

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

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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

- 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)

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

- 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)

(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

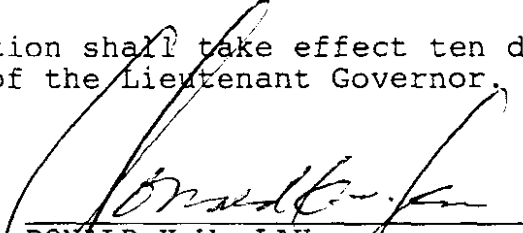
MISCELLANEOUS PROVISIONS

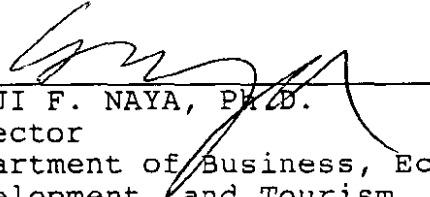
§15-169-30 Waiver. The board may waive or vary provisions of these rules or any process or procedure established by these rules in order to conform to applicable federal and state laws, regulations and requirements. [Eff **OCT 25 1999**] (Auth: HRS §§201G-4, 201G-321) (Imp: HRS §201G-321)

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.

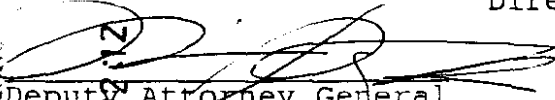
The repeal and adoption shall take effect ten days after filing with the Office of the Lieutenant Governor.



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Dated: 10-14-99
OCT 15 1999
Filed