

# APPENDIX 1

## DEFINITIONS / COMMONLY USED TERMS

<u>Commonly Used Terms</u>	<u>Definition / Description</u>
<b>First-time Homebuyer (NEW)</b>	A qualified resident who has not owned any unit anywhere for a period of one year prior to date of application for a lower cost housing unit.
<b>Applicant</b>	<b>Primary person applying</b> to purchase a property under Chapter 201H, HRS; <b>and if applicable</b> , applicant's spouse, co-applicant and co-applicant spouse. The person named as the applicant.
Assets	Total cash, securities and real property less any outstanding liabilities secured by the assets.
Buyback Program - HHFDC USE, SALE AND TRANSFER RESTRICTIONS	Refer to Appendix 1-A for basic information on HHFDC's Buyback Program.
Co-applicant	A person who is not married or is unrelated to the applicant and 18-years and older who resides or will reside in the unit. If applying as a co-applicant, complete the Co- Applicant application, attach all required supporting documents and submit together with the Applicant's application. If there is more than one co-applicant, copy the Co-Applicant's form as needed, complete and attach to primary application with required and appropriate forms and documentation. The person named as the Co-Applicant.
Complete Application Packet	Means the applicant, and if applicable, any co-applicant, and household members, as applicable: (1) completed the applicant's portion of the document checklist; (2) filled out all applicable sections of the two-page application form and household income worksheet, and supplemental forms, if applicable and answered all questions accurately and to the best of applicant's knowledge; (3) signed the application form and income worksheet; and (4) attached all supporting documents to verify/affirm information listed on the application form (e.g. income, residency, marital status, etc.), including but not limited to pay stubs, signed tax returns and other supplemental forms required by HHFDC.
Dependent	A person or persons deriving principal support from the applicant, excluding spouse. To establish the total household size including dependent(s), the dependent(s) must be listed on the applicant's latest filed and signed State and Federal Income Tax Returns or other legal documents showing legal and physical custody of dependent(s).

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Dwelling; Dwelling Unit or Unit	A structure designated for residential use; The structure and land upon which the structure is constructed, whether in fee simple or leasehold property, developed pursuant to chapter 201H, HRS, which is intended for residential purposes.
Eligibility Requirements	Need to be a First-time homebuyer and demonstrate a need for affordable housing.
Eligible Purchaser	Applicant who is a Qualified Resident <b>and</b> demonstrates a need for affordable housing based on applicant's completed application packet and required, applicable supporting documents; as determined solely by the HHFDC in accordance with Chapter 201H, Hawaii Revised Statutes, related Hawaii Administrative Rules and current HHFDC policies.
Family	Refer to "Household/Household Member/Household Composition" – Person(s) who are residing or intending to reside together as a unit at the property purchased.
Gross Household Income	The total amount of income of the household members, from all sources before deduction.  The same as <b>Total Household Income</b> .
Household; Household Member; Household Composition	An individual; or two or more persons who live or intend to live together as a unit and whose income and resources are available to meet the household's needs and who may, but need not be, related by blood, marriage, or operation of law, including foster children and hanai children and whose head of household has reached the age of majority, or is otherwise legally emancipated.
Household Size; Total Household Size	The total number of household members residing, or that will be legally residing, in a dwelling unit. For purposes of calculating household size, a person who is pregnant shall count as two household members. Doctor's note is required.
Household Income Limit	The maximum income for the project is 140% of the area median income ("AMI") according to total household size. HHFDC will utilize the following chart to establish the applicant's "income category or AMI group".

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Household Size	1	2	3	4	5	6
2021 AMI of 80% and below	\$67,680	\$77,360	\$87,040	\$96,640	\$104,400	\$112,160
Income	Money received, especially on a regular basis, for work or through investments; from government financial assistance programs and the like; and from other sources as listed on HHFDC's Household Income Worksheet form.					
Legal Dependent	Dependents claimed on applicant's income tax returns, expectant child, foster children, and hanai children who are currently living with or intend to live as a unit in the dwelling purchased.					
Eligible Purchaser	Applicant who is a Qualified Resident <b>and</b> demonstrates a need for affordable housing based on applicant's completed application packet and required, applicable supporting documents; as determined solely by the HHFDC in accordance with Chapter 201H, Hawaii Revised Statutes, related Hawaii Administrative Rules and current HHFDC policies.					
Family	Refer to "Household/Household Member/Household Composition" – Person(s) who are residing or intending to reside together as a unit at the property purchased.					
Legal Resident	<p>Applicant(s) must be a resident of the State of Hawaii and must be paying Hawaii State Income tax as a resident at the time of application. Proof of residency will be determined by Hawaii state income tax return filing and tax withholdings.</p> <p><i>If one spouse is not a resident of Hawaii, spouse must complete the application; but will not be a buyer or an eligible purchaser and cannot hold title to the purchased property. Verification of legal Hawaii residency is required.</i></p>					

Non-Dependent	Household members who are related by blood, marriage, or operation of law and/or legal custody who are currently living with or intend to live as a unit in the dwelling purchased and who do not depend on the Applicant and/or Spouse as their sole source of provision.										
Preference	<p>Preference is granted by HHFDC to applicants who meet certain criteria as stated on the <u>Request for Preference</u> form. Preference consideration only applies to new developments/projects; applications received prior to the application deadline date; and are subject to verification and approval by HHFDC. Applicants requesting preference must meet the preference requirements at the time of application and if approved, must be maintained until recordation of the sale.</p> <p><b><i>Applicants need only apply for one preference. Multiple requests or approval do not provide an advantage over applicants with only one preference.</i></b></p>										
Preference - Multi-Family Unit (Condominium or Townhouse)	Preference provided to applicants based on disability in addition to criteria defined in "Preference". Refer to <u>Request for Preference</u> form.										
Preference – Person with a Disability	A person having physical or mental impairment that substantially limits on one or more major life activities; a record of such an impairment; or is regarded as having such an impairment (as defined by the American with Disabilities Act of 1990).										
<del>Preference – Single Family type unit</del>	<del>Preference given to applicants based on number of dependents in addition to criteria defined in "Preference". Refer to <u>Request for Preference</u> form.</del>										
Preference – State Rental Housing	<p>Re: Rental Housing Preference. Preference will be granted to applicants who are tenant(s) of record on the rental agreement and not to members of the household.</p> <p>By granting this preference, tenant(s) and all tenant's household members must vacate the rental unit if the tenant(s) purchases a unit. Refer to <u>Request for Preference</u> form.</p>										
Preferred Household Size	<p>The Preferred Household size for purposes of establishing a property selection orderlist is as follows:</p> <table data-bbox="686 1577 1450 1755"> <thead> <tr> <th><u>DWELLING UNIT SIZE</u></th> <th><u>PREFERRED HOUSEHOLD SIZE</u></th> </tr> </thead> <tbody> <tr> <td>Studio Unit</td> <td>1 person</td> </tr> <tr> <td>1 – Bedroom</td> <td>2 people</td> </tr> <tr> <td>2 – Bedrooms</td> <td>3 people</td> </tr> <tr> <td>3 – Bedrooms</td> <td>4 people</td> </tr> </tbody> </table>	<u>DWELLING UNIT SIZE</u>	<u>PREFERRED HOUSEHOLD SIZE</u>	Studio Unit	1 person	1 – Bedroom	2 people	2 – Bedrooms	3 people	3 – Bedrooms	4 people
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<p>Previous Affordable Purchaser</p>	<p>Person(s) who previously purchased an affordable for-sale property from either a state or (any) county agency.</p>
<p>Qualified Resident</p>	<p>A person who :</p> <ol style="list-style-type: none"> <li>(1) is a citizen of the United States or a permanent resident alien;</li> <li>(2) is at least eighteen years of age;</li> <li>(3) is a legal resident of the State of Hawaii who now physically resides in the State of Hawaii and shall physically reside in the unit purchased;</li> <li>(4) does <u>not own, either</u> by the person's self, person's spouse, household member, or together with a spouse (unless separated and living apart under a decree from a court of competent jurisdiction) or household member: (1) a majority interest in fee simple and/or leasehold lands suitable for dwelling purposes; or (2) a majority interest in lands under any trust agreement or other fiduciary arrangement in which another person holds legal title to such land – anywhere in the world; and</li> <li>(5) has sufficient gross income to qualify for the loan to finance the purchase.</li> </ol>
<p>Real Estate Ownership</p>	<p>Applicant and/or spouse (or Applicant and/or Co-Applicant), individually or together cannot own in any fee simple and/or leasehold property(ies). An applicant, spouse, co-applicant or co-applicant spouse who owns more than fifty percent (50%) interest in any real estate property including property held in a trust agreement, suitable for dwelling purpose anywhere in the world (unless separated and living apart under a decree from a court of competent jurisdiction), will not be eligible to purchase.</p> <p>FAQ - If applicant, spouse and/or co-applicant(s) and any household member, together own a majority interest in a real estate property, applicant will be ineligible to purchase.</p>
<p>Shared Appreciation Equity Agreement ("SAE Program")</p>	<p>Refer to Appendix 1-A for basic information on HHFDC's SAE Program.</p>

<p>Total Household Income</p>	<p>The sum of the <b>gross <u>monthly</u></b> income received from all household members <b>18 years and older</b> who are residing or intending to reside in the property, and from income generating sources such as, the <b>primary job</b> before taxes, or a compilation of various part-time jobs comprising 40 hours per week, tips, cost of living allowance (COLA), basic allowance for housing (BAH), dividends, interest, royalties, pensions or annuity distribution, Veterans Administration (VA) compensation, net rental income, business income &amp; investments, alimony, child support, social security benefits, public assistance, unemployment compensation, sick pay, income from trusts, contributions to deferred compensation plan, and other income from sources such as welfare benefits, workers compensation, aid to families with dependent children, tax-exempt interest income.</p> <p>DOES NOT INCLUDE overtime income, bonuses and other income from part-time employment if in addition to a primary job; UNLESS typically included as part of primary job (i.e. retail sales; commission-based employment, etc.). Household income will be based on the information submitted at the time of application.</p> <p>Subsequent increase or decrease in income will not change applicant's income preference, unless a change in household size occurs.</p> <p><b>THE <u>TOTAL</u> HOUSEHOLD INCOME MUST NOT EXCEED THE HOUSEHOLD INCOME LIMIT ESTABLISHED FOR THE PROJECT. Refer to "Household Income Limit" above.</b></p>
<p>US Citizen/Resident Alien</p>	<p>If spouse is not a U. S. Citizen or permanent resident alien, spouse must complete the application; but will not be a buyer or an eligible purchaser and cannot hold title to the purchased property.</p>

## APPENDIX 1-A

### HHFDC Restriction Programs – Applicable to all Affordable Units

1. HHFDC imposes 2 separate restrictions on all affordable properties developed or sold in accordance with HHFDC Requirements. These restrictions will encumber the property as deed restrictions.

**A. HHFDC's Use, Sales and Transfer Restriction (commonly referred to as "Buyback Program"). For a period of 10-years from the date of recordation,**

1. The unit shall be owner-occupied by the purchaser at all times;
2. HHFDC has the first-right-of-refusal to repurchase the property if the homeowner cannot be an owner occupant as required, wishes to sell, and/or transfers the property. In the event HHFDC exercises its option to repurchase the property from the homeowner, the **repurchase price shall not exceed the sum of:**
  - (a) The original cost to the purchaser;
  - (b) The cost of any improvements added by the purchaser;
  - (c) Simple interest on the original cost and capital improvements to the purchaser at the rate of one (1) percent per year; and
  - (d) The amount, if any, previously paid by the purchaser to the HHFDC as the HHFDC's share of net appreciation in the real property.
3. If HHFDC waives its first option to repurchase, a qualified non-profit housing trust shall have the option to purchase the real property at a price established by the HHFDC.
4. Future refinancing of the property during the buyback period is limited where additional financing cannot exceed the above repurchase price.
5. HHFDC's prior written consent is required whenever change in ownership title occurs or the property is used as security (a lien is created on the property).

**B. Shared Appreciation Equity Agreement (commonly referred to as "SAE Program").**

The SAE Program gives the buyer an opportunity to purchase a below-market priced unit and in return the buyer agrees to share the property's future net appreciation with the State. The purpose of the SAE Program is to preserve and recover a fair return on the State's resources upon resale, transfer, rental or non-occupancy of the property as buyer's principal residence. The revenues received from this program will be used to fund additional affordable housing projects for the residents of Hawaii.

From the date the buyer's deed is recorded and buyer becomes the owner,

1. HHFDC's SAE Program is applicable to the owner and encumbers the property purchased. The SAE Program is a percentage sharing of the net appreciation in the property between the HHFDC and the owner of the affordable unit.
2. The SAE Program shall be effective until the SAE Program agreement is released by the HHFDC. HHFDC will release the SAE Program agreement when HHFDC

receives is share of the net appreciation in the property.

3. HHFDC's SAE Program is due and payable when owner sells, transfers, rents any part of the property, or no longer physically resides in the property as owner's principal residence.
4. Future refinancing is limited; the total liens and encumbrances, which includes mortgages, secured by the property cannot exceed 80% of the sum of the buyer's share of appreciation in the property plus the original sales price.
5. HHFDC's prior written consent is required whenever change in ownership title occurs or the property is used as security (a lien is created on the property).

**IMPORTANT.** Full detailed disclosure and summary of the terms and conditions of the program shall be made as a part of purchase contract signing. Prior to closing, the SAE shares will be determined and provided to buyer for review and acceptance. Detailed information of owner's obligations under each program shall also be included with the unit deed

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Brief hi-lites of HHFDC's restriction programs are listed below.

### **BUYBACK PROGRAM**

- The Buyback Program is independent of the SAE Program. Refer to sales contract exhibit.
- Program is effective as of the date the buyer's deed is recorded at the Bureau of Conveyances, State of Hawaii.
- Program is effective for 10 years. A release is not required to be filed at the end of the 10<sup>th</sup> year.
- Program requires owner occupancy of the property as the principal residence while the program is in effect. All persons on title must comply with the owner occupancy requirement; including spouse, even if not on title.
- HHFDC has the first-right of refusal to repurchase the unit if owner cannot be an owner occupant as required.
- HHFDC consent is required whenever title to the property and/or ownership interest is affected, such as change in title or mortgage company.
- There are certain limitations when refinancing under the buyback program.
- The 10-year buyback program may be extended when circumstances requiring a temporary absence from the unit as an owner occupant is permitted by HHFDC subject to owner's completion of HHFDC's requirements.
- *There is no "buyout" of the buyback program.*

### **SAE PROGRAM**

- The SAE Program is independent of the Buyback Program. Refer to sales contract exhibit.
- The SAE Program is effective as of the date the buyer's deed is recorded at the Bureau of Conveyances, State of Hawaii.
- HHFDC's SAE does not expire -- no time limit.
- Upon receiving the full SAE payment, HHFDC will provide a template for the owner to use with recording a release of owner's obligation under the SAE program.
- Program requires owner occupancy of the property as the principal residence while the program is in effect. All persons on title must comply with the owner occupancy requirement; including spouse, even if not on title.
- SAE must be paid upon sale, transfer or rental of the property. If not paid when due, 12% simple interest will accrue from the "SAE due date" until the SAE amount is paid in full to HHFDC.
- HHFDC's consent is required whenever title to the property and/or ownership interest is affected, such as change in title or mortgage company.
- There are certain limitations when refinancing under the SAE program.
- SAE percent shares are determined prior to closing and once the deed is recorded, will not change.
- Sample calculation of how the percentages are determined **and** how to calculate the payoff is provided in the contract exhibit
- The SAE program may be extended by owner with HHFDC prior written approval, when circumstances requiring a temporary absence from being an owner occupant is granted by HHFDC and after owner completes all of HHFDC requirements

**IMPORTANT.** Once the unit buyer becomes the owner of the purchased unit as evidenced by recording a deed at the Bureau of Conveyances, State of Hawaii – a written request to pay off the SAE may be submitted to the HHFDC by fax or mail (only). *HHFDC will not accept any advance requests prior to that time. Requests received prior to recording will be deemed invalid.*

## **APPENDIX 1-B**

### **HISTORY OF HHFDC**

The Hawaii Housing Finance and Development Corporation (HHFDC)<sup>1</sup> was created to focus on the financing and development of affordable housing in Hawaii. HHFDC is tasked with financing and developing homes that are affordable to Hawaii residents, and is also responsible for administering the State's residential leasehold and relocation programs. Equipped with the tools to encourage partnerships with businesses, non-profit organizations, communities and citizens, HHFDC serves as a catalyst for bringing community resources together to provide safe, decent and affordable housing for all of Hawaii's people.

HHFDC is structured into two areas: Housing Finance and Housing Development.

#### **HOUSING FINANCE BRANCH.**

To assist consumers directly, HHFDC offers prospective home buyers with innovative mortgage financing including loans under the Hula Mae mortgage program and the Mortgage Credit Certification (MCC) Program.

HHFDC also offers (indirect) rental assistance to families at lower income levels through rental projects receiving government subsidies. For more information and details on these programs, inquire with a mortgage lender.

#### **HOUSING DEVELOPMENT BRANCH.**

The HHFDC's Housing Development Branch (HDB) has a toolbox of resources to assist developers and facilitate the development of affordable rental or for-sale housing including financing, expedited land use approvals under Chapter 201H, HRS, and exemptions from general excise taxes among other things.

Potential developers interested in partnering with HHFDC should contact HHFDC's HDB at 587-0620

#### **REAL ESTATE SERVICES SECTION.**

As part of the HDB, the Real Estate Services Section (RES) monitors the affordable sales program and administers the HHFDC program restrictions and leases. RES also facilitates the conversion of single-family residential lots from leasehold to fee simple and administers certain provisions under Chapter 519, HRS, regarding lease rent negotiations.

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<sup>1</sup> The HHFDC is successor to the Housing and Community Development Corporation of Hawaii (HCDCH), and the Housing Finance and Development Corporation (HFDC), formerly a part of the Hawaii Housing Authority (HHA).