** ] (Auth: HRS §§206E-292, 206E-283, 206E-284) (Imp: HRS §§206E-283, 206E-284)

**§15-223-6 Definitions.** As used in this chapter, the following words and terms shall have the following meanings unless the context shall indicate another or a different meaning or intent:

"Condominium Unit" means a residential condominium unit developed under the ninety-nine year leasehold program.

"Develop" or "development" means the planning, financing, and acquisition of real property, demolition of existing structures, clearance of real property, construction, reconstruction, alteration, or repairing of approaches, streets, sidewalks, utilities, and services or other site improvements, or construction, reconstruction, repair, remodeling, extension, equipment, or furnishing of buildings or other structures or any combination of the foregoing, of any project. It also includes any and all undertakings necessary therefore.

"Developer" means a private person, or an entity retained by the Hawaii community development authority to develop a ninety-nine year leasehold residential condominium project under the ninety-nine year leasehold program.

"Eligible buyer" means a person or a household that is eligible to purchase a condominium unit pursuant to section 15-223-18.

"Executive director" means the executive director of the Hawaii community development authority.

"Household" means an individual; or two or more persons who live or intend to live together as a unit and who may, but need not be, related by blood, marriage, or operation of law.

"Mixed-use project" means a project consisting of any combination of: a commercial project, a redevelopment project, or a residential project that includes ninety-nine year leasehold residential condominium units.

"Owner" means the eligible buyer who has purchased and resides in the condominium unit.

"Owner-occupied residential use" means any use currently permitted in existing residential zones consistent with owner occupancy. "Owner-occupied residential use" does not include renting or subleasing by the owner of a residential condominium unit to any tenant or sublessee of any kind.

"Program" means the ninety-nine year leasehold program.

"Project" means a specific work or improvement, including real and personal properties, or any interest therein, acquired, owned, constructed, reconstructed, rehabilitated, or improved by the Hawaii community development authority, or a

developer, including a commercial project, redevelopment project, residential project, or mixed-use project, that includes ninety-nine year leasehold residential condominium units.

"Public transit station" means a planned or existing station connected to a locally preferred alternative for a mass transit project.

"Urban redevelopment site" means non-ceded state-owned lands within a one-mile radius of a public transit station in a county having a population greater than five hundred thousand. [Eff **AUG 24 2025**]  
] (Auth: HRS §§206E-292, 206E-281, 206E-283, 206E-284) (Imp: HRS §§206E-283, 206E-284)

**§§15-223-7 to 15-223-17 (Reserved) .**

SUBCHAPTER 2

ELIGIBILITY TO PURCHASE NINETY-NINE YEAR LEASEHOLD  
CONDOMINIUM UNIT

**§15-223-18 Eligibility.** (a) An eligible buyer may own other real property for up to six months after closing on the purchase of a condominium unit.

(b) Within six months from the closing on the purchase of a condominium unit, the eligible buyer shall have completed the sale of any other residential or non-residential real property owned by the eligible buyer. The eligible buyer shall provide proof, that is acceptable to the executive director, of the sale of the real property to the executive director within thirty days of the sale of the property.

(c) The eligible buyer shall:

- (1) Be a qualified resident of the State, as defined in section 201H-32, HRS;
- (2) Not own any other real property, including any residential or non-residential property, except as provided in section 15-223-18(a);
- (3) Not have any beneficial ownership of any trusts, corporations, limited liability

companies, or partnerships that hold real property; and

- (4) Not have any co-ownership or fractional ownership of a residential or non-residential real property, except as provided in section 15-223-18(b).

(d) An owner of a condominium unit who is in the process of selling the condominium unit to another eligible buyer may purchase and hold other residential or non-residential real property up to six months in advance of closing on the sale of the condominium unit. [Eff **AUG 24 2025** ] (Auth: HRS §§206E-292, 206E-284) (Imp: HRS §206E-284)

**§15-223-19 Owner occupancy.** (a) The eligible buyer shall not use the condominium unit for any purpose other than owner-occupied residential use.

(b) An eligible buyer shall be considered an owner-occupant if the eligible buyer resides in the condominium unit for at least two hundred seventy days annually. The owner shall submit an annual affidavit to the executive director attesting that the owner has resided in the condominium unit for at least two hundred seventy days each year.

(c) The executive director may waive the requirements of section 15-223-19(a) and (b) where the inability of an owner to reside in the condominium unit is due to unforeseen circumstances, military transfer, serious illness, or other hardship circumstances as determined by the executive director in the executive director's sole discretion. The owner of the condominium unit shall file an application of waiver of occupancy requirement to the executive director for a determination. The application shall contain a statement describing the basis for the waiver of occupancy requirement and the estimated duration of the proposed waiver.

[Eff **AUG 24 2025** ] (Auth: HRS §§206E-292, 206E-284) (Imp: HRS §206E-284)

**§§15-223-20 to 15-223-30 (Reserved).**



SUBCHAPTER 3

MARKETING AND SALE OF NINETY-NINE YEAR LEASEHOLD  
CONDOMINIUM UNIT

**§15-223-31 Marketing and sale of condominium unit.** (a) The Hawaii community development authority may advertise the sale of condominium units and qualify and select eligible buyers for the condominium units. It may also permit the developer of the condominium units, or the developer's designated representative, to be responsible for advertising the sale of the condominium units and qualifying and selecting eligible buyers for the condominium units.

(b) Applications for the purchase of the condominium units shall be accepted on a first-come, first-served or lottery basis. An application shall be submitted in person by the applicant. Only completed applications shall be acceptable. Applicants shall not be required to submit a deposit amount exceeding \$500. [Eff **AUG 24 2025** ] (Auth: HRS §§206E-292, 206E-283, 206E-284) (Imp: HRS §§206E-283, 206E-284)

**§15-223-32 Condominium unit sale announcement.** For a period of thirty calendar days, the Hawaii community development authority or the developer shall publish or cause to be published in at least one newspaper published daily in the State and having a general circulation in the county in which the project is located, at least twice a week, or once a week if paired with another form of public notice such as a designated project website or informational meeting, an announcement containing the following information regarding the sale of condominium units in the project:

- (1) The location of the project;
- (2) The total number of condominium units in the project;
- (3) The sales price of the condominium units;

- (4) The approximate size of the condominium units;
- (5) A statement that one hundred per cent of the condominium units are being sold in leasehold;
- (6) The eligible buyer requirements in section 15-223-18;
- (7) The owner-occupancy requirements in section 15-223-19;
- (8) A statement that the condominium units will be offered to prospective buyers through a public lottery or in the order in which the applications were accepted, whichever is applicable;
- (9) The name and address of the real estate broker designated by the Hawaii community development authority or the developer, whom eligible buyers may contact to be placed to obtain further information on the project; and
- (10) A statement that the condominium units will be available to any eligible buyer without regard to race, sex, color, religion, marital status, familial status, national origin, disability status, age, or HIV (human immunodeficiency virus) status. [Eff AUG 24 2025]  
 ] (Auth: HRS §§206E-4, 206E-283, 206E-284)  
 (Imp: HRS §§206E-283, 206E-284)

**§15-223-33 Application intake list.** (a) During the initial offering period of thirty calendar days, the Hawaii community development authority or the developer shall compile an application intake list consisting of the names, email and mail addresses, and phone numbers of all individuals stating a desire to purchase a condominium unit contained in the project.

(b) The application intake list shall be compiled in the order in which applicants have submitted to the Hawaii community development authority or the developer an acknowledgment that the applicant meets the eligible buyer requirements in section 15-223-18.

(c) Any individual who makes any false statement in the acknowledgment shall be subject to criminal charges and civil action under the laws of the State. Any individual found to have willfully submitted false information, made misstatements, or withheld important information shall be deemed to be ineligible for the project and disqualified from purchase of condominium units in any future projects, provided that the Hawaii community development authority shall not waive its right to pursue any other recourse provided by law.

(d) If the marketing and sale of the condominium units is conducted by the developer, the developer shall submit the application intake list, any applications, and any applicants' acknowledgments to the Hawaii community development authority within ten days of the expiration of the initial thirty day offering period. Within thirty days of the expiration of the initial thirty day offering period, the developer shall verify that applicants meet the eligible buyer requirements in section 15-223-18 and submit a list of eligible buyers and eligibility verification documentation to the executive director for review and approval.

(e) If the marketing and sale of the condominium units is conducted by the developer, within thirty days after the close of project sales, the developer shall submit to the Hawaii community development authority a summary of which individuals on the eligible buyer list purchased a condominium unit, which did not purchase a condominium unit, and the applicant's reason for not purchasing a unit if a reason was provided by the applicant. [Eff **AUG 24 2025**]  
] (Auth: HRS §§206E-292, 206E-283, 206E-284) (Imp: HRS §§206E-283, 206E-284)

**§15-223-34 Sale of leasehold condominium unit.**

(a) The Hawaii community development authority or the developer shall offer the condominium units to eligible buyers on the application intake list by one of the following methods:

- (1) In the order in which their names appear on the list;
- (2) By the drawing of lots; or

- (3) By any other reasonable and fair method as determined by the executive director.
- (b) If the marketing and sale of the condominium units is conducted by the developer, the developer shall also be required to comply with the following:
  - (1) Prior to the sale of any of the condominium units, the developer shall submit to the executive director, for review and approval, copies of the sale contracts and condominium conveyance documents for the condominium units;
  - (2) Prior to the sale of any of the condominium units, the developer shall submit to the executive director a copy of the covenants, conditions, and restrictions, if any, for review and approval;
  - (3) The developer shall submit to the executive director a list of all purchasers by condominium unit number, name, date of sale contract, date of recordation, tax map key, and property address; and
  - (4) The Hawaii community development authority or the developer shall comply with all applicable state and federal fair housing laws. [Eff **AUG 24 2025** ] (Auth: HRS §§206E-292, 206E-283, 206E-284) (Imp: HRS §§206E-283, 206E-284)

**§§15-223-35 to 15-223-45 (Reserved) .**

#### SUBCHAPTER 4

#### RESALE OR TRANSFER OF LEASEHOLD CONDOMINIUM UNIT

**§15-223-46 Purpose.** This subchapter governs the general procedures for the resale of a condominium unit by an owner to another eligible buyer.  
[Eff **AUG 24 2025** ] (Auth: HRS §§206E-292, 206E-283, 206E-284) (Imp: HRS §§206E-283, 206E-284)

**§15-223-47 Applicability.** This subchapter applies to all condominium units developed and sold under the program as defined in section 15-223-6. [Eff **AUG 24 2025** ] (Auth: HRS §§206E-292, 206E-283, 206E-284) (Imp: HRS §§206E-283, 206E-284)

**§15-223-48 Right of first refusal to purchase by the Hawaii community development authority.** (a) If an owner wants to sell a condominium unit within five years from the date of the initial purchase of the condominium unit, the Hawaii community development authority shall have the right of first refusal to purchase the condominium unit.

(b) For purchase of the condominium unit by the Hawaii community development authority, purchase price shall be determined by the Hawaii community development authority by taking into consideration the original sale price of the condominium unit, Owner's Equivalent Rent of Primary Residence for Urban Hawaii published by the United States Bureau of Labor Statistics, and the cost of any value-added improvements made by the owner of the condominium unit. The following formula shall be utilized to calculate the purchase price:

*Purchase Price = (Original Sale Price X Owner's Equivalent Rent of Primary Residence Factor) + (Cost of any Value-Added Improvements made by the Owner X Owner's Equivalent Rent of Primary Residence Factor)*

The Owner's Equivalent Rent of Primary Residence Factor shall be computed as follows:

*Owner's Equivalent Rent of Primary Residence Factor = Owner's Equivalent Rent of Primary Residence from the month and year of Resale / Annual Owner's Equivalent Rent of Primary Residence from the year of original sale*

The condominium unit owner shall provide financial documentation acceptable to the executive director indicating the actual cost of any value-added

improvements before the cost can be eligible for inclusion in determining the purchase price.

[Eff **AUG 24 2025** ] (Auth: HRS §§206E-292, 206E-284) (Imp: HRS §206E-284)

**§15-223-49 Resale of the condominium unit.** (a)

If the Hawaii community development authority does not exercise its right to purchase the condominium unit, the owner of the condominium unit may sell the unit to an eligible buyer as defined in section 15-223-18. When the sale of the condominium unit is to any entity other than the Hawaii community development authority, the former owner shall not qualify for purchase of another condominium unit under the program.

(b) Subject to the approval of the executive director, a current owner of a condominium unit may sell the unit to purchase a larger or a smaller condominium unit under the program, provided that the owner can furnish proof that the household size of the owner has increased or decreased respectively, from the time of initial purchase of a condominium unit under the program. [Eff **AUG 24 2025** ] (Auth: HRS §§206E-292, 206E-283, 206E-284) (Imp: HRS §§206E-283, 206E-284)

**§15-223-50 Transfer upon the death of the condominium owner to an heir.** (a) Upon the death of the owner of a condominium unit, the condominium unit may be transferred to the deceased's heir by devise or as any other real property under existing law, provided that the deceased's heir qualifies as an eligible buyer.

(b) If the deceased's heir does not qualify as an eligible buyer, the deceased's heir shall sell the condominium unit to another eligible buyer as defined in section 15-223-18 within six months from the date of disqualification of the deceased's heir as an eligible buyer as determined by the Hawaii community development authority in its sole discretion. Within five years from the date of initial purchase of the condominium unit, the Hawaii community development

authority shall have the right of first refusal to purchase the condominium unit before it can be sold to another eligible buyer. [Eff **AUG 24 2025** ] (Auth: HRS §§206E-292, 206E-283, 206E-284) (Imp: HRS §§206E-283, 206E-284)

**§§15-223-51 to 15-223-61 (Reserved).**

SUBCHAPTER 5

ENFORCEMENT AND PENALTIES

**§15-223-62 Enforcement of owner-occupant requirement.** (a) The condominium units shall not be advertised for rent, rented, or used for any purpose other than for owner-occupied residential use as provided in section 15-223-19.

(b) The owner of the condominium unit shall annually submit an acknowledgment to the executive director attesting that the owner has remained an owner-occupant of the condominium unit as provided in section 15-223-19. Any condominium unit owner making a false statement in the acknowledgment shall be subject to criminal charges and civil action under the laws of the State. [Eff **AUG 24 2025** ] (Auth: HRS §§206E-292, 206E-283) (Imp: HRS §206E-283)

**§15-223-63 Cure period.** If a condominium unit owner is in violation of the owner-occupancy or eligibility requirement, the Hawaii community development authority shall notify the condominium unit owner in writing and the condominium unit owner shall have sixty calendar days to cure the violation from the date of the written notification. [Eff **AUG 24 2025** ] (Auth: HRS §§206E-292, 206E-283) (Imp: HRS §206E-283)

**§15-223-64 Penalties.** (a) If after notification of the owner-occupancy or eligibility requirement violation, the condominium unit owner fails to cure the violation within the sixty day cure period, the Hawaii community development authority may require an owner to sell the condominium unit to an eligible buyer within one hundred and eighty days from the end of the cure period.

(b) The Hawaii community development authority may also disqualify a person or a household that is required to sell the condominium unit pursuant to section 15-223-64(a) from purchasing another condominium unit developed under the program.

[Eff **AUG 24 2025** ] (Auth: HRS §§206E-292, 206E-283) (Imp: HRS §206E-283)

**§§15-223-65 to 15-223-75 (Reserved).**

## SUBCHAPTER 6

### FORECLOSURE

**§15-223-76 Foreclosure.** (a) In the event of a foreclosure, any law to the contrary notwithstanding, a mortgagee under a mortgage covering a condominium unit shall, prior to commencing mortgage foreclosure proceedings, notify the Hawaii community development authority in writing of:

- (1) Any default of the mortgagor under the mortgage within ninety days after the occurrence of the default; and
- (2) Any intention of the mortgagee to foreclose the mortgage under chapter 667, HRS.

(b) In the event of a foreclosure, the mortgagee shall provide the Hawaii community development authority the opportunity to exercise its right of first refusal to purchase the condominium unit.

(c) If the Hawaii community development authority exercises its right to purchase the condominium unit, the purchase price shall be calculated based on the formula provided in section



§15-223-76

15-223-48 (b). [Eff **AUG 24 2025** ] (Auth: HRS  
§§206E-292, 206E-284) (Imp: HRS §206E-284)

**§15-223-77 Sale of a condominium unit by the mortgagee pursuant to a foreclosure.** If the Hawaii community development authority does not exercise its right of first refusal to purchase the condominium unit, the mortgagee of the condominium unit may sell the unit in leasehold for the remaining term of the leasehold to any buyer. Provisions of section 15-223-18 and 15-223-19 shall not be applicable to sale of a condominium unit under this section.

[Eff **AUG 24 2025** ] (Auth: HRS §§206E-292, 206E-284) (Imp: HRS §206E-284)

**§§15-223-78 to 15-223-88 (Reserved) .**

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM

Chapter 15-223, Hawaii Administrative Rules, on the summary page dated March 6, 2025, was adopted on March 5, 2025, following public hearings held on February 5, 2025, and March 5, 2025, after public notices were given in the Honolulu Star-Advertiser, Hawaii Tribune-Herald, West Hawaii Today, The Garden Island, and The Maui News on January 2, 2025.

The adoption shall take effect ten days after filing with the Office of the Lieutenant Governor.



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Dated: 08/14/2025

APPROVED AS TO FORM:



Deputy Attorney General

AUG 14 2025

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