

## FOR ACTION

### I. REQUEST

Approve: (1) the Repeal of Chapter 15-169 “Downpayment Loan Program,” Hawaii Administrative Rules (HAR); and (2) the Proposed New Chapter 15-317 “Downpayment Loan Assistance Program,” HAR, to Implement the Downpayment Loan Assistance Program Under Subpart F of Part III, Chapter 201H, Hawaii Revised Statutes

### II. FACTS

- A. A State downpayment loan program was first established in 1955 under the Hawaii Housing Authority to provide downpayment loans to eligible first-time homebuyers earning up to 120% of the area median income.
- B. Pursuant to Subpart F of Part III, Chapter 201H, Hawaii Revised Statutes (HRS), the Hawaii Housing Finance and Development Corporation (HHFDC) is authorized to make downpayment loans, directly or through a nonprofit organization, to eligible borrowers.
- C. The existing administrative rules for the program were promulgated in 1999 by the Housing and Community Development Corporation of Hawaii (HCDCH), an HHFDC predecessor agency. The program was last active in 2013 and funded through the sale of general obligation bonds or other appropriations from the State Legislature. Since the rules were adopted, HHFDC was established to carry out the affordable housing development and finance functions of HCDCH and Act 123, Session Laws of Hawaii 2017, amended the program in various ways, thus necessitating the adoption of new rules pursuant to Chapter 91, HRS.
- D. The current high interest-rate environment has made it more difficult for local residents to save the downpayment for a mortgage loan to buy a home. Staff plans to restart the program with funding from a sales mix of tax-exempt private activity bonds, taxable bonds, and through a current outstanding bond indenture.
- E. 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.

### III. DISCUSSION

The simultaneous repeal of Chapter 15-169 “Downpayment Loan Program,” HAR and proposed new Chapter 15-317 “Downpayment Loan Assistance Program,” HAR, are attached hereto as **Exhibit A** and **Exhibit B**, respectively. Below is a summary of how the program works under the proposed Chapter 15-317.

- A. A potential borrower may begin the process by visiting HHFDC’s website to view information on the nonprofits selected by HHFDC to originate and service the

downpayment assistance loans. The application may be completed and submitted to either the nonprofit or HHFDC. An applicant will be deemed ineligible if s/he provides false information, makes misstatements, and withholds important information.

- B. The downpayment loan to any one borrower may be for up to 15% of the sales price or appraised value of the residential property, or up to \$60,000, whichever is less. Eligibility criteria include the borrower’s contribution of up to 5% of the sales price and completion of a U.S. Department of Housing and Urban Development (HUD)-approved homeownership counseling program.
- C. HHFDC reviews and approves the application for eligibility. If approved, HHFDC coordinates the funding with the nonprofit and escrow company.
- D. HHFDC determines the loan repayment schedule and other terms. The chargeable annual interest rate can range from 1% to 8%, per 201H-161, HRS. Loans and any accrued interest are due and payable upon the sale, transfer, or refinancing of the property.
- E. The eligible borrower is responsible for all fees, premiums, and charges imposed by HHFDC or the nonprofit. Upon recordation of the mortgage securing the loan with the Bureau of Conveyances of the State of Hawaii and/or its filing with the Office of the Assistant Registrar of the Land Court, as the case may be, the eligible borrower shall pay the following program processing fees:

FEE	AMOUNT CHARGED
To HHFDC	\$500 to \$1,000
To Mortgage Lender	\$100 to \$200

- F. The eligible borrower must occupy the property as the borrower’s primary residence. Failure to do so will result in the acceleration of the maturity of the loan.
- G. An eligible borrower who is delinquent in payment of any installment of principal and interest on the eligible loan is considered to be in monetary default of the loan, and the loan could be foreclosed.

**IV. RECOMMENDATION**

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

- A. Approve the simultaneous repeal of Chapter 15-169, “Downpayment Loan Program,” and adoption of Chapter 15-317, “Downpayment Loan Assistance 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;

- C. Authorize the Executive Director to make any necessary, non-substantive amendments to the proposed rules following the public hearing, which may include the incorporation of public comments; and
- D. After the public hearing, authorize the Executive Director to transmit the proposed rules to the Governor for final approval, provided that no substantive amendments are made.

Attachments: Exhibit A – Proposed Repeal of Chapter 15-169, HAR  
Exhibit B – Proposed New Chapter 15-317, HAR

Prepared by: Cynthia Nyross, Planner

CN

David Oi, Housing Finance Manager

DO

Reviewed by: Chris Woodard, Chief Planner

AW

HAWAII ADMINISTRATIVE RULES

TITLE 15

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT,  
AND TOURISM

SUBTITLE 14

HOUSING AND COMMUNITY DEVELOPMENT CORPORATION OF HAWAII

CHAPTER 169

DOWNPAYMENT LOAN PROGRAM

Subchapter 1 General Provisions

- \$15-169-1 Purpose
- \$15-169-2 Definitions

Subchapter 2 Downpayment Loan Program

- \$15-169-10 Corporation's right to contract for services of financial institution
- \$15-169-11 Procedural Guide
- \$15-169-12 Amount of loan
- \$15-169-13 Repayment; term of loan
- \$15-169-14 Interest rate on eligible loan
- \$15-169-15 Fees
- \$15-169-16 Application for loan
- \$15-169-17 Funding for loan
- \$15-169-18 Restrictions on the eligible borrower
- \$15-169-19 Security for loan; establishment of mortgage lien
- \$15-169-20 Acceleration of maturity of loan
- \$15-169-21 Default of loan
- \$15-169-22 Corporation's rights upon default of loan
- \$15-169-23 Occupancy
- \$15-169-24 False information in application

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Subchapter 3 Miscellaneous Provisions

§15-169-30 Waiver

Historical note: Chapter 15-169, Hawaii Administrative Rules, is based substantially upon chapter 6-323, Hawaii Administrative Rules. [Eff 3/14/94; R **OCT 25 1999** ]

SUBCHAPTER 1

GENERAL PROVISIONS

**§15-169-1 Purpose.** This chapter implements part III, subpart H of chapter 201G, Hawaii Revised Statutes ("HRS"), pertaining to the downpayment loan program, and which purpose is to provide eligible borrowers with downpayment loans. [Eff **OCT 25 1999** ] (Auth: HRS §§ 201G-4, 201G-321) (Imp: HRS §201G-321)

**§15-169-2 Definitions.** As used in this chapter: "Annualized gross income" means gross monthly income of an eligible borrower (or borrowers) multiplied by twelve.

"Board" means the board of directors of the housing and community development corporation of Hawaii.

"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 resident alien;
- (2) Is a bona fide resident of the State;
- (3) Is at least eighteen years of age;
- (4) If single or married, does not own (either jointly or severally), in fee simple or leasehold, a majority interest in any other residential property within the State at the time of application;
- (5) Will physically reside in the residential property to be purchased for the term of the loan;
- (6) Is accepted by a financial institution as a

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- person to whom it is willing to lend money for the purchase of the residential property provided the required downpayment is made;
- (7) Does not have annualized gross income that exceeds the income limit established by the corporation;
  - (8) Contributes, from his or her own liquid assets, a portion of the downpayment which shall be equal to at least three per cent of the sales price;
  - (9) Will have liquid assets not exceeding two months of the principal, interest, taxes and insurance which comprise the eligible borrower's monthly mortgage payments, remaining after the closing date; and
  - (10) Has not been granted a previous loan under this chapter (except in cases of extreme hardship, divorce, etc., as determined by the corporation);

"Eligible loan" means a residential second mortgage loan made to an eligible borrower for a downpayment.

"Escrow company" means a disinterested third party which holds money or documents, or both until the terms and conditions between the buyer and the seller have been satisfied.

"Homebuyers club program" means the program administered by the corporation which provides information to potential homebuyers on how to save money, resolve credit problems, and shop for and purchase a home.

"Income limit" means the limit established by the corporation based on the median income which the United States Department of Housing and Urban Development establishes from time to time for the State, as adjusted by the corporation for family size.

"Financial institution" means an institution as defined in chapter 412:5 (bank), HRS, section 412:7 (savings and loan associations), HRS, 12 U.S.C. §21 (national bank) and 12 U.S.C. §1461 (federal savings and loan association or federal savings bank).

"Loan closing date" means the final procedure in which documents are executed or recorded, or both and the loan is completed.

"State" means the State of Hawaii.

[Eff **OCT 25 1999** ] (Auth: HRS §§ 201G-4, 201G-321)  
(Imp: HRS §§201G-321, 201G-322)

§15-169-10

SUBCHAPTER 2

DOWNPAYMENT LOAN PROGRAM

**§15-169-10 Corporation's right to contract for services of financial institution.** The corporation is authorized to enter into agreements with or purchase services from any financial institution for services required for the purposes of this chapter. [Eff **OCT 25 1999** ] (Auth: HRS §§ 201G-4, 201G-321) (Imp: HRS §201G-321)

**§15-169-11 Procedural guide.** The corporation shall prepare a procedural guide for financial institutions originating loans under this chapter. The guide shall be consistent with these rules and shall be available for public inspection at the principal office of the corporation during the corporation's normal business hours. [Eff **OCT 25 1999** ] (Auth: HRS §§ 201G-4, 201G-321) (Imp: HRS §201G-321)

**§15-169-12 Amount of loan.** The maximum amount of the loan available under this chapter shall not exceed thirty per cent of the purchase price of the residential property or fifteen thousand dollars, whichever is less. [Eff **OCT 25 1999** ] (Auth: HRS §§ 201G-4, 201G-321) (Imp: HRS §201G-321)

**§15-169-13 Repayment; term of loan.** The corporation shall determine the repayment schedule and mortgage term for loans made under this chapter as prescribed in section 201G-321, HRS. [Eff **OCT 25 1999** ] (Auth: HRS §§ 201G-4, 201G-321) (Imp: HRS §201G-321)

**§15-169-14 Interest rate on eligible loan.** The corporation shall determine the interest rate for loans made under this chapter which range from zero per cent to eight per cent, depending on the eligible borrower's annualized gross income. The determination of the interest rates shall be set forth in the procedural guide of the program. [Eff **OCT 25 1999** ] (Auth: HRS

§§201G-4, 201G-321) (Imp: HRS §201G-321)

**§15-169-15 Fees.** The eligible borrower is responsible for payment of all fees charged by the corporation or financial institution or both in connection with the application for loan under this chapter. [Eff **OCT 25 1999**] (Auth: HRS §§ 201G-4, 201G-321) (Imp: HRS §201G-321)

**§15-169-16 Application for loan.** The following procedure is established for loans made under this chapter:

- (1) The corporation shall provide any interested person with the name(s) of the financial institution(s) selected by the corporation to originate and service loans made under this chapter;
- (2) Application for a loan shall be made directly to the financial institution.
- (3) Each application shall include the eligible borrower's name, address, requested loan amount (subject to the limits set forth in section 15-169-12, credit history, income statement, statement of assets and liabilities, a copy of the eligible borrower's most recent signed federal and state income tax returns, and other information as prescribed by the corporation; and
- (4) Upon the corporation's review and approval of the documents listed in paragraph (3), the corporation shall coordinate the funding of the loan with the financial institution and the escrow company. [Eff **OCT 25 1999**] (Auth: HRS §§201G-4, 201G-321) (Imp: HRS §201G-321)

**§15-169-17 Funding for loan.** The following procedure is established for loans made under this chapter:

- (1) No funds shall be authorized for release until the financial institution has provided the corporation with the required documentation which verifies the borrower's

§15-169-17

- eligibility for a loan under this chapter;
- (2) The corporation shall arrange for the loan funds to be available at the designated escrow company on the eligible borrower's loan closing date; and
  - (3) Funds shall be disbursed by check made payable to the financial institution and shall be applied toward the eligible borrower's downpayment. [Eff **OCT 25 1999** ]  
(Auth: HRS §§201G-4, 201G-321) (Imp: HRS §201G-321)

**§15-169-18 Restrictions on the eligible borrower.** An eligible borrower receiving a loan under this chapter shall be subject to the conditions prescribed in section 201G-323, HRS. [Eff **OCT 25 1999** ] (Auth: HRS §§201G-4, 201G-321) (Imp: HRS §201G-323)

**§15-169-19 Security for loan; establishment of mortgage lien.** The mortgage securing each eligible loan shall constitute a second lien on such residential property purchased with the eligible loan. The financial institution shall promptly record or file or both with the bureau of conveyances or the land court of the State as the case may be, to ensure the creation of a valid lien on the mortgaged property. [Eff **OCT 25 1999** ] (Auth: HRS §§201G-4, 201G-321) (Imp: HRS §201G-321)

**§15-169-20 Acceleration of maturity of loan.** The occurrence of any of the following events shall be sufficient grounds for the corporation, at its option, to accelerate the maturity of the loan:

- (1) The eligible borrower sells, transfers, or refinances the property described in the mortgage; provided, however, that a transfer of title shall be permitted if it appears to the satisfaction of the corporation that the transfer was effected for estate planning purposes and the corporation's security interest is unaffected by the transfer;
- (2) The eligible borrower rents or fails to occupy the property described in the mortgage as the eligible borrower's permanent and

- primary residence;
- (3) The eligible borrower fails to abide by any agreements executed by the eligible borrower for the purpose of the eligible loan;
  - (4) The corporation finds that any statement made by the eligible borrower in the application for an eligible loan to be false; or
  - (5) Failure to respond within thirty days to the corporation's request to verify the occupancy of the eligible borrower.
- [Eff **OCT 25 1999** ] (Auth: HRS §§201G-4, 201G-321) (Imp: HRS §201G-321)

**§15-169-21 Default of loan.** The corporation may consider an eligible loan in default if the eligible borrower is delinquent in payment of any installment of principal and interest of the eligible loan.

[Eff **OCT 25 1999** ] (Auth: HRS §§201G-4, 201G-321)  
(Imp: HRS §201G-321)

**§15-169-22 Corporation's rights upon default of loan.** With respect to any loan in default made under this chapter, the corporation may:

- (1) Renegotiate, refinance or foreclose the loan;
- (2) Waive any default or consent to the modification of the terms of the loan or the mortgage;
- (3) Commence any action to protect or enforce any right conferred upon the corporation 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; or
- (5) Operate, manage, lease, dispose of, or otherwise deal with the property secured by the loan. [Eff **OCT 25 1999** ] (Auth: HRS §§201G-4, 201G-321) (Imp: HRS §201G-324)

**§15-169-23 Occupancy.** The eligible borrower shall utilize the residence as his or her principal residence for the life of the eligible loan.

[Eff **OCT 25 1999** ] (Auth: HRS §§201G-4, 201G-321)

§15-169-24

(Imp: HRS §201G-322)

**§15-169-24 False information in application.** By signing the application, the eligible borrower certifies that the information provided in the application is true and correct. The eligible borrower shall be subject to criminal charges or civil action, or both under the laws of the State if false information is provided. [Eff **OCT 25 1999** ] (Auth: HRS §§201G-4, 201G-321) (Imp: HRS §201G-321)

### SUBCHAPTER 3

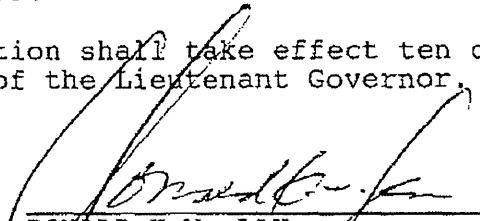
#### MISCELLANEOUS PROVISIONS


**§15-169-30 Waiver.** The board may waive or vary provisions of these rules or any process or procedure established by these rules in order to conform to applicable federal and state laws, regulations and requirements. [Eff **OCT 25 1999** ] (Auth: HRS §§201G-4, 201G-321) (Imp: HRS §201G-321)

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT,  
AND TOURISM

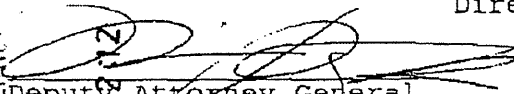
The repeal of chapter 6-323 and the adoption of chapter 15-169, Hawaii Administrative Rules, on the Summary Page dated August 27, 1999, was adopted on August 27, 1999, following public hearings held on Maui on July 15, 1999, Hilo on July 16, 1999, Oahu on July 19, 1999, and Kauai on July 20, 1999, after 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

LIEUTENANT GOVERNOR'S  
OFFICE  
99 OCT 15 12  
  
Deputy Attorney General

APPROVED:  
  
BENJAMIN J. CAYETANO  
Governor  
State of Hawaii

Dated: 10-14-99  
OCT 15 1999  
Filed

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT,  
AND TOURISM

Repeal of Chapter 15-169 and  
Adoption of Chapter 15-317  
Hawaii Administrative Rules

July 1, 2024

1. Chapter 15-169, Hawaii Administrative Rules, entitled "Downpayment Loan Program", is repealed.

2. Chapter 15-317, Hawaii Administrative Rules, entitled "Downpayment Loan Assistance 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 317

DOWNPAYMENT LOAN ASSISTANCE PROGRAM

Subchapter 1 General Provisions

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- \$15-317-2 Definitions
- \$15-317-3 Delegated authority
- \$15-317-4 Compliance monitoring
- \$15-317-5 Waiver
- \$\$15-317-6 to 15-317-9 (Reserved)

Subchapter 2 Downpayment Loan Assistance Program

- \$15-317-10 Corporation's right to contract for services of nonprofit organization
- \$15-317-11 Amount of loan
- \$15-317-12 Repayment; term of loan
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- \$15-317-18 Security for loan; establishment of mortgage lien
- \$15-317-19 Technical default of loan and acceleration of maturity of loan
- \$15-317-20 Monetary default of loan
- \$15-317-21 Corporation's rights upon default of loan
- \$15-317-22 False information in application

Historical note: Chapter 15-317, Hawaii Administrative Rules, is based substantially upon chapter 15-169, Hawaii Administrative Rules. [Eff October 25, 1999; R ]

## SUBCHAPTER 1

### GENERAL PROVISIONS

**§15-317-1 Purpose.** This chapter implements subpart F of part III, chapter 201H, HRS, the downpayment loan assistance program. Its purpose is to provide eligible borrowers with downpayment loans to facilitate greater homeownership opportunities for Hawaii residents. [Eff ]  
(Auth: HRS §201H-4) (Imp: HRS §201H-161)

**§15-317-2 Definitions.** As used in this chapter:

"Annualized gross income" means the gross monthly income of an eligible borrower (or borrowers) multiplied by twelve.

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

"Eligible borrower" means a person who:

- (1) Is a citizen of the United States or a resident alien;
- (2) Is at least eighteen years of age;
- (3) Is a bona fide resident of the State;
- (4) Will physically reside in the residential property to be purchased for the term of the loan;
- (5) Is accepted by a mortgage lender as a person to whom it is willing to lend money for the purchase of the residential property provided the required downpayment is made;
- (6) Provides a portion of the downpayment, which shall be equal to at least five per cent of the sales price;
- (7) Has successfully completed a homeownership counseling program provided by a housing counseling agency approved by the United States Department of Housing and Urban Development;
- (8) Does not have annualized gross income that exceeds the income limit established set forth in this section;  
and
- (9) 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. Each borrower who has an ownership interest in the property must meet the three-year requirement under 26 C.F.R. §6a.103A-2(e), as amended. For example, a parent of a home purchaser cosigns the note who otherwise meets the three-year requirement. If the parent takes no equitable interest in the residential property, then the parent need not meet the three-year requirement. However, if each person of a married couple has an ownership interest in the residential property, both must meet the three-year requirement; and

- (10) Has not previously been granted a loan under this chapter or chapter 15-169, except in cases of extreme hardship, divorce, etc., as determined by the corporation.

"Eligible loan" means any residential second mortgage loan made to an eligible borrower for a downpayment under this chapter.

"Escrow company" means a disinterested third party that holds money or documents, or both, until the terms and conditions of sale between the homebuyer and the seller have been satisfied.

"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.

"Income limit" means the annualized gross income limit established by the corporation based on the area median income amounts 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. For a household of two persons or less, the income limit shall be based on one hundred per cent of said area median income. For a household of three persons or greater, the income limit shall be based on one hundred fifteen per cent of said area median income.

"Nonprofit organization" has the meaning as defined in section 454F-1, HRS. [Eff \_\_\_\_\_] (Auth: HRS §§201H-4, 201H-161) (Imp: HRS §§201H-161, 201H-162)

**§15-317-3 Delegated authority.** The corporation delegates to the executive director the authority to implement and carry out the purposes of this chapter. [Eff \_\_\_\_\_] (Auth: HRS §201H-4) (Imp: HRS §201H-4)

**§15-317-4 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)

**§15-317-5 Waiver.** The corporation may waive or vary the provisions of this chapter, or any process or procedure established by this chapter, in order to conform to applicable federal and state laws, regulations, and requirements. [Eff                   ] (Auth: HRS §§201H-4, 201H-161)(Imp: HRS §201H-161)

**§§15-317-6 to 15-317-9 (Reserved).**

## SUBCHAPTER 2

### DOWNPAYMENT LOAN ASSISTANCE PROGRAM

**§15-317-10 Corporation's right to contract for services of nonprofit organization.** The corporation is authorized to enter into agreements with, or purchase services from, any nonprofit organization for services required for the purposes of this chapter. [Eff                   ] (Auth: HRS §§201H-4, 201H-161)(Imp: HRS §201H-161)

**§15-317-11 Amount of loan.** The downpayment loan to any one borrower shall not exceed fifteen per cent of the purchase price or appraised value of the residential property, or \$60,000, whichever is less. In no event shall the loan amount and purchase money mortgage amount exceed one hundred per cent of the combined loan-to-value. [Eff                   ] (Auth: HRS §§201H-4, 201H-161)(Imp: HRS §201H-161)

**§15-317-12 Repayment; term of loan.** The corporation shall determine the repayment schedule and term for loans made under this chapter. [Eff                   ] (Auth: HRS §201H-161)(Imp: HRS §201H-161)

**§15-317-13 Interest rate on eligible loan.** The corporation shall determine the interest rate for loans made under this chapter, which shall be in accordance with subpart F of part III, chapter 201H, HRS. [Eff \_\_\_\_\_ ] (Auth: HRS §§201H-4, 201H-161) (Imp: HRS §201H-161)

**§15-317-14 Fees.** The eligible borrower is responsible for payment of all fees, premiums, and charges charged by the corporation or nonprofit organization, or both, in connection with the funding of a loan under this chapter. Upon recordation, the eligible borrower shall pay the following program processing fees:

- (1) \$500 - \$1,000 to the corporation; and
- (2) \$100 - \$200 to the mortgage lender.

The fees, premiums, and charges shall be deposited into the housing finance revolving fund established in section 201H-80, HRS. [Eff \_\_\_\_\_ ] (Auth: HRS §§201H-4, 201H-163.5) (Imp: HRS §201H-163.5)

**§15-317-15 Application for loan.** The following procedure is established for applying for loans made under this chapter:

- (1) The corporation shall publish on its website the names of all nonprofit organizations selected by the corporation to originate and service the loans made under this chapter;
- (2) Application for a loan shall be made directly to the corporation or approved nonprofit organization;
- (3) Each application shall include the eligible borrower's name, address, requested loan amount (subject to the limits set forth in section 15-317-12), credit history, income statement, statement of assets and liabilities, most recent signed federal and state income tax returns, and other information as prescribed by the corporation; and
- (4) Upon the corporation's review and approval of the documents listed in subsection (3), the corporation shall coordinate the funding of the loan with the nonprofit organization and the escrow company.

[Eff \_\_\_\_\_ ] (Auth: HRS §§201H-4, 201H-161) (Imp: HRS §201H-161)

**§15-317-16 Funding for loan.** The following procedure is established for the funding of loans made under this chapter:

- (1) No funds shall be authorized for release until the nonprofit organization has provided the corporation with all the required documentation which verifies the borrower's eligibility for a loan under this chapter;
- (2) The corporation shall arrange for the loan funds to be available at the designated escrow company on the eligible borrower's required loan funding date; and
- (3) Funds shall be disbursed by check made payable to the escrow company as named in the purchase contract and shall be applied toward the eligible borrower's downpayment. [Eff \_\_\_\_\_ ] (Auth: HRS §§201H-4, 201H-161) (Imp: HRS §201H-161)

**§15-317-17 Restrictions on the eligible borrower.** An eligible borrower receiving a loan under this chapter shall be subject to the conditions prescribed in section 201H-163, HRS.

- (1) The eligible borrower shall expend no portion of the borrower's downpayment loan for purposes other than to make a downpayment for the purchase of a residential property;
- (2) The residential property purchased with the downpayment loan and mortgaged to the corporation to secure the repayment of the loan shall not be sold or assigned without the prior approval in writing of the corporation and the first mortgage lender;
- (3) The borrower shall pay when due all taxes, liens, judgments, or assessments that may be lawfully levied against the residential property and all costs and expenses of any foreclosure of the mortgage made to the State;
- (4) The borrower shall maintain fire and casualty insurance in amounts equal to the replacement value of all improvements and insurable portions of the residential property with an insurance company authorized to do business in the State. All proceeds of that insurance shall be made payable to the first mortgage lender and the corporation as their respective interests may appear at the time of any loss or damage. Subject to the policy of the corporation, in the event of any loss or damage to the improvements or property covered by the insurance, the proceeds receivable by the State shall be applied

toward the reconstruction of the improvements or property destroyed or damaged, unless otherwise determined by the corporation on behalf of the State; and

- (5) The borrower shall maintain the improvements in good repair. [Eff \_\_\_\_\_ ] (Auth: HRS §§201H-4, 201H-161)(Imp: HRS §201H-163)

**§15-317-18 Security for loan; establishment of mortgage lien.** The mortgage securing each eligible loan shall constitute a second lien on such residential property purchased with the eligible loan. The nonprofit organization shall promptly record or file, or both, with the bureau of conveyances of the State of Hawaii or the office of the assistant registrar of the land court of the State of Hawaii as the case may be, to ensure the creation of a valid lien on the property. A certified recorded or filed copy of the mortgage, original promissory note, and an electronic copy of all borrowers' signed documentation for the eligible loan shall be provided to the corporation within ten working days of the loan closing date. [Eff \_\_\_\_\_ ] (Auth: HRS §§201H-4, 201H-161)(Imp: HRS §201H-161)

**§15-317-19 Technical default of loan and acceleration of maturity of loan.** The occurrence of any of the following events shall be sufficient grounds for the corporation, at its option, to accelerate the maturity of the loan:

- (1) The eligible borrower sells, transfers, or refinances the property described in the mortgage; provided, however, that a transfer of title shall be permitted if it appears to the satisfaction of the corporation that the transfer was effected for estate planning purposes and the corporation's security interest is unaffected by the transfer;
- (2) The eligible borrower rents or fails to occupy the property described in the mortgage as the eligible borrower's permanent and primary residence;
- (3) The eligible borrower fails to abide by any agreements executed by the eligible borrower for the purpose of the eligible loan;
- (4) The corporation finds that any statement made by the eligible borrower in the application for an eligible loan to be false; or
- (5) Failure to respond in writing within thirty days to the corporation's written request to verify the occupancy of the eligible borrower. [Eff \_\_\_\_\_ ]

(Auth: HRS §§201H-4, 201H-161)(Imp: HRS §201H-161)

**§15-317-20 Monetary default of loan.** The corporation may consider an eligible loan in default if the eligible borrower is delinquent in payment of any installment of principal and interest of the eligible loan. [Eff \_\_\_\_\_ ] (Auth: HRS §§201H-4, 201H-161)(Imp: HRS §201H-161)

**§15-317-21 Corporation's rights upon default of loan.** With respect to any loan made under this chapter that is in default, the corporation or mortgage lender shall take all necessary action to collect the delinquent amounts and may take all actions generally allowed holders of mortgages, including the power to foreclose. [Eff \_\_\_\_\_ ] (Auth: HRS §§201H-4, 201H-161)(Imp: HRS §201H-164)

**§15-317-22 False information in application.** By signing the application, the eligible borrower certifies that the information provided in the application is true and correct. 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-4, 201H-161)(Imp: HRS §201H-161)

3. This simultaneous repeal of chapter 15-169 and adoption of chapter 15-317, 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.

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GARY MACKLER, Chairperson  
Hawaii Housing Finance and  
Development Corporation

APPROVED AS TO FORM:

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Deputy Attorney General