DEPARTMENT OF HUMAN SERVICES

Repeal of Chapter 15-167 and Adoption of Chapter 17-2006
Hawaii Administrative Rules

October 21, 2004

1. Chapter 167 of Title 15, Hawaii Administrative Rules is repealed.

2. Chapter 2006 of Title 17, Hawaii Administrative Rules, entitled "Loan Program for Kalapana Disaster Victims" is adopted.
HAWAII ADMINISTRATIVE RULES

TITLE 15

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT
AND TOURISM

SUBTITLE 14

HOUSING AND COMMUNITY DEVELOPMENT CORPORATION OF
HAWAI'I

CHAPTER 167

LOAN PROGRAM FOR KALAPANA DISASTER VICTIMS

Repealed

§§15-167-1 to 15-167-30 Repealed. [R NOV 15 2004]
Subchapter 1  General Provisions

§17-2006-1 Purpose
§17-2006-2 Definitions

Subchapter 2  Loan Program For Kalapana Disaster Victims

§17-2006-5 Corporation's right to contract for services
§17-2006-6 Eligibility criteria for loan
§17-2006-7 Use of loan
§17-2006-8 Loan preferences
§17-2006-9 Criteria for determining an area of lesser volcanic risk
§17-2006-10 Amount of loan
§17-2006-11 Term of loan
§17-2006-12 Interest rate on loan
§17-2006-13 Loan procedures
§17-2006-14 Fees
§17-2006-15 Mortgage valid first lien
§17-2006-16 Establishment of mortgage lien; protection of security
§17-2006-17 Acceleration of maturity of loan
§17-2006-18 Default of loan
§17-2006-19 Corporation's rights upon default of loan
§17-2006-20 Loan not available for refinancing
§17-2006-21 Occupancy
§17-2006-22 False information in application

Subchapter 3 Miscellaneous Provisions

§17-2006-30 Waiver

Historical note: Chapter 2006 of Title 17, Hawaii Administrative Rules, is based substantially upon Chapter 320 of Title 6, Hawaii Administrative Rules, [Eff 11/30/91; R 10/25/99], and Chapter 167 of Title 15, Hawaii Administrative Rules. [Eff 10/25/99; R NOV 15 2004]

SUBCHAPTER 1

GENERAL PROVISIONS

§17-2006-1 Purpose. These rules are adopted pursuant to chapter 91, Hawaii Revised Statutes ("HRS"), to enable the corporation to provide low-interest loans to residents and citizens of Hawaii who have suffered the loss of their homes and lands to the devastating effects of the continued volcanic eruptions on the island of Hawaii which began on January 3, 1983. This loan program is a one-time public relief program of last resort. [Eff NOV 15 2004] (Auth: SLH 1991, Act 242) (Imp: SLH 1991, Act 242)

§17-2006-2 Definitions. As used in this chapter:

"Area of lesser volcanic risk" means an area as determined by the corporation in consultation with the
department of land and natural resources, the state
civil defense division, the Hawaii county office of
housing and community development, the Hawaii county
planning department, the Hawaii county civil defense
agency and the Hawaiian volcano observatory.

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

"Corporation" means the housing and community
development corporation of Hawaii.

"Financial institution" means a bank as the term
is defined in section 412:1-109, Hawaii Revised
Statutes.

"Household" means the individual members who
dwelled as a family and have been displaced or
dispossessed from their home as a result of the
continued volcanic eruptions on the island of Hawaii.

"Owned" means a person who occupied a residence
and:

(1) Is the legal owner;
(2) Does not hold formal title to the residence
and paid no rent but was responsible for the
payment of taxes, or maintenance of the
residence; or
(3) Had lifetime occupancy rights with formal
title vested in another.

"Repairs or improvements, or both" means
modifications made to the applicant's principal
residence which are for the purpose of bringing such
residence in conformance with county building code or
occupancy requirements, or both for the applicant's
immediate family.

"Residence" as used herein means the dwelling
unit which is financed pursuant to this chapter.

"Volcanic hazard zones" means zones 1 to 9, as
determined from time to time by the U.S. Department of
Interior/Geological Survey, with zone 1 being the
areas of greatest hazard to zone 9 being the areas of
SUBCHAPTER 2

LOAN PROGRAM FOR KALAPANA DISASTER VICTIMS

§17-2006-5  Corporation's right to contract for services. The corporation is authorized to enter into agreements with or purchase services from any financial institution, or any other appropriate government agency, for services required for the purposes of this chapter. [Eff Nov 15, 2004] (Auth: SLH 1991, Act 242) (Imp: SLH 1991, Act 242)

§17-2006-6  Eligibility criteria for loan. An applicant shall be eligible for a loan under this chapter if:

1. The applicant is a resident of Hawaii who has been dispossessed or displaced from his or her home as a result of volcanic eruptions which began on January 3, 1983 on the island of Hawaii in the Kalapana area;
2. The applicant has applied for Federal Disaster Assistance and has exhausted all resources from all of the following sources:
   A. Federal Small Business Administration;
   B. Federal/State Individual and Family Grant Programs; and
   C. State of Hawaii Disaster Commercial and Personal Loan Program;
3. Except as provided in section 17-2006-8(2), the applicant has no present ownership interest in a principal residence; and

§17-2006-7  Use of loan. Loans made under this chapter shall be:

1. For the purpose of land acquisition, home
construction and mortgage loans, or repairs or improvements or both for a residence located in an area of lesser volcanic risk;
(2) A loan of last resort; and
(3) Limited to one loan per household.

§17-2006-8 Loan preferences. The corporation shall establish preferences for loans made under this chapter which preferences shall be in the following order:

(1) An applicant who owned a home that was destroyed or rendered inaccessible and has no present ownership interest in a principal residence.
(2) An applicant who owned a home that was destroyed or rendered inaccessible but has purchased a principal residence which needs repairs or improvements, or both.

§17-2006-9 Criteria for determining an area of lesser volcanic risk. The criteria used in determining whether an area is an area of lesser volcanic risk includes, but is not limited to, the following:

(1) An area should not promote or encourage higher density development in volcanic hazard zones 1 and 2 in the east rift zone of Kilauea unless:
   (A) Information can be provided by the U.S. Geological Survey that the area in question is of lower risk to lava flow inundation; or
   (B) A strong case can be made that to do otherwise would not be in the best public interest; and

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§17-2006-12 Interest rate on loan. The interest rate on the loan offered under this chapter shall not exceed three per cent. If the applicants are charged an interest rate which is less than three per cent, the corporation shall, at its option, annually review the applicants' income to determine whether the interest rate charged should be adjusted upward, but not to exceed the interest rate permitted under this chapter. [Eff NOV 15 2004] (Auth: SLH 1991, Act 242) (Imp: SLH 1991, Act 242)


§17-2006-16 Establishment of mortgage lien; protection of security. If the loan, secured by a mortgage lien on realty, the financial institution or the government agency shall promptly record or file, or both the lien with the bureau of conveyances or the land court of the State of Hawaii as the case may be, to ensure the creation of a valid lien on the mortgaged property. [Eff NOV 15 2004] (Auth: SLH 1991, Act 242) (Imp: SLH 1991, Act 242)

§17-2006-17 Acceleration of maturity of loan. The occurrence of either of the following events shall be sufficient grounds for the corporation, at its option, to accelerate the maturity of the loan.

(1) The applicant ceases to occupy the residence as the applicant's primary residence; or


§17-2006-18 Default of loan. The occurrence of any of the following events shall be sufficient grounds for the corporation, at its option, to treat
the loan to be in default:
(1) The property described in the mortgage or
security agreement is conveyed or
transferred; provided, however, that a
transfer, of title will 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 loan applicant fails to comply with any
agreement executed for the purpose of
securing the loan; or
(3) The corporation determines that any statement
made by the applicant in the loan application
or loan document is false.

§17-2006-19 Corporation's rights upon default of
loan. With respect to any loan made under this
chapter, which is in default under the terms thereof,
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
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; or
(5) Operate, manage, lease, dispose of, or
otherwise deal with the property secured by

§17-2006-21 Occupancy. The applicant shall utilize the residence purchased or repaired or improved or both under this chapter as his or her principal residence for the life of the loan. [Eff NOV 15 2004] (Auth: SLR 1991, Act 242) (Imp: SLR 1991, Act 242)

§17-2006-22 False information in application. By signing the application, the loan applicant certifies that the information provided in the application is true and correct. The loan applicant shall be subject to criminal charges or civil action, or both under the laws of the State of Hawaii if false information is provided. [Eff NOV 15 2004] (Auth: SLH 1991, Act 242) (Imp: SLH 1991, Act 242)

SUBCHAPTER 3
MISCELLANEOUS PROVISIONS

§17-2006-30 Waiver. The board may by resolution 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 NOV 15 2004] (Auth: Act 242, SLH 1991) (Imp: Act 242, SLH 1991)

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

CHARLES A. STED
Chairperson
Housing and Community Development Corporation of Hawaii

THEODORE E. LIU
Director of Business, Economic Development and Tourism

APPROVED AS TO FORM:

LINDA LINGLE
Governor
State of Hawaii
Date: NOV 3 2004

Filed