

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT,
AND TOURISM

Amendment and Compilation of Chapter 15-314
Hawaii Administrative Rules

[Board Adoption Date]

SUMMARY

1. §15-314-2 is amended.
2. §15-314-21 is amended.
3. §15-314-31 to 15-314-33 are amended.
4. §15-314-43 to 15-314-44 are amended.
5. §15-314-46 is amended.
6. §15-314-47 is added.
7. Chapter 314, Hawaii Administrative Rules, is compiled.

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

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Historical note: Chapter 15-314 is based substantially upon Chapter 15-161. [Eff 10/25/99; R May 23, 2025]

SUBCHAPTER 1

GENERAL PROVISIONS

§15-314-1 Purpose. This chapter implements subpart B of part III, chapter 201H, HRS, 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 or 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.

"Dwelling unit" means any single family residence as provided by section 143(k) of the Internal Revenue Code of 1986, as amended.

"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 that meets the requirements of section 143(d) of the Internal Revenue Code of 1986, as amended;

- (5) Is financing a property that will be the eligible borrower's principal residence;
- (6) Does not have a family income exceeding the income requirements of section 143(f) of the Internal Revenue Code of 1986, as amended; and
- (7) Who has received timely recapture notices from the corporation or from the mortgage lender; and
- (8) Has successfully completed a homeownership counseling program provided by a housing counseling agency approved by the United States Department of Housing and Urban Development.

"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 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 through eligible loans or other means.

"Family income" means the annualized gross income of an eligible borrower (or borrowers) or non-borrower household members in compliance with 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 relating to homeownership and residential mortgage loans when provided in connection with the United States Department of Housing and Urban Development's housing counseling program.

"Investment property" means real property acquired or held primarily for the purpose of generating income, appreciation, or other financial return, rather than serving as the owner's principal residence.

"Lower and moderate income" means an income that meets the requirements of section 143(f) of the Internal Revenue Code of 1986, as amended.

"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 loan 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 loan purchase agreement shall be made available by the corporation upon request.

"Mortgage loan 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 loan servicing agreement shall be made available by the corporation upon request.

"Principal residence" means the property that the eligible borrower occupies as their primary dwelling for the majority of the year. It is the address where the borrower resides on a permanent and continuous basis and is used for purposes such as voter registration, tax filings, and legal identification. To qualify as a principal residence under the program, the property must meet the following conditions:

1. The eligible borrower must physically occupy the property within sixty (60) days after loan closing.

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 made to eligible borrowers. [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 loan purchase agreement.

"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. Allocations 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 and the method of mortgage fund reservation shall be posted to the corporation's website and is subject to change at the discretion of the corporation.

(d) The corporation may issue a notice of acceptance as prescribed in the commitment application, which shall be made 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 the mortgage lender:

- (1) Commitment application accepted by the corporation;
- (2) Mortgage loan purchase agreement; and
- (3) Mortgage loan 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 loan; or
- (2) Refinance an existing mortgage loan.

(g) The corporation shall prescribe the form of application for an eligible loan that the eligible borrower shall complete. Evaluation by the mortgage lender of each loan applicant's creditworthiness shall be made on a case-by-case basis. The following elements shall be considered in all cases when evaluating the applicant's creditworthiness:

- (1) Monthly housing expense-to-income ratio;
- (2) Monthly debt payment-to-income ratio;
- (3) Stability of monthly income;
- (4) Credit reputation; and
- (5) Ability of the applicant to qualify for mortgage financing under a conventional loan program.

[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 shall be 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 subchapter:

"Commitment letter" means the corporation's notice to the mortgage lender of the acceptance of the mortgage lender's 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 Federal Home Loan Mortgage Corporation. The information in the "qualified request" shall include, but not be limited to, the borrowers' names and commitment fees. Incomplete requests will not be processed. Any mortgage lender submitting an incomplete request will be contacted within five business days from the date of receipt of the request by the corporation to be advised of the incomplete status. The mortgage lender will have ten business days to provide the missing items. After the tenth business day, the request will be deemed rejected. [Eff] (Auth: HRS §201H-97) (Imp: HRS §201H-106)

§15-314-32 Acquisition cost limitation. (a) No dwelling unit financed shall have an acquisition cost that exceeds the maximum acquisition cost based on the loan limits permitted by section 143(a) of the Internal Revenue Code of 1986, as amended.

(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 dwelling unit, including the amount of any lien or assessment to which the dwelling unit is subject; and
- (2) If a residence is incomplete, the reasonable cost of completing the dwelling unit, 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 dwelling unit, 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 dwelling unit 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 no 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 allocation 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 a 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 application for an eligible loan, which the eligible borrower shall complete in accordance with the terms and conditions set forth in the guidelines published on the corporation's website. 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 the applicant's credit worthiness:

- (1) Monthly housing expense-to-income ratio;
- (2) Monthly debt payment-to-income ratio;
- (3) Stability of monthly income;
- (4) Credit reputation; and
- (5) Ability of the applicant to qualify for mortgage financing under a conventional loan program.

(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 to the eligible borrower shall be as follows:

Fee Schedule (01/01/2025)

Item	Fee Amount
Loan Processing	\$500
Loan Origination	1% of the eligible 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.

(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 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 to be false any statement made by the eligible borrower in the application for an eligible loan; or
- (5) The eligible borrower fails 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)

§15-314-36 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)

§15-314-37 Management of defaulted loans. The corporation may:

- (1) Renegotiate, refinance, or foreclose on the mortgage of 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 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; 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)

§§15-314-38 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 corporation'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 that 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 Limitations on transfer, use, and eligibility.

(a) In the event that:

- (1) The eligible borrower conveys or transfers the property described in the mortgage to any person other than an eligible borrower, except for a transfer of title for estate planning purposes; provided that the eligible borrower remains clearly identifiable and in occupancy during the term of the mortgage loan;
- (2) The eligible borrower rents or fails to occupy the property described in the mortgage as the eligible borrower's principal residence;
- (3) The eligible borrower fails to abide by any agreements executed by the eligible borrower for the purpose of the eligible loan; or
- (4) The corporation finds that any statement made by the eligible borrower in the application for an eligible loan to be false; provided that such a statement 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;

The corporation may:

- (1) Increase the interest rate charged to the eligible loan up to a rate that shall not exceed the interest rate allowable for loans insured by the Federal Housing Administration or guaranteed by the Veterans Administration or the Farmers Home Administration at the time that the original loan was made; or
- (2) Accelerate all payments due under the eligible loan.

[Eff] (Auth: HRS §§201H-94, 201H-97) (Imp: HRS §§201H-92, 201H-94)

§15-314-43 Falsification of application. By signing the application for an eligible loan, the applicant certifies that the information provided is complete and accurate. An applicant found to have willfully submitted false information, made misstatements, or withheld important information shall be

ineligible for an eligible loan; 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)

§15-314-44 Occupancy. (a) The eligible borrower shall utilize the dwelling unit purchased under this chapter as their principal residence for the term of the eligible loan.

(b) From time to time, the corporation may submit a request for verification of owner occupancy form to the eligible borrower. Failure to return the completed form to the corporation in a timely manner may result in an immediate increase in the interest rate charged to the eligible loan up to a rate that shall not exceed the interest rate allowable for loans insured by the Federal Housing Administration or guaranteed by the Veterans Administration or the Farmers Home Administration at the time that the original loan was made or in the acceleration of all payments due under 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 in subsection (a) for a period not to exceed three years and for reasons based on hardship, including 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)

§15-314-45 No arbitrage bonds. It is the intent of the corporation not to exceed the arbitrage limitation of the Internal Revenue Code section 1.148-2, as amended. 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)

§15-314-46 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, except that all mortgage

loans originated on Hawaiian Home Lands must be recorded with the Department of the Hawaiian Home Lands.]
[Eff] (Auth: HRS §201H-94) (Imp: HRS §201H-94)

§15-314-47 Loan servicing and document delivery requirements. The enforcement of any mortgage created under this chapter shall be delineated in the documented servicing requirements of each loan. The mortgage lender shall provide certified copies of each recorded or filed mortgage and conveyance document, electronic copies of all loan documents, and original promissory notes to the corporation within five working days of the recording date of the loan.
[Eff] (Auth: HRS §201H-94) (Imp: HRS §201H-94)

The amendment of Chapter 15-314, Hawaii Administrative Rules, on the Summary Page dated _____, occurred on _____, following a public hearing held on _____, after public notice was given in the Honolulu Star-Advertiser, The Garden Island, The Maui News, West Hawaii Today, and Hawaii Tribune-Herald newspapers on _____.

The amendment of chapter 15-314, shall take effect ten days after filing with the Office of the Lieutenant Governor.

GRANT CHUN, Chairperson
Hawaii Housing Finance and
Development Corporation

APPROVED:

JOSH GREEN, M.D.
Governor
State of Hawaii

Date: _____

APPROVED AS TO FORM:

Deputy Attorney General

Filed