

## FOR ACTION

### I. REQUEST

Approve: (1) the Repeal of Chapter 15-161 “Hula Mae Single Family Program,” Hawaii Administrative Rules (HAR); and (2) the Proposed New Chapter 15-314 “Hula Mae Home Mortgage Loan Program,” HAR, to Implement the Provisions of the Housing Loan and Mortgage Program Established by Subpart B of Part III, Chapter 201H, Hawaii Revised Statutes

### II. FACTS

- A. The State has had a housing and loan mortgage program for families of low to moderate income since 1979. Currently under the Hawaii Housing Finance and Development Corporation (HHFDC) and authorized under Subpart B of Part III of Chapter 201H, Hawaii Revised Statutes (HRS), the program has two components:
  - 1. Through the Advance Commitments Program, HHFDC can contract with mortgage lenders for the advance commitment to purchase eligible loans, which makes funds available at affordable interest rates for eligible borrowers who intend to use the property as their principal residence.
  - 2. Through the Loan Funding Program, HHFDC can purchase mortgage loans based on requests submitted by mortgage lenders on a loan-by-loan basis. Such loans are made available at affordable interest rates to eligible borrowers who intend to use the property as their principal residence.
- B. Private activity bonds (PABs) are tax-exempt bonds issued by state or local governments to finance projects that benefit private entities. The federal government imposes a limit on the amount of PABs that each state can issue annually, known as the state volume cap. The state of Hawaii has a 2024 volume cap of approximately \$378,000,000, which is allocated among the State and each of the four counties and can be used for various categories of projects, such as housing, education, health care, and transportation.
- C. The Hula Mae Mortgage Loan Program is financed through the sale of mortgage revenue bonds, which are a qualified use of PABs. The proceeds of the sale of mortgage revenue bonds finance below-market rate mortgage loans to support the purchase of homes. Interest on the loans is used to repay the bondholders. The program must be self-sustaining, so interest and fees must also cover administrative expenses.
- D. The program has not been active for over a decade, as interest rates for most of that time were not competitive with those offered by private lenders. The last bond issuance that was not a refunding issue was in 2011 and resulted in the purchase of 129 loans.
- E. The current high-interest rate environment is making it harder for local families to buy homes. Act 29, Session Laws of Hawaii (SLH) 2024, requires HHFDC to submit a report to the Legislature 60 days prior to the convening of the regular

session of 2026, analyzing the feasibility of continuing to fund program operations.

- F. The existing program rules, Chapter 15-161, Hawaii Administrative Rules (HAR), have been effective since October 25, 1999, and were promulgated by the Housing and Community Development Corporation of Hawaii (HCDCH). Statutory changes to the program were made after HHFDC's creation.

### III. DISCUSSION

The simultaneous repeal of Chapter 15-161, "Hula Mae Single Family Program" and proposed new Chapter 15-314 "Hula Mae Mortgage Loan Program," HAR, are attached hereto as **Exhibit A** and **Exhibit B**, respectively. Major updates from the HCDCH-era rules include: a) eliminating the two inactive programs, Loans to Lenders and Purchase of Existing Loans Programs, which were repealed under Act 135, SLH 2013; and b) eliminating references to the former procedural guide.

An outline of the two programs that comprise the housing and loan mortgage program is as follows:

For both programs, eligibility criteria include that the family's income does not exceed 115% of the area median income, the financed property will be the eligible borrower's principal residence, and completion of a U.S. Department of Housing and Urban Development (HUD)-approved homeownership counseling program.

A mortgage to secure the loan will be recorded with the State of Hawaii Bureau of Conveyances and/or filed with the Assistant Registrar of the Land Court. An eligible borrower's loan payments will be accelerated if the eligible borrower conveys or transfers the property to any person other than an eligible borrower, rents or fails to occupy the property as the borrower's permanent and primary residence, or fails to abide by any executed agreements for the purpose of the eligible loan.

#### A. Advance Commitments Program

1. HHFDC determines the allocation between single-family dwellings and condominium units by the total dollar amount of the commitment, which is set forth in the commitment application.
2. The mortgage lender can obtain the commitment application to sell eligible loans to HHFDC, along with the method of allocation or mortgage fund reservation, on HHFDC's website 30 days in advance of the deadline for submission.
3. If the completed commitment application is approved, HHFDC provides the lender with a Notice of Acceptance on or before the date of the sale of bonds.
4. HHFDC prescribes the form of loan application that the eligible borrower shall complete, and the mortgage lender evaluates each loan applicant's creditworthiness on a case-by-case basis.

#### B. Loan Funding Program

B.     Loan Funding Program

- 1.     HHFDC posts on its website the loan application and its intent to issue bonds not later than 30 days in advance of the anticipated sale date of the bonds. The method of allocation or mortgage fund reservation will also be posted and is subject to change at HHFDC’s discretion.
- 2.     The mortgage lender submits a qualified request to HHFDC for the commitment of funds to a specific loan that meets all prerequisites necessary to be purchased by a federally sponsored or private entity, such as the Government National Mortgage Association, Federal National Mortgage Association, or Federal Home Loan Mortgage Corporation. Each complete request is date- and time-stamped to chronologically prioritize the allocation of funds.
- 3.     The distribution of available funds shall be based upon the order in which HHFDC receives the qualified requests. HHFDC may determine the allocation between single family dwellings and condominium units by the total dollar amount.
- 4.     The mortgage lender evaluates each loan applicant’s credit worthiness on a case-by-case basis.
- 5.     Approved eligible borrowers are responsible for the payment of all fees, premiums, and charges by the corporation or the mortgage lender, or both. Upon the closing of the loan, the fees charged by the corporation are as follows:

PURPOSE OF FEE	AMOUNT CHARGED
Processing	\$500
Loan Origination	1% of the loan amount

- 6.     Each participating mortgage lender shall submit evidence that eligible loans have been made from the bond proceeds. HHFDC may inspect their books and records.

IV.    RECOMMENDATION

Staff’s recommendation is that the HHFDC Board of Directors:

- A.     Approve the proposed simultaneous repeal of Chapter 15-161, “Hula Mae Single Family Program,” and adoption of Chapter 15-314, “Hula Mae Home Mortgage Loan Program,” Hawaii Administrative Rules, subject to:
  - 1.     Approval as to form by HHFDC’s Deputy Attorney General; and
  - 2.     Approval by the Governor.
- B.     Authorize the Executive Director or his designated representative(s) to conduct a public hearing on the proposed rules;
- C.     Authorize the Executive Director to make any necessary, non-substantive amendments to the proposed rules following the public hearing, which may

incorporate public comments; and

- D. Authorize the Executive Director to, after the public hearing, transmit the proposed rules to the Governor for final approval, provided that no substantive amendments shall have been made.

Attachments:           Exhibit A – Proposed Repeal of Chapter 15-161, HAR  
                                  Exhibit B – Proposed Adoption of Chapter 15-314, HAR

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Reviewed by:           Chris Woodard, Chief Planner

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HAWAII ADMINISTRATIVE RULES

TITLE 15

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT  
AND TOURISM

SUBTITLE 14

HOUSING AND COMMUNITY DEVELOPMENT CORPORATION OF HAWAII

CHAPTER 161

HULA MAE SINGLE FAMILY PROGRAM

Subchapter 1 General Provisions

\$15-161-1 Purpose  
\$15-161-2 Definitions  
\$15-161-3 Delegation

Subchapter 2 Loans to Lenders Program

\$15-161-10 Purpose  
\$\$15-161-11 to \$15-161-12 (Reserved)

Subchapter 3 Purchase of Existing Loans Program

\$15-161-20 Purpose  
\$\$15-161-21 to \$15-161-22 (Reserved)

Subchapter 4 Advance Commitment Program

\$15-161-30 Purpose  
\$15-161-31 Definitions  
\$15-161-32 Process and procedure

Subchapter 5 Eligible Loan Funding Program

\$15-161-40 Purpose  
\$15-161-41 Definitions  
\$15-161-42 Process and procedure

161-1

## Contents

### Subchapter 6 Miscellaneous Provisions

\$15-161-51	Yield on mortgage loans
\$15-161-52	Waiver
\$15-161-53	Homeownership counseling
\$15-161-54	Limitations on transfer, use and eligibility
\$15-161-55	Falsification of application
\$15-161-56	Occupancy
\$15-161-57	Arbitrage
\$15-161-58	Mortgage valid first lien
\$15-161-59	Special assistance program

Historical note: Chapter 161 of Title 15, Hawaii Administrative Rules, is based substantially upon Chapter 311 of Title 6 of the Hawaii Administrative Rules. [Eff 8/25/90; am 6/8/98; R **OCT 25 1999**]

### SUBCHAPTER 1

#### GENERAL PROVISIONS

**\$15-161-1 Purpose.** These rules are adopted under chapter 91, HRS, and implements part III, chapter 201G, HRS, the housing loan and mortgage programs, also known as the hula mae single family program, and the following objectives:

- (1) Alleviate the shortage of long-term mortgage financing at affordable interest rates;
- (2) Make funds available at affordable interest rates, through mortgage lenders, to permit the purchase of homes by resident families of lower and moderate income; and
- (3) Assure effective participation by mortgage lenders in the programs authorized by part III, chapter 201G, HRS and the restriction of their financial return from the programs to that necessary and reasonable to induce their participation. [Eff **OCT 25 1999**] (Auth: HRS §201G-187) (Imp: HRS §201G-188)

**S15-161-2 Definitions.** Whenever used in these rules and the procedural guide, unless the context otherwise requires:

"Annualized gross income" means gross monthly income multiplied by twelve.

"Bonds" means the revenue bonds issued to finance all or any part of the advance commitment program, the loans to lenders program, the purchase of existing loans programs, and the eligible loan funding program authorized under part III, chapter 201G, HRS.

"Corporation" means the housing and community development corporation of Hawaii.

"Eligible borrower" means a person who:

- (1) Is a citizen of the United States or a declarant alien;
- (2) Is a bona fide resident of the State;
- (3) Is 18 years or older;
- (4) If single or married, does not own or have any interest, either jointly or severally, in a principal residence or a beneficial interest in a land trust on a principal residence, anywhere for a period three years prior to the date of application for an eligible loan, or if a single parent household as defined under section 201G-181, HRS, will be exempted from this requirement.
- (5) Has not been granted a previous loan under part III, chapter 201G, HRS;
- (6) Does not have a family income exceeding the income requirements of section 143(f) of the Internal Revenue Code of 1986, as amended.

"Eligible loan" means any residential mortgage loan to an eligible borrower as defined in part III, chapter 201G, HRS, provided, the property to be financed shall be insured or guaranteed by the Federal Housing Administration the Veterans Administration, the Farmers Home Administration, or private mortgage insurers as approved by the corporation.

"Family income" means the annualized gross income of an eligible borrower (or borrowers).

"Land trust" means a recorded instrument as defined in chapter 558, HRS.

"Mortgage lender" means a mortgage lender as defined in part III, chapter 201G, HRS.

"Mortgage purchase agreement" means an agreement between the corporation and a mortgage lender, in the

§15-161-2

form prescribed by the corporation, by which the corporation agrees to purchase eligible loans on the terms and conditions set forth in the agreement. The form of the mortgage purchase agreement shall be available for inspection at the principal office of the corporation during the normal business hours.

"Mortgage servicing agreement" means an agreement between the corporation and a servicer in the form as may be prescribed by the corporation to service eligible loans. The form of the mortgage servicing agreement shall be available for inspection at the principal office of the corporation during normal business hours.

"One unit family dwelling" means real estate upon which is located a structure or structures designed for residential use and consisting of one dwelling unit.

"Procedural guide" means the set of instructions, guidelines, terms and conditions for the origination and sale of eligible loans to the corporation and for the servicing of the eligible loans, in such form as may be prescribed by the corporation to be used by the mortgage lender.

"Rule" means the provisions under these rules adopted pursuant to part III, chapter 201G, and chapter 91, HRS.

"Servicer" means a mortgage lender or its designee, approved by the corporation, who has executed a mortgage servicing agreement with the corporation.

"State" means the State of Hawaii.

[Eff **OCT 25 1999** ] (Auth: HRS §§201G-183, 201G-184, 201G-187) (Imp: HRS §§201G-183, 201G-184, 201G-192, 201G-194, 201G-195, 201G-196)

**§15-161-3 Delegation.** The corporation delegates to the executive director the authority to implement and carry out the purposes of these rules.

[Eff **OCT 25 1999** ] (Auth: HRS §201G-187) (Imp: HRS §201G-2)

161-4

2232

EXHIBIT A



SUBCHAPTER 2

LOANS TO LENDERS PROGRAM

**\$15-161-10 Purpose.** The purpose of this program is to provide loans to mortgage lenders to be used to make eligible loans to eligible borrowers. The loan amount shall be based on an agreement by mortgage lenders to originate a specified amount of eligible loans. [Eff **OCT 25 1999** ] (Auth: HRS §201G-187) (Imp: HRS §201G-192)

**§§15-161-11 to 15-161-12** (Reserved)

SUBCHAPTER 3

PURCHASE OF EXISTING LOANS PROGRAM

**\$15-161-20 Purpose.** The purpose of this program is to provide funds to mortgage lenders to be used to make eligible loans to eligible borrowers. The funding shall be based on an agreement by mortgage lenders to deliver a specified amount of existing loans and mortgage lenders shall use the funds to originate eligible loans to eligible borrowers. [Eff **OCT 25 1999** ] (Auth: HRS §201G-187) (Imp: HRS §201G-194)

**§§15-161-11 to 15-161-12** (Reserved)

SUBCHAPTER 4

ADVANCE COMMITMENT PROGRAM

**\$15-161-30 Purpose.** The purpose of this program is to allow the corporation to purchase eligible loans from mortgage lenders. The purchase shall be based on an advance commitment by mortgage lenders to deliver a specified amount of eligible loans to the corporation. [Eff **OCT 25 1999** ] (Auth: HRS §201G-

§15-161-30

187) (Imp: HRS §201G-195)

**§15-161-31 Definitions.** Whenever used in this subchapter and the procedural guide, unless the context otherwise requires:

"Commitment application" means a mortgage lender's application, in such form as may be prescribed by the corporation, to sell eligible loans to the corporation pursuant to the terms of the mortgage purchase agreement and the procedural guide. The form of the commitment application shall be available for inspection at the principal office of the corporation during normal business hours.

"Notice of acceptance" means the corporation's notice to the mortgage lender of the acceptance of its commitment application.

[Eff **OCT 25 1999** ] (Auth: HRS §201G-187) (Imp: HRS §201G-195)

**§15-161-32 Process and procedures.** (a) The corporation shall make available to all mortgage lenders, a commitment application at least thirty days in advance of the deadline for submission to the corporation. The commitment application shall be mailed to each active and qualified member of the:

- (1) Hawaii bankers association;
- (2) Hawaii league of savings associations;
- (3) Mortgage bankers association of Hawaii; and
- (4) Other mortgage lenders requesting an application.

(b) To allocate funds available to meet the commitments requested by mortgage lenders, the corporation may consider, among other things:

- (1) The total amount of the commitments requested by the mortgage lenders;
- (2) The financial condition of the mortgage lenders who submit commitment applications;
- (3) The volume of residential mortgage loans made in the State by the mortgage lenders during the preceding twelve month period;
- (4) The demonstrated ability of mortgage lenders to act as servicers of the eligible loans to be purchased by the corporation;
- (5) The desire to achieve a reasonable geographic distribution of available funds throughout

- the State; and
- (6) The desire to have as many mortgage lenders as possible participate in the program.
  - (c) The corporation may determine the allocation between single family dwellings and condominium units by the total dollar amount. Mortgage fund reservations for new construction projects shall be approved by the corporation prior to the making of such reservations by mortgage lenders. The method of allocation or mortgage fund reservation shall be set forth in the procedural guide.
  - (d) The corporation shall issue a notice of acceptance as prescribed in the commitment application on or before the date of the sale of the bonds.
  - (e) The corporation shall establish the fees and charges payable to the corporation by participating mortgage lenders, as described in the:
    - (1) Commitment application;
    - (2) Mortgage purchase agreement;
    - (3) Mortgage servicing agreement; and
    - (4) Procedural guide.
  - (f) It shall be a prohibited practice to utilize the eligible loans to:
    - (1) Convert an agreement of sale to a permanent mortgage except when the agreement of sale is "temporary financing"; or
    - (2) Refinance an existing mortgage.
  - (g) The corporation shall prescribe the form of loan application which the eligible borrower shall complete in accordance with the terms and conditions set forth in the procedural guide. Evaluation by the mortgage lender of each loan applicant's credit worthiness shall be done on a case-by-case basis. The following elements shall be considered in all cases in considering sound general principles in underwriting credit:
    - (1) Monthly housing expense to income ratio;
    - (2) Monthly debt payment-to-income ratio;
    - (3) Stable monthly income;
    - (4) Family income;
    - (5) Loan applicant is credit reputation; and
    - (6) Ability of the eligible borrower to qualify for mortgage financing under a conventional loan.
  - (h) The operation and implementation of the advance commitment program shall be conducted in accordance with these rules and the procedural guide

§15-161-32

as amended or supplemented from time to time by the corporation and at the corporation's sole discretion but at all times consistent with these rules. A copy of the procedural guide shall at all times be kept at the principal office of the corporation in its Most current form and shall be available for inspection at normal business hours. [Eff **OCT 25 1999**] (Auth: HRS §201G-187) (Imp: HRS §§201G-188, 201G-189, 201G-190, 201G-191, 201G-195, 201G-197, 201G-198, 201G-199, 201G-200)

#### SUBCHAPTER 5

#### ELIGIBLE LOAN FUNDING PROGRAM

**§15-161-40 Purpose.** The purpose of this program is to provide eligible loans to eligible borrowers through an alternative program to the advance commitment program. The purchase of mortgage loans shall be based upon requests submitted to the corporation by mortgage lenders on a loan by loan basis. [Eff **OCT 25 1999**] (Auth: HRS §201G-75) (Imp: HRS §201G-95)

**§15-161-41 Definitions.** Whenever used in this subchapter and the procedural guide, unless the context otherwise requires:

"Commitment letter" means the corporation's notice to the mortgage lender of the acceptance of its qualified request and the reservation of funds pursuant to the request.

"Qualified requests" means requests submitted by mortgage lenders to the corporation for the commitment of funds to a specific loan. The request must include the borrowers' names, bond series of the funds requested loan amount and commitment fees. [Eff **OCT 25 1999**] (Auth: HRS §201G-187) (Imp: HRS §201G-196)

**§15-161-42 Process and procedures.** (a) The corporation shall notify all mortgage lenders of its intent to issue bonds not later than thirty days in advance of the anticipated sale date of the bonds.

The notification shall be mailed to each active and qualified member of the:

- (1) Hawaii bankers association;
- (2) Hawaii league of savings associations;
- (3) Mortgage bankers association of Hawaii; and
- (4) Other mortgage lenders requesting an application.

(b) The distribution of funds available shall be based upon the order in which the corporation receives the qualified requests. Each qualified request received by the corporation shall be date and time stamped to chronologically prioritize the allocation of funds.

(c) The corporation shall issue a commitment letter to the lenders if it is determined that funds are available to accommodate their request.

(d) The corporation may determine the allocation between single family dwellings and condominium units by the total dollar amount. Mortgage fund reservations for new construction projects shall be approved by the corporation prior to the making of such reservations by mortgage lenders. The method of allocation or mortgage fund reservation shall be set forth in the procedural guide.

(e) The corporation shall establish the fees and charges payable to the corporation by participating mortgage lenders, as described in the:

- (1) Mortgage purchase agreement;
- (2) Mortgage servicing agreement; and
- (3) Procedural guide.

(f) It shall be prohibited practice to utilize the eligible loans to:

- (1) Convert an agreement of sale to a permanent mortgage except when the agreement of sale is "temporary financing"; or
- (2) Refinance an existing mortgage.

(g) The corporation shall prescribe the form of loan application which the eligible borrower shall complete in accordance with the terms and conditions set forth in the procedural guide. Evaluation by the mortgage lender of each loan applicant's credit worthiness shall be done on a case-by-case basis. The following elements shall be considered in all cases in considering sound general principles in underwriting credit;

- (1) Monthly housing expense to income ratio;
- (2) Monthly debt payment-to-income ratio;

§15-161-42

- (3) Stable monthly income;
- (4) Family income;
- (5) Loan applicant's credit reputation; and
- (6) Ability of the eligible borrower to qualify for mortgage financing under a conventional loan.

(h) The operation and implementation of the eligible loan funding program shall be conducted in accordance with sections 15-161-40, 15-161-41, and 15-161-42, and the procedural guide as amended or supplemented from time to time by the corporation and at the corporation's sole discretion but at all times consistent with sections 15-161-40, 15-161-41, and 15-161-42. A copy of the procedural guide shall at all times be kept at the principal office of the corporation in its most current form and shall be available for inspection at normal business hours. [Eff **OCT 25 1999** ] (Auth: HRS §201G-187)(Imp: HRS §201G-196)

#### SUBCHAPTER 6

#### MISCELLANEOUS PROVISIONS .

**§15-161-51 Yield on mortgage loans.** Mortgage loans sold to the corporation shall bear interest at a rate and be sold the corporation at a price which in the aggregate shall produce a yield to the corporation on the mortgage loans sufficient to:

- (1) Pay interest on the related issue of the authority's bonds;
- (2) Provide adequate reserves, if any, for the holders of the bonds; and
- (3) Cover the operating costs of the corporation for the program;

provided the yield on the mortgage loans shall not exceed the maximum permitted by applications of the provisions of section 103A(i) or section 103(c) of the Internal Revenue Code of 1954, as amended, or section 143(g) of the Internal Revenue Code of 1986, as applicable, and the applicable regulations promulgated by the United States Department of the Treasury. [Eff **OCT 25 1999** ] (Auth: HRS §201G-187) (Imp: HRS §§201G-188, 201G-189, 201G-190)

**\$15-161-52 Waiver.** The board of the corporation, by resolution, may waive or vary provisions of this rule to conform to the requirements of applicable federal requirements. [Eff **OCT 25 1999**] (Auth: HRS §201G-187) (Imp: HRS §201G-188)

**\$15-161-53 Homeownership counseling.** The corporation may require the eligible borrower to successfully complete a homeowner's counseling program. [Eff **OCT 25 1999**] (Auth: HRS §201G-187) (Imp: HRS §201G-8)

**\$15-161-54 Limitations on transfer, use and eligibility.** The corporation shall provide for:

- (1) The increase in the interest rate charged on the eligible loan to a rate not to exceed the interest rate allowed at the time the original loan was made for loans insured by the Federal Housing Administration or guaranteed with the Veterans Administration, or the Farmers Home Administration; or
- (2) Acceleration of all payments due under the mortgage and loan covering the eligible loan if the:
  - (A) Eligible borrower conveys or transfers the property described in the mortgage to any person other than an eligible borrower. However, transfer of title will be permitted for estate planning purposes provided that the eligible borrower remain clearly identifiable and in occupancy during the term of the mortgage;
  - (B) Eligible borrower rents or fails to occupy the property described in the mortgage as the eligible borrower's permanent and primary residence;
  - (C) Eligible borrower fails to abide by any agreements executed by the eligible borrower for the purpose of the eligible loan; or
  - (D) Corporation finds that any statement made by the eligible borrower in the eligible loan application to be false; provided if it is necessary for the

\$15-161-54

purchase of mortgages insured by the Federal Housing Administration or guaranteed by the Veterans Administration or the Farmers Home Administration, the requirements above may be amended by the corporation, to conform to the requirements of the Federal Housing Administration, Veterans Administration, and Farmers Home Administration.  
[Eff **OCT 25 1999** ] (Auth: HRS §§201G-184, 201G-187) (Imp: HRS §201G-184)

**\$15-161-55 Falsification of application.** The eligible borrower shall verify the application by signing the application, falsification of which shall be subject to the criminal sanctions of the Hawaii penal code, part V, sections 710-1063, HRS, and shall constitute a misdemeanor. [Eff **OCT 25 1999** ] (Auth: HRS §§201G-183, 201G-187) (Imp: HRS §201G-183)

**\$15-161-56 Occupancy.** (a) The eligible borrower shall utilize the dwelling purchased under these rules as his or her principal residence for the life of the eligible loan.

(b) For an eligible borrower in the process of selling or transferring title to their property, the corporation may grant a waiver of the requirements of subsection (a) for a period not to exceed three years and for the reasons based on hardship, included but not limited to, unforeseeable job or military transfer, serious illness of the person, or any other hardship circumstance that the corporation may determine on a case by case basis. [Eff **OCT 25 1999** ] (Auth: HRS §§201G-184) (Imp: HRS 201G-182)

**\$15-161-57 Arbitrage.** It is the intent of the corporation not to exceed the arbitrage limitation of the Internal Revenue Code and the corporation may waive any provision of this rule in any instance to comply with the arbitrage limitation.  
[Eff **OCT 25 1999** ] (Auth: HRS §201G-187) (Imp: HRS §201G-169)

161-12

2232

EXHIBIT A



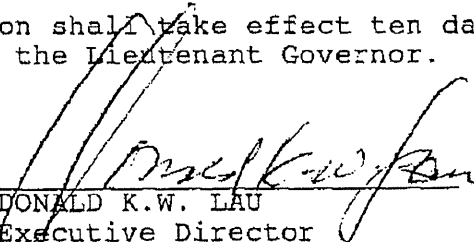
**§15-161-58 Mortgage valid first lien.** The mortgage securing each eligible loan shall constitute a first lien on such real estate secured in accordance with the requirements of the procedural guide. The enforcement of such mortgage shall be delineated in the procedural guide as part of the servicing requirement of each eligible loan. [Eff **OCT 25 1999**] (Auth: HRS §201G-187) (Imp: HRS §§201G-184, 201G-195, 201G-200)

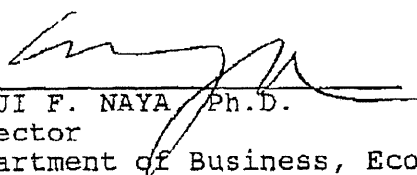
**§15-161-59 Special assistance program.** The corporation may develop subsidy programs for its bond issues to enable certain eligible borrowers whose family income, earned during the most recent calendar year preceding the date of application for an eligible loan, does not exceed eighty per cent of median income for a family of four in the State, as adjusted for family size, to qualify for an eligible loan subject to such other terms, conditions and covenants as may be prescribed by the corporation. [Eff **OCT 25 1999**] (Auth: HRS §201G-187) (Imp: HRS §§201G-188, 201G-195)

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT,  
AND TOURISM

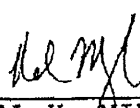
The repeal of chapter 6-311 and the adoption of chapter 15-161, Hawaii Administrative Rules, on the Summary Page dated August 27, 1999, was adopted on August 27, 1999, following public hearings held on Maui on July 15, 1999, Hilo on July 16, 1999, Oahu on July 19, 1999, and Kauai on July 20, 1999, after public notice was given in the Midweek newspaper on June 7, 1999.


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

  
DONALD K.W. LAU  
Executive Director  
Housing and Community Development  
Corporation of Hawaii

  
SEIJI F. NAYA Ph.D.  
Director  
Department of Business, Economic  
Development, and Tourism

APPROVED AS TO FORM:


  
NEAL H. MIYAHIRA  
Director of Finance

  
Deputy Attorney General

LIEUTENANT GOVERNOR  
OFFICE

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APPROVED:

  
BENJAMIN J. CAYETANO  
Governor  
State of Hawaii

Dated: 10/14/99  
OCT 15 1999

Filed

2232

EXHIBIT A

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT,  
AND TOURISM

Repeal of Chapter 15-161 and  
Adoption of Chapter 15-314  
Hawaii Administrative Rules

July 1, 2024

1. Chapter 15-161, Hawaii Administrative Rules, entitled  
"Hula Mae Single Family Program", is repealed.

2. Chapter 15-314, Hawaii Administrative Rules, entitled  
"Hula Mae Home Mortgage Loan Program", is adopted to read as  
follows:

**EXHIBIT B**

"HAWAII ADMINISTRATIVE RULES

TITLE 15

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT,  
AND TOURISM

SUBTITLE 14

HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION

CHAPTER 314

HULA MAE HOME MORTGAGE LOAN PROGRAM

Subchapter 1 General Provisions

§15-314-1 Purpose  
§15-314-2 Definitions  
§15-314-3 Delegation of authority  
§15-314-4 Compliance monitoring  
§§15-314-5 to 15-314-19 (Reserved)

Subchapter 2 Advance Commitments Program

§15-314-20 Purpose  
§15-314-21 Definitions  
§15-314-22 Process and procedure  
§§15-314-23 to 15-314-29 (Reserved)

Subchapter 3 Loan Funding Program

§15-314-30 Purpose  
§15-314-31 Definitions  
§15-314-32 Acquisition cost limitation  
§15-314-33 Process and procedure  
§15-314-34 Evidence of eligible loan  
§15-314-35 Management of defaulted loans  
§§15-314-36 to 15-314-39 (Reserved)

#### Subchapter 4 Miscellaneous Provisions

\$15-314-40	Yield on mortgage loans
\$15-314-41	Waiver
\$15-314-42	Homeownership counseling
\$15-314-43	Limitations on transfer, use, and eligibility
\$15-314-44	Falsification of application
\$15-314-45	Occupancy
\$15-314-46	No arbitrage bonds
\$15-314-47	Mortgage valid first lien

Historical note: Chapter 15-314, Hawaii Administrative Rules, is based substantially upon Chapter 15-161, Hawaii Administrative Rules. [Eff October 25, 1999; R ]

#### SUBCHAPTER 1

##### GENERAL PROVISIONS

**§15-314-1 Purpose.** This chapter implements subpart B of part III, chapter 201H, Hawaii Revised Statutes, the housing loan and mortgage program. [Eff ] (Auth: HRS §201H-97) (Imp: HRS §201H-98)

**§15-314-2 Definitions.** As used in this chapter:

"Bonds" means the revenue bonds issued to finance all or any part of the advance commitments program and the loan funding program authorized under subpart B of part III, chapter 201H, HRS.

"Corporation" means the Hawaii housing finance and development corporation established under chapter 201H, HRS.

"Eligible borrower" means a person or family who:

- (1) Is a citizen of the United States or a resident alien;
- (2) Is a bona fide resident of the State;
- (3) Is at least eighteen years of age;
- (4) Does not personally, or whose spouse does not if the person is married, own any interest in a principal residence within or without the State, and who has not owned a principal residence within the three years immediately prior to the application for an eligible loan under this subpart, except this requirement shall not apply to any eligible loan for a targeted area residence as defined in the Mortgage Subsidy Bond Tax

Act of 1980, Public Law 96-499. Each mortgagor who has an ownership interest in the mortgaged property must meet the three-year requirement under 26 C.F.R. §6a.103A-2(e), as amended. For example, a parent of a borrower cosigns the note who otherwise meets the three-year requirement. If the parent takes no interest in the residence, then the parent need not meet the three-year requirement. However, if each person of a married couple has an ownership interest in the mortgaged property, both must meet the three-year requirement;

- (5) Is financing a property that will be the eligible borrower's principal residence; and
- (6) Does not have a family income exceeding the income requirements of section 143(f) of the Internal Revenue Code of 1986, as amended.

"Eligible loan" means a loan under subpart B of part III, chapter 201H, HRS, including mortgage-backed securities backed by such a loan, to an eligible borrower for the permanent financing of a dwelling unit, including a condominium unit; including eligible improvement loans, loans to finance homebuyer assistance, and loans that provide the security or interest in a mortgage-backed security; provided that the property financed is located in the State, will be occupied as the principal place of residence by the eligible borrower, and meets other requirements as established under this chapter. Notwithstanding any other provision of the law, the corporation may provide homebuyer assistance in conjunction with eligible loans through loans or other means; provided that the homebuyer assistance:

- (1) Is repaid through consideration to the corporation, including borrower repayments; and
- (2) Meets restrictions and requirements as established in these rules.

"Family income" means the annualized gross income of an eligible borrower (or borrowers) or non-borrower household members as defined in section 143(f) of the Internal Revenue Code of 1986, as amended.

"Homebuyer assistance" means assistance provided to eligible borrowers in conjunction with an eligible loan to provide downpayment assistance or fund closing costs; provided that such assistance is repaid through consideration to the corporation, including borrower repayments.

"Homeownership counseling" means housing counseling related to homeownership and residential mortgage loans when provided in connection with the United States Department of Housing and Urban Development's housing counseling program.

"Lower and moderate income" means an income of up to one hundred per cent of the area median income amount published by

the United States Department of Housing and Urban Development applicable to the location of the residential property for the applicable federal fiscal year, with higher limits in certain circumstances.

"Mortgage-backed security" means any investment security, not including bonds of the corporation, that represents an interest in, or is secured by, one or more pools of mortgage loans, including any such security representing a direct obligation or guarantee of a federally sponsored or private entity such as the Government National Mortgage Association, Federal National Mortgage Association, or Federal Home Loan Mortgage Corporation.

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

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

"Mortgage purchase agreement" means an agreement by and between the corporation and a mortgage lender, in the form prescribed by the corporation, by which the corporation agrees to purchase eligible loans on the terms and conditions set forth in the agreement. The form of the mortgage purchase agreement shall be available for inspection at the principal office of the corporation during normal business hours.

"Mortgage servicing agreement" means an agreement by and between the corporation and a servicer in the form as may be prescribed by the corporation to service eligible loans. The form of the mortgage servicing agreement shall be available for inspection at the principal office of the corporation during normal business hours.

"Servicer" means a mortgage lender or its designee, approved by the corporation, who has executed a mortgage servicing agreement with the corporation. [Eff ]

(Auth: HRS §§201H-93, 201H-97, 201H-98) (Imp: HRS §§201H-93, 201H-94, 201H-105, 201H-106)

**§15-314-3 Delegation of authority.** The corporation delegates to the executive director the authority to implement and carry out the purpose of this chapter.  
[Eff ] (Auth: HRS §201H-4) (Imp: HRS §201H-4)

**§15-314-4 Compliance monitoring.** The corporation may monitor the eligible borrower throughout the term of the eligible loan to ensure compliance with program requirements.  
[Eff ] (Auth: HRS §201H-4) (Imp: HRS §201H-4)

**§§15-314-5 to 15-314-19 (Reserved).**

## SUBCHAPTER 2

### ADVANCE COMMITMENTS PROGRAM

**§15-314-20 Purpose.** The purpose of this program is to allow the corporation to contract with a mortgage lender for the advance commitment to purchase eligible loans.  
[Eff ] (Auth: HRS §201H-97) (Imp: HRS §201H-105)

**§15-314-21 Definitions.** As used in this subchapter:  
"Commitment application" means a mortgage lender's application, in such form as may be prescribed by the corporation, to sell eligible loans to the corporation pursuant to the terms of the mortgage purchase agreement. The form of the commitment application shall be available for inspection at the principal office of the corporation during normal business hours.

"Notice of acceptance" means the corporation's notice to the mortgage lender of the acceptance of its commitment application. [Eff ] (Auth: HRS §201H-97) (Imp: HRS §201H-105)



**§15-314-22 Process and procedure.** (a) The corporation shall make available to all mortgage lenders a commitment application at least thirty days in advance of the deadline for submission to the corporation. The commitment application shall be made available on the corporation's website.

(b) To allocate available funds to meet the commitments requested by mortgage lenders, the corporation may consider, among other things:

- (1) The total amount of the commitments requested by the mortgage lenders;
- (2) The financial condition of the mortgage lenders who submit commitment applications;
- (3) The volume of residential mortgage loans made in the State by the mortgage lenders during the preceding twelve-month period;
- (4) The demonstrated ability of the mortgage lenders to act as servicers of the eligible loans to be purchased by the corporation;
- (5) The desire to achieve a reasonable geographic distribution of available funds throughout the State; and
- (6) The desire to have as many mortgage lenders as possible participate in the program.

(c) The corporation may determine the allocation between single family dwellings and condominium units by the total dollar amount of the commitment. Mortgage fund reservations for new construction projects shall be approved by the corporation prior to the making of such reservations by mortgage lenders. The method of allocation or mortgage fund reservation shall be set forth in the commitment application for the effective period. The method of allocation or mortgage fund reservation will be posted to the corporation's website and is subject to change at the discretion of the corporation.

(d) The corporation shall issue a notice of acceptance as prescribed in the commitment application on or before the date of the sale of the bonds.

(e) The purchase price of a mortgage loan to be acquired by the corporation will be negotiated between the corporation and the mortgage lender and shall not be in excess of one hundred per cent of the unpaid principal balance of the mortgage loan plus accrued interest thereon. The corporation will require the following from accepted mortgage lender:

- (1) Commitment application;
- (2) Mortgage purchase agreement; and

- (3) Mortgage servicing agreement.
- (f) It shall be a prohibited practice to utilize the eligible loan to:
- (1) Convert an agreement of sale to a permanent mortgage; or
- (2) Refinance an existing mortgage loan.
- (g) The corporation shall prescribe the form of loan application that the eligible borrower shall complete. Evaluation by the mortgage lender of each loan applicant's creditworthiness shall be done on a case-by-case basis. The following elements shall be considered in all cases when evaluating credit:
- (1) Monthly housing expense-to-income ratio;
- (2) Monthly debt payment-to-income ratio;
- (3) Stable monthly income;
- (4) Loan applicant's credit reputation; and
- (5) Ability of the eligible borrower to qualify for mortgage financing under a conventional loan.
- [Eff ] (Auth: HRS §201H-97)(Imp: HRS §§201H-98, 201H-99, 201H-100, 201H-101, 201H-105, 201H-107, 201H-108, 201H-109, 201H-110)

§§15-314-23 to 15-314-29 (Reserved) .

## SUBCHAPTER 3

LOAN FUNDING PROGRAM

**§15-314-30 Purpose.** The purpose of this program is to provide eligible loans to eligible borrowers through an alternative program to the advance commitments program. Such loans are made available at affordable interest rates, permitting the purchase of homes by eligible borrowers. The purchase of mortgage loans shall be based upon requests submitted to the corporation by mortgage lenders on a loan-by-loan basis. [Eff \_\_\_\_\_] (Auth: HRS §201H-106) (Imp: HRS §201H-106)

**§15-314-31 Definitions.** As used in this chapter:  
"Commitment letter" means the corporation's notice to the mortgage lender of the acceptance of its qualified request and the reservation of funds pursuant to the request.

"Qualified request" means a request submitted by a mortgage lender to the corporation for the commitment of funds to a specific loan that meets all prerequisites necessary to be purchased by a federally sponsored or private entity such as the Government National Mortgage Association, Federal National Mortgage Association, and the Federal Home Loan Mortgage Corporation. The information in the "qualified request" must include but not be limited to, the borrowers' names, the bond series from which the requested loan amount will be funded, and commitment fees. Incomplete requests will not be processed. Any mortgage lender submitting an incomplete request will be contacted within five business days to be advised of the incomplete status. The mortgage lender will have ten working days to provide the missing items. After the eleventh working day, the request is rejected. [Eff ] (Auth: HRS §201H-97) (Imp: HRS §201H-106)

**§15-314-32 Acquisition cost limitation.** (a) No residence assisted by this subchapter shall have an acquisition cost that exceeds the maximum acquisition cost based on the loan limits published by the United States Department of Housing and Urban Development applicable to the location of the residential property for the applicable federal fiscal year.

(b) The acquisition cost shall include:

- (1) All amounts paid, either in cash or in kind, by the eligible borrower (or a related party or for the benefit of the seller) as consideration for the residence, including the amount of any lien or assessment to which the residence is subject; and
- (2) If a residence is incomplete, the reasonable cost of completing the residence, whether the cost of completing construction is to be financed with the mortgage loan.

(c) The acquisition cost shall not include the following:

- (1) The usual and reasonable settlement or financing costs, including
  - (A) Title and transfer costs;
  - (B) Title insurance;
  - (C) Survey fees or other similar costs;
  - (D) Credit reference fees;
  - (E) Legal fees;
  - (F) Appraisal expenses;
  - (G) Points that are paid by the eligible borrower (but not the seller, even though borne by the eligible borrower through a higher purchase price); or

(H) Other costs of financing the residence, but only in cases to the extent that the amount does not exceed the usual and reasonable costs, which would be paid by the eligible borrower where financing is not provided through the use of tax-exempt bonds; and

(2) The cost of land, which has been owned by the mortgagor for at least two years prior to the date that construction of the residence begins.

[Eff ] (Auth: HRS §§201H-93, 201H-94, 201H-97)  
(Imp: HRS §§201H-18, 201H-94, 201H-106)

**§15-314-33 Process and procedure.** (a) The corporation shall notify all mortgage lenders of its intent to issue bonds not later than thirty days in advance of the anticipated sale date of the bonds. The notification shall be posted to the corporation's website.

(b) The distribution of available funds shall be based upon the order in which the corporation receives the qualified requests. Each complete qualified request received by the corporation shall be date- and time-stamped to chronologically prioritize the allocation of funds.

(c) The corporation may determine the allocation between single family dwellings and condominium units by the total dollar amount. Mortgage fund reservations for new construction projects shall be approved by the corporation prior to the making of such reservations by mortgage lenders. The method of allocation or mortgage fund reservation shall be posted to the corporation's website and is subject to change at the discretion of the corporation.

(d) It shall be prohibited practice to utilize an eligible loan to:

- (1) Convert an agreement of sale to a permanent mortgage;  
or
- (2) Refinance an existing mortgage loan.

(e) The corporation shall prescribe the form of loan application, which the eligible borrower shall complete in accordance with the terms and conditions set forth in the guidelines published on its website. Evaluation by the mortgage lender of each loan applicant's credit worthiness shall be done on a case-by-case basis.

The following elements shall be considered in all cases when evaluating credit:

- (1) Monthly housing expense-to-income ratio;
- (2) Monthly debt payment-to-income ratio;

- (3) Stable monthly income;
- (4) Loan applicant's credit reputation; and
- (5) Ability of the eligible borrower to qualify for mortgage financing under a conventional loan.

(f) The eligible borrower shall be responsible for the payment of all fees, premiums, and charges charged by the corporation or mortgage lender, or both, in connection with the funding of loans under this chapter. Upon the closing of the loan, the fees charged by the corporation shall be as follows:

Purpose of Fee	Amount Charged
Processing	\$500
Loan origination	1% of the loan amount

[Eff ] (Auth: HRS §201H-98)(Imp: HRS §201H-106)

**§15-314-34 Evidence of eligible loan.** (a) Each mortgage lender who participates in any housing loan program shall submit evidence, as deemed satisfactory by the corporation, that eligible loans have been made from the proceeds of the bonds.

(b) The corporation may inspect the books and records of the mortgage lenders as may be necessary for the purposes of this section. [Eff ] (Auth: HRS §201H-101)(Imp: HRS §201H-101)

**§15-314-35 Management of defaulted loans.** The corporation may:

- (1) Renegotiate, refinance, or foreclose any loan in default;
- (2) Waive any default or consent to the modification of the terms of any loan or security agreement
- (3) Commence any action to protect or enforce any right conferred upon it by any law, mortgage, insurance policy, contract, or other agreement;
- (4) Bid for and purchase the property secured by the loan at any foreclosure or other sale, or acquire or take possession of the property secured by the loan; and
- (5) Operate, manage, lease, dispose of, or otherwise deal with the property secured by the loan. [Eff ] (Auth: HRS §201H-110)(Imp: HRS §201H-110)

**§§15-314-36 to 15-314-39 (Reserved).**

## SUBCHAPTER 4

## MISCELLANEOUS PROVISIONS

**§15-314-40 Yield on mortgage loans.** Mortgage loans sold to the corporation shall bear interest at a rate and be sold to the corporation at a price that in the aggregate is expected to produce a yield to the corporation on the mortgage loans sufficient to:

- (1) Pay interest on the related issue of the issuing authority's bonds;
- (2) Provide adequate reserves, if any, for the holders of the bonds; and
- (3) Cover the operating costs of the corporation for the program;

provided the yield on the mortgage loans shall not exceed, as applicable, the maximum permitted by applications of the provisions of section 103A(i) or section 103(c) of the Internal Revenue Code of 1954, as amended, or section 143(g) of the Internal Revenue Code of 1986, as amended, and the applicable regulations promulgated by the United States Department of the Treasury. [Eff \_\_\_\_\_] (Auth: HRS §201H-97)(Imp: HRS §§201H-98, 201H-99, 201H-100)

**§15-314-41 Waiver.** The corporation may waive or vary provisions of this chapter to conform to applicable federal requirements. [Eff \_\_\_\_\_] (Auth: HRS §201H-97)(Imp: HRS §201H-98)

**§15-314-42 Homeownership counseling.** The corporation may require the eligible borrower to successfully complete a homeownership counseling program. [Eff ] (Auth: HRS §201H-97) (Imp: HRS §201H-8)

§15-314-43 Limitations on transfer, use, and eligibility.  
The corporation shall provide for:

- (1) The increase in the interest rate charged on the eligible loan to a rate not to exceed the interest rate allowed when the original loan was made for loans insured by the Federal Housing Administration or guaranteed with the Veterans

Administration or the Farmers Home Administration; or

(2) Acceleration of all payments due under the mortgage and loan covering the eligible loan if the:

- (A) Eligible borrower conveys or transfers the property described in the mortgage to any person other than an eligible borrower. However, transfer of title will be permitted for estate planning purposes provided that the eligible borrower remains clearly identifiable and in occupancy during the term of the mortgage loan;
- (B) Eligible borrower rents or fails to occupy the property described in the mortgage as the eligible borrower's permanent and primary residence; or
- (C) Eligible borrower fails to abide by any agreements executed by the eligible borrower for the purpose of the eligible loan.
- (D) Corporation finds that any statement made by the eligible borrower in the eligible loan application to be false; provided it is necessary for the purchase of mortgages insured by the Federal Housing Administration or guaranteed by the Veterans Administration or the Farmers Home Administration, per the published requirements of each organization, as amended. [Eff ] (Auth: HRS §§201H-94, 201H-97) (Imp: HRS §§201H-92, 201H-94)

**§15-314-44 Falsification of application.** By signing the application, the eligible borrower certifies that the information provided therein is complete and accurate. An eligible borrower found to have wilfully submitted false information, made misstatements, or withheld important information shall be deemed ineligible; provided that the corporation shall not waive its right to pursue any other recourse provided by law. [Eff ] (Auth: HRS §§201H-93, 201H-97) (Imp: HRS §201H-93)

**§15-314-45 Occupancy.** (a) The eligible borrower shall utilize the dwelling purchased under this chapter as his or her permanent and principal residence for the life of the eligible loan. Any residence in which more than fifteen per cent of the total area is reasonably expected to be used primarily in a trade or business shall not be considered a principal residence for purposes of this chapter.

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

(c) For an eligible borrower in the process of selling or transferring title to their property, the corporation may grant a waiver of the requirements of subsection (a) of this section for a period not to exceed three years and for reasons based on hardship, included but not limited to, unforeseeable job or military transfer, serious illness of the eligible borrower, or any other hardship circumstance that the corporation may determine on a case-by-case basis, at its sole discretion.  
[Eff ] (Auth: HRS §201H-92)(Imp: HRS §201H-92)

**§15-314-46 No arbitrage bonds.** It is the intent of the corporation not to exceed the arbitrage limitation of the Internal Revenue Code §1.148-2, as amended, and the corporation may waive any provision of this chapter in any instance to comply with the arbitrage limitation. [Eff ]  
(Auth: HRS §201H-79)(Imp: HRS §201H-79)

**§15-314-47 Mortgage valid first lien.** The mortgage securing each eligible loan shall constitute a first lien on such real estate evidenced by an instrument recorded in the bureau of conveyances of the state of Hawaii or filed in the office of the assistant registrar of the land court of the state of Hawaii, or both, as applicable. The enforcement of such a mortgage shall be delineated in the documented servicing requirements of each loan. Certified copies of each recorded mortgage and conveyance document, electronic copies of all loan documents, and original promissory notes shall be provided to the corporation within five working days of the recording date of the loan."  
[Eff ] (Auth: HRS §201H-94)(Imp: HRS §201H-94)



3. The simultaneous repeal of chapter 15-169 and adoption of 15-314, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

I certify that the foregoing are copies of the rules drafted in the Ramseyer format, pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on Month XX, 2024, and filed with the Office of the Lieutenant Governor.

\_\_\_\_\_  
GARY MACKLER, Chairperson  
Hawaii Housing Finance and  
Development Corporation

APPROVED AS TO FORM:

\_\_\_\_\_  
Deputy Attorney General