

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

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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)

§15-161-2 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

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)

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-

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

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;

- (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

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)

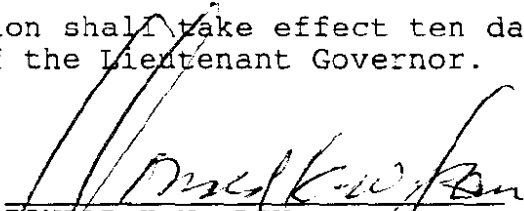
§15-161-58 Mortgage valid first lien. The mortgage securing each eligible loan shall constitute a first lien on such real estate secured in accordance with the requirements of the procedural guide. The enforcement of such mortgage shall be delineated in the procedural guide as part of the servicing requirement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

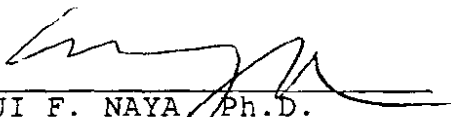
§15-161-59 Special assistance program. The corporation may develop subsidy programs for its bond issues to enable certain eligible borrowers whose family income, earned during the most recent calendar year preceding the date of application for an eligible loan, does not exceed eighty per cent of median 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

APPROVED:


BENJAMIN J. CAYETANO
Governor
State of Hawaii

Dated:

10/14/99
OCT 15 1999

Filed

LIEUTENANT GOVERNOR'S
OFFICE

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