

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT,
AND TOURISM

Adoption of Chapter 15-309 Hawaii Administrative Rules

June 30, 2025

1. Chapter 15-309, Hawaii Administrative Rules,
entitled "Dwelling Unit Revolving Fund Equity Pilot
Program", is [~~adopted~~]amended and compiled to read
as follows:

"HAWAII ADMINISTRATIVE RULES

TITLE 15

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT,
AND TOURISM

SUBTITLE 14

HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION

CHAPTER 309

DWELLING UNIT REVOLVING FUND EQUITY PILOT
PROGRAM

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SUBCHAPTER 1

GENERAL PROVISIONS

§15-309-1 Purpose. The purpose of this chapter is to implement ~~[Act 92, Session Laws of Hawaii 2023, which authorizes the corporation to establish]~~the dwelling unit revolving fund equity pilot program, which shall be funded by the dwelling unit revolving fund, to address the high, unmet demand ~~[of]~~ for for-sale units by Hawaii residents. ~~[Under the program until June 30, 2028,]~~ T[~~t~~]he corporation may purchase equity in for-sale housing development projects, subject to the conditions set forth in ~~[Act 92, Session Laws of Hawaii 2023,]~~this chapter. [Eff 1/15/24; am and comp] (Auth: SLH 2023, Act 92, §2) (Imp: SLH 2023, Act 92, §2)

§15-309-2 Definitions. As used in this chapter: "Affidavit" means the application to participate in the program~~[-]~~ and certify eligibility.

"Applicant" means the primary person who submits an affidavit to participate in the program.

"Application for relief" means an application to the corporation by a party seeking relief under this chapter.

"Appreciated equity value" means the corporation's equity and corporation's equity share payable pursuant to section 15-309-14.

"Board" means the board of directors of the Hawaii housing finance and development corporation established under chapter 201H, HRS.

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

"Corporation's equity" means the amount paid for designated units in a corporation approved housing development project by the corporation to the developer's escrow agent prior to closing the sale on behalf of the qualified purchaser as a second mortgage loan and is payable pursuant to section 15-309-14. It is determined as: the difference between the original cost of the unit and the amount paid by the qualified purchaser as the first mortgage loan [price of]for the unit [paid by the qualified purchaser. It is the amount paid by the corporation to the developer's escrow agent prior to closing the sale on behalf of the qualified purchaser as a second mortgage loan and is repayable pursuant to section 15-309-14, as may be amended].

"Corporation's equity percentage share" means the percentage determined as: the corporation's equity divided by the [value]original cost of the unit, excluding any options or upgrades, and established prior to initial sale [closing the purchase] of the unit, rounded to the nearest one per cent; and the amount due when applied to the Net Appreciation of the property at time of repayment pursuant to section 15-309-14.

"Dwelling unit revolving fund" means the fund established pursuant to section 201H-191, HRS.

"Dwelling unit revolving fund equity pilot program" or "program" means the program established by Act 92, Session Laws of Hawaii 2023.

"Eligible buyer" means an applicant who: (1) owns no other real property; (2) receives no gift funds for purchase of the unit; (3) works in a profession that is facing a shortage as determined by the corporation, including health care workers, educators, law enforcement officers, staff at correctional facilities, and agricultural field workers; and ~~[, if applicable,]~~ (4) any other [meets the eligibility]

requirements [~~set forth in section 15-308-22, Hawaii Administrative Rules~~].

"Housing development project" means a plan, design, or undertaking by the corporation or an eligible developer for the development of units. "Housing development project" includes all real and personal property, buildings and improvements, commercial spaces, lands for farming and gardening, community facilities acquired or constructed or to be acquired or constructed, and all tangible or intangible assets held or used in connection with the housing development project.

~~["Interest rate" means the fixed rate charged on the corporation's equity at one per cent per year, unless otherwise indicated in the qualified purchaser's program agreement.]~~ "Net appreciation" means the amount determined in the event of a sale as the contract resale price minus the original cost of the unit; or in the event of refinance, transfer or non-owner occupancy, as the value minus the original cost of the unit.

"Qualified purchaser" means an eligible buyer who meets the criteria of the program for which an affidavit is submitted and has entered into a purchase contract and program agreement.

"Starter unit" means a unit that is designed to meet the basic living capacity requirements of homebuyers with families of limited size by eliminating needless design and space amenities.

"Unit" means: (1) the structure and land upon which the structure is constructed, whether on fee simple or leasehold property, developed for residential purposes pursuant to chapter 201H, HRS; or (2) improved or unimproved real property that is developed for residential purposes pursuant to chapter 201H, HRS. "Unit" includes dwelling units.

"Value" means the unencumbered fair market value of a unit by appraisal, without options and upgrades at the time of purchase or capital improvements made by the purchaser after the property is purchased, as determined by a qualified appraiser~~[-]~~, except when the property is sold, the value is the owner's actual resale price. [Eff 1/15/24; am and comp] (Auth: SLH 2023, Act 92, §2) (Imp: SLH 2023, Act 92, §2)

§15-309-3 Delegation. The corporation delegates to the executive director the authority to implement and carry out the purposes of this chapter. [Eff 1/15/24; comp] (Auth: HRS §201H-4) (Imp: HRS §201H-4)

§15-309-4 Fees. The corporation shall have the right to charge reasonable fees for administrative expenses incurred in processing the required real estate documents under this chapter, as provided below. These fees shall be nonrefundable.

Fee Schedule (January 2024)

PURPOSE	AMOUNT CHARGED
1. Calculation of program payoff amount	\$250

<u>2. Analysis of program compliance for release of program obligation</u>	<u>\$250</u>
<u>3. Calculation of refinance of the purchase mortgage</u>	<u>\$250</u>
<u>4. Analysis of program default</u>	<u>\$250</u>
5. Releases	
Release of dwelling unit revolving fund equity pilot program	\$250
6. Notices	
Notice of demand <u>for the repayment (per Notice)</u>	<u>\$100</u>
Notice of [non-compliance] <u>default of the program (per Notice)</u>	<u>\$100</u>
<u>7. Analysis of the purchase mortgage loan</u>	<u>\$250</u>
<u>8. Analysis of the original closing documents</u>	<u>\$250</u>
<u>9. Analysis of the mortgage note</u>	<u>\$250</u>

[Eff 1/15/24; am and comp] (Auth: HRS §201H-4)
(Imp: HRS §201H-4)

SUBCHAPTER 2

DWELLING UNIT REVOLVING FUND EQUITY PILOT PROGRAM

§15-309-8 General provisions. (a) The corporation may purchase equity in for-sale housing development projects; provided that this equity shall be allocated to specific units within the housing development projects and the price to be paid by each eligible buyer of a unit shall be reduced by the corporation's equity amount for that unit. The corporation's equity shall be allocated to specific units, and the units shall be offered to qualified purchasers prioritized by the corporation.

(b) In determining units to be allocated the corporation's equity, the corporation shall give priority to starter units.

(c) The corporation shall determine the total equity contribution to a housing development project and the allocation of the corporation's equity to units in the housing development project.

(d) The corporation may partner with a developer of units to implement the program.

(e) The corporation shall enter into an agreement with the developer to purchase equity in specified units of a housing development project. The agreement shall specify the corporation's equity, the units to which the corporation's equity is allocated, and the amount to be paid by eligible buyers, factoring in the corporation's equity. The agreement shall be subject to the approval of the board.

(f) The corporation's allocated equity shall be paid to the developer at the time of the closing of the sale of the unit. [Eff 1/15/24; comp] (Auth: SLH 2023, Act 92, §2) (Imp: SLH 2023, Act 92, §2)

§15-309-09 Announcement. When marketing units for sale, the developer shall identify [~~units that are part of the~~]:

- (1) Location of the units; and
- (2) Amount of the corporation's equity and, if applicable, the corporation's equity percentage share, as determined between the developer and the corporation. [Eff 1/15/24; am and comp] (Auth: SLH 2023, Act 92, §2) (Imp: SLH 2023, Act 92, §2)

§15-309-10 Information and verification. (a) Eligible buyers interested in participating in the equity pilot program shall submit a completed affidavit to the respective developer or developer's broker and provide information relating to household income, composition, financial condition, and status changes, prior to close of the purchase.

(b) The developer or developer's broker shall compile a list consisting of the names, addresses, and phone numbers of all individuals who have submitted an affidavit to participate in the announced program and shall submit the list to the corporation for review and approval.

(c) The list shall be compiled in the order in which applicants have submitted to the developer or developer's broker a duly executed affidavit that the applicant meets the definition of "eligible buyer" and intends to become a purchaser of a unit.

(d) By signing the affidavit, the applicant certifies that the information provided is complete and accurate. An applicant found to have wilfully submitted false information, made misstatements, or withheld important information shall be deemed to be ineligible; provided that the corporation shall not waive its right to pursue any other recourse provided by law.

[Eff 1/15/24; comp] (Auth: SLH 2023, Act 92, §2) (Imp: SLH 2023, Act 92, §2)

§15-309-11 Corporation action. The corporation will evaluate the completed affidavits from the developer for acceptance. The corporation may deny the affidavit or defer action and request that additional information be submitted; provided that the applicant shall respond within ten working days, otherwise the corporation will inform the applicant that the affidavit has been denied and the reasons why. If the affidavit is acceptable, the applicant's name shall go on a list of qualified purchasers and the name shall be provided to the developer. [Eff 1/15/24; comp] (Auth: HRS §201H-4) (Imp: HRS §201H-4)

§15-309-12 Unit offering. (a) The developer will offer units to the qualified purchaser by one of the following means:

- (1) In the order in which the names appear on the list of qualified purchasers provided by the corporation pursuant to section 15-309-10;
- (2) By the drawing of lots; or
- (3) By any other reasonable and fair method as determined by the developer and approved by the corporation.

(b) Qualified purchasers may select a unit within their prequalified loan amount, including the corporation's

equity. [Eff 1/15/24; comp] (Auth: SLH 2023, Act 92, §2) (Imp: SLH 2023, Act 92, §2)

Section 15-309-13, Hawaii Administrative Rules, is repealed.

~~§15-309-13 Interest on equity. The corporation may charge an interest rate on the corporation's equity, which shall be stated in the agreement with qualified purchasers. [Eff 1/15/24;] (Auth: SLH 2023, Act 92, §§1 and 2) (Imp: SLH 2023, Act 92, §§1 and 2)]~~

§15-309-14 Repayment of corporation's equity and payment of equity percentage share. (a) Qualified purchasers shall repay the corporation's equity

- (1) Any time after financial closing at the will of the purchaser;
- (2) Upon sale or transfer of the unit;
- (3) Prior to expiration of the thirty years from the qualified purchaser's sale closing date;
- (4) When the qualified purchaser makes full payment of the original purchase mortgage, obtains additional financing or refinances the original mortgage loan including to pay the corporation's net share of appreciation;
- (5) When the qualified purchaser no longer uses the unit as the qualified purchaser's principal and physical residence but continues to retain legal or equitable title to the unit, or both;
- (6) When the qualified purchaser rents the unit or any part of the unit to someone else but continues to retain legal or equitable title to the unit, or both; or
- (7) When the qualified purchaser fails to reoccupy the unit at the end of the temporary waiver period.

(b) Payments accepted shall be applied in the following order of priority: corporation's ~~[(i) equity interest;]~~ ~~[(ii)]~~ (i) equity percentage share, if any; and ~~[(iii)]~~ (ii) equity.

(c) If the ~~[corporation's equity and equity percentage share]~~ appreciated equity value is not paid when due, default interest on the corporation's equity share shall accrue at the simple annual rate [of] as stated in the program agreement, but not less than ten per cent per year until paid.

(d) If after thirty years a purchaser has not repaid the appreciated equity value~~[corporation's equity, including any accrued interest, and the corporation's equity percentage share, if any,~~ the corporation may undertake the following actions to seek repayment:

(1) Submittal of a notice of demand [letter] to the qualified purchaser;

(2) Placement of a lien on the unit; and

(3) Judicial foreclosure of the unit.

(e) Payment of the appreciated equity value ~~[corporation's equity and equity percentage share, if any,]~~ shall be the sum of the following:

- (1) The corporation's equity~~[plus simple interest at the rate of one per cent per year, unless otherwise indicated in the qualified purchaser's program agreement, on the corporation's equity to the qualified purchaser]; and [~~

~~][The net appreciation on the corporation's equity calculated as the current value of the unit, minus the original value of the unit specified in the purchaser's program agreement, and multiplied by the corporation's equity percentage share.]~~

(2) The net appreciation on the corporation's equity, which is calculated:

- (A) Using the current value of the unit, minus the original purchase price of the unit (including the corporation's equity) as specified in the purchaser's program agreement, and multiplied by the corporation's equity percentage share, if paid at time of refinancing; or
- (B) At the time of sale, using the owner's actual resale price minus the original cost of the unit, multiplied by the corporation's equity percentage share, whichever occurs first. [Eff 1/15/24; am and comp] (Auth: SLH 2023, Act 92, §§1 and 2) (Imp: SLH 2023, Act 92, §§1 and 2)

§15-309-15 Restrictions. (a) Real property purchased under this chapter shall be occupied at all times by the qualified purchaser until such time the appreciated equity value ~~[corporation's equity[, including any accrued interest,] and equity percentage share, if any,]~~ is paid in full to the corporation, except in hardship cases where the inability to reside on the property arises out of unforeseeable circumstances as determined by the corporation and the qualified purchaser is granted a temporary waiver of the owner occupancy requirement. The qualified purchaser shall submit an application for relief to the corporation for review and approval.

(b) Unit owners shall not transfer title to the dwelling unit unless the appreciated equity value ~~[corporation's equity, including any accrued interest,]~~ is paid in full to the corporation prior to the transfer. This restriction includes, but is not limited to, transfers to the owner's spouse, child, parent, sibling, or an inter vivos trust where the owner is the beneficiary of the trust.

[Eff 1/15/24; am and comp] (Auth: SLH 2023, Act 92, §1) (Imp: SLH 2023, Act 92, §1)

§15-309-16 [Non-compliance] [p]Penalties. Upon determination by the corporation of a qualified purchaser's non-compliance with program rules and requirements, the qualified purchaser shall be notified in writing, and within sixty calendar days from the date of the notification, the qualified purchaser shall correct the non-compliance. The penalty for non-compliance with program rules and requirements is at the discretion of the corporation. In all cases, the corporation reserves the right to pursue all legal remedies to recapture the funds awarded, to seek specific performance, or other actions deemed necessary." [Eff 1/15/24; comp] (Auth: SLH 2023, Act 92, §2) (Imp: SLH 2023, Act 92, §2)

2. The adoption of chapter 15-309, 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 Ramseyer format, pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on _____, 2025, 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
State of Hawaii