

HAWAII ADMINISTRATIVE RULES

TITLE 15

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT,  
AND TOURISM

SUBTITLE 14

HOUSING AND COMMUNITY DEVELOPMENT CORPORATION  
OF HAWAII

CHAPTER 193

STATE-AIDED FAMILY PUBLIC HOUSING PROJECTS

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Historical Note: This chapter is substantially based  
upon Chapter 17-535, Hawaii Administrative Rules. [Eff  
5/24/71; R **DEC 13 2001** 1

SUBCHAPTER 1

GENERAL PROVISIONS

§15-193-1 Purpose. These rules are adopted under chapter 91, HRS, and shall govern the admission to and the continued occupancy of state-aided family public housing projects owned or operated by the housing and community development corporation of Hawaii.

[Eff **DEC 13 2001** ] (Auth: HRS §201G-4) (Imp: HRS §§201G-4, 201G-44)

§15-193-2 Definitions. As used in these rules, except otherwise required by context:

"Accessible dwelling unit" means an apartment which is located on an accessible route and when designed, constructed, altered, or adapted can be approached, entered, and used by individuals with physical disabilities or an apartment which meets the requirements of applicable standards that address the particular disability or impairment of an individual.

"Adjusted annual income" means net earned income plus unearned income.

"Alien" means any person not a citizen of the United States but is allowed under federal law, to reside in the United States.

"Annual income" means earned and unearned income from any source before deductions or exemptions, anticipated to be received during the twelve month period following admission or redetermination of annual income, as the case may be, by all persons occupying, or who are temporarily separated from the household. Annual income does not include the employment income of a minor or amounts specifically paid to the household for or in reimbursement of the cost of medical expenses for any household member.

"Applicant" means a person or a family that has applied for housing assistance.

"Assets" means total cash, securities, real and personal property less any outstanding liabilities secured by the assets. Assets do not include necessary personal property such as clothing, household furniture, automobiles and eligible individual

development accounts, including any earned interest, which are established pursuant to chapter 257, Hawaii Revised Statutes.

"Bottom of the waiting list" means denying an applicant the benefit of all placement tenant selection preferences and priorities, as prescribed in this chapter, for a period of twelve months and establishing a new date and time for placement on the waiting list based on the date and time the unit offer was rejected.

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

"Disability" means having a physical or mental impairment which substantially limits one or more major life activities, having a record of such an impairment, or being regarded as having such an impairment. The term does not include current illegal use or addiction to a controlled substance or alcohol or drug abuse that threatens the property or safety of others. Disabled individual or family includes:

- (1) A single individual who or a family whose head or spouse is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in indefinite duration; or
- (2) A single individual who or a family whose head or spouse has a physical impairment which is expected to be of long, continued and indefinite duration and which substantially impedes the ability to live independently, and which is of a nature that the ability could be improved by more suitable housing conditions.

"Displaced" means a family who is lawfully residing on real property and is required to move from the real property as a result of the acquisition or imminence of acquisition of such real property, in whole or in part, by some public or governmental action. "Displaced" also includes the foregoing movements from real property by any family or person lawfully residing on real property who is required to move from the real property as a result of code enforcement activities.

" Dwelling unit " means a residential unit in a housing project.

"Earned income" means cash received or available to be received by the family that require some part of the family to produce. Earned income includes, but is not limited to, wages; tips; dismissal and severance pay; wages received from any on-the-job training program; wages received from funds under the job training partnership act (JTPA); public service employment (PSE); royalties; jury duty income excluding reimbursement for transportation and meals; basic allowance for quarters and entitlements paid to military personnel; and self-employment earned income.

"Elderly" means a family whose head or spouse has attained the age of sixty-two.

"Family" means:

- (1) Two or more persons who live or intend to live together as a unit and whose income and resources are available to meet the family's need and may, but need not be, related by blood, marriage, or operation of law, including foster children and hanai children and whose head of household has reached the age of majority, or is otherwise legally emancipated; or
- (2) A person who is pregnant or in the process of securing legal custody of a minor child or children, and who has reached the age of majority or is otherwise emancipated; or
- (3) A remaining member of a tenant family who is recorded on the current list of household members authorized to occupy the dwelling unit and who has reached the age of majority or is otherwise legally emancipated.

"Foster children" means a person or persons, under eighteen years of age who is not related to the foster parent by blood, marriage, or adoption and who is in need of parenting care.

"Foster parent" means any adult person who gives parenting care and maintenance to a foster child pursuant to placement by an authorized agency.

"Hanai children" means a person or persons, under eighteen years of age, for whom a tenant provides food, nourishment and support for a minimum period of at least a year and who is acknowledged as the tenant's child among friends, relatives and the community.

"Housing projects" means those rental projects owned and operated or both, by the corporation.

"HRS" means the Hawaii Revised Statutes.

"HUD" means the United States Department of Housing and Urban Development.

"Individual development account" means an optional, interest-bearing, subsidized, tax-benefited account established pursuant to chapter 257, HRS and used exclusively for the purpose of paying the qualified expenditure of an eligible individual as determined by the fiduciary organization.

"Low income family " means a family whose income does not exceed eighty per cent of the median income as determined by the method set forth in exhibit A, which is incorporated by reference and attached.

"Refusal of an offer" means an applicant declines an offer made by the corporation for a specific unit from any waiting list or an applicant's failure to respond to a written offer from the corporation for a specific unit within the time specified in the offer.

"Rent" means the monthly charge to a tenant for the use of a dwelling unit.

"Rental agreement" means the agreement containing the conditions of occupancy entered into by the tenant and corporation.

"Resident" means a United States citizen or a permanent United States resident who is able to demonstrate his or her intent to reside in Hawaii. Intent to reside in Hawaii may be demonstrated by the following: length of time spent in Hawaii; leasing or renting of a home in Hawaii; filing of personal Hawaii income tax returns; registering to vote in Hawaii; Hawaii driver's license; record of Hawaii motor vehicle registration; notification of hire to work in Hawaii; records of employment in Hawaii; military records substantiating Hawaii residency; enrollment of minor children in Hawaii schools; establishment of bank accounts and other accounts in Hawaii; written reference from Hawaii residents, relatives, or social agencies; and any other indicia which could substantiate a claim of an intent to reside.

"Security deposit" means a deposit required of each tenant prior to admission for the cost of loss or damage of the corporation's property (responsible wear and tear excepted) and non-payment of rent.

"Self-employment income" is determined by deducting from the amount received from the sale of goods or services, those expenses directly related to producing the goods or services.

- (1) Items such as depreciation, personal business, and entertainment expenses, personal transportation, purchase of capital equipment, and payments on the principal of loans for capital assets or durable goods shall not be deducted as business expenses. Personal expenses such as lunches and transportation to and from work shall not be deducted as business expenses.
- (2) A business expense shall be an allowable deduction from earned income only if verified.
- (3) A self-employed person shall:
  - (a) Not be able to be discharged from the person's job by someone else;
  - (b) Report income to the Internal Revenue Service and the State of Hawaii as a self-employed person;
  - (c) Meet social security requirements as a self-employed person and shall pay the employer's and the employee's share of social security taxes;
- (4) Not be considered to be an employee of an agency or organization; and
- (5) Be licensed by the State to operate a business.

"Staff" means the employees or agents of the corporation.

"State-aided family public housing projects" means the housing projects of Hauiki, Puahala, Lokahi, Palolo I and II, Kawailehua (State), Ka Hale Mua (State), and Ke Kumu Elua which are owned by the corporation.

"Tenant" means the person or persons who enter into a rental agreement with the corporation for a dwelling unit.

"Unearned income" means cash received or available to be received by the family that is not classified as earned income. Unearned income includes, but is not limited to, social security benefits; veteran's benefits; pension and retirement benefits; unemployment insurance benefits; supplemental security income;

worker's compensation benefits and temporary disability insurance benefits; strike benefits; money received to settle any insurance, legal or inheritance claim; alimony; child support payments; regular cash contribution and any in-kind contribution benefits.

"U.S.C." means the United States Code.

"Very low-income family" means a family whose income does not exceed fifty per cent of the median income as determined by the method set forth in exhibit A, which is incorporated by reference and attached.

"Veteran" means any person who has served in any of the armed services of the United States, or any person who is now a citizen of the United States who has served in any of the armed services of any country which was an ally of the United States in any war or campaign in which the United States was also engaged in. "Veteran" includes any person who served in the military or naval forces of the United States during World War II and who has been discharged or released therefrom under conditions other than dishonorable. The term "veteran" includes Filipino World War II veterans who served honorably in an active duty status under the command of the United States Armed Forces in the Far East (USAFFE), or within the Philippine Army, the Philippine Scouts, or recognized guerilla units. The Filipino World War II veterans must have: served at any time between September 1, 1939, and December 31, 1946; been born in the Philippines; and resided in the Philippines prior to the military service. [Eff  
DEC 13 2001 ] (Auth: HRS §201G-4) (Imp: HRS §§201G-4, 201G-42)

§15-193-3 Income limits. (a) The income limit for admission to a housing project is based on the applicant's annual household income which shall not exceed the very low-income limits as most recently determined by the calculation using the method set forth in exhibit A, which is incorporated by reference and attached.

(b) The income limit for continued occupancy in a housing project is based on the tenant's annual household income which shall not exceed the low income limits as most recently determined by the calculation

using the method set forth in exhibit A, which is incorporated by reference and attached. [Eff  
DEC 13 2001 ] (Auth: HRS 201G-4) (Imp: HRS  
§§201G-4, 201G-42)

§15-193-4 Asset limits. (a) The asset limit for admission to a housing project shall not exceed the applicable income limit for admission.

(b) The asset limit for continued occupancy in a housing project shall not exceed the applicable income limit for continued occupancy. [Eff DEC 13 2001 ]  
(Auth: HRS 201G-4) (Imp: HRS §201G-42)

§15-193-5 Asset transfers. (a) All assets transferred or assigned to another person, within a twenty-four month period prior to submitting an application, shall be included in determining an applicant's assets.

(b) The value of the assets shall be based on the fair market value. [Eff DEC 13 2001 ] (Auth: HRS §201G-4) (Imp: HRS §§201G-4, 201G-42)

§15-193-6 Occupancy standards. Applicant and tenant shall abide by the occupancy standards for the admission and continued occupancy in housing projects as prescribed by exhibit B, which is incorporated by reference and attached. [Eff DEC 13 2001 ] (Auth: HRS §201G-4) (Imp: HRS §§201G-4, 201G-42)

§15-193-7 Interim utility allowances for the tenants in the Hauiki project. (a) Until meters are installed for individual units in the Hauiki project, the monthly rent for a tenant shall include utility allowances.

(b) The utility allowance schedules may be modified from time to time with at least thirty days written notice to tenant and an opportunity for tenant to present written or oral comments which shall be considered prior to the modifications becoming effective. The applicable schedules shall be publicly posted in a conspicuous manner at the corporation's

project offices and shall be furnished to a requester upon request.

(c) A tenant shall pay for utility usage in excess of the applicable utility allowance. [Eff

DEC 13 2001 ] (Auth: HRS §201G-4) (Imp: HRS §§201G-4, 201G-44)

§15-193-8 Verification of information. An applicant or tenant shall provide documentation to verify information upon request of the staff. [Eff

DEC 13 2001 ] (Auth: HRS §201G-4) (Imp: HRS §§201G-4, 201G-42)

§15-193-9 Misrepresentation. An applicant may be denied admission to a housing project or a tenant's rental agreement may be terminated if the applicant or tenant has submitted false information, withheld information, or made willful misstatements. [Eff

DEC 13 2001 ] (Auth: HRS §201G-4) (Imp: HRS §§201G-4, 201G-42)

## SUBCHAPTER 2

### ELIGIBILITY

§15-193-20 Applicants. (a) A person seeking admission to a housing project shall:

- (1) Be a resident of the State of Hawaii, except that no preference shall be given to applicants based on residency in a specific locality or area within the corporation's jurisdiction;
- (2) Not have previously lived in a housing project and been evicted from the project since March 1, 1985;
- (3) Not have an outstanding debt owed to the corporation as a participant in any of its programs; and
- (4) Meet the occupancy standards as set forth in exhibit B, which is incorporated by reference and attached.

(b) A person seeking admission to a housing project must submit a completed application form as used by the corporation. The applicant is permitted to file at any of the corporation's intake offices an application for any and all waiting lists prescribed in section 15-193-33.

(c) An applicant who has misrepresented material information shall not be eligible to file an application with the corporation for twelve months from the date of written notification from the corporation. [Eff **DEC 13 2001** ] (Auth: HRS §201G-4) (Imp: HRS §201G-42)

§15-193-21 Eligibility for admission. To be eligible for admission to a housing project, an applicant and household members shall meet the requirements set forth in section 15-193-20, and shall:

- (1) Qualify as a family;
- (2) Have an income that does not exceed the applicable income limit;
- (3) Have assets that do not exceed the applicable limit;
- (4) Not own a majority interest in fee simple or leasehold lands suitable for dwelling purposes, or a majority interest in lands under any trust agreement or other fiduciary arrangement in which another person holds the legal title to such land on or after **DEC 13 2001**;
- (5) Not have a record of conduct or behavior within three years of the projected date of admission which may be detrimental to the project, its tenants, or employees;
- (6) Not have a recent history of criminal activity involving crimes to persons or property or other criminal acts that may adversely affect the health, safety, or right to peaceful enjoyment of the premises by other residents. For purposes of this subsection, in determining eligibility, the corporation shall consider whether a person convicted for such a crime has successfully completed a rehabilitation program approved by the corporation, or whether the

- circumstances leading to the criminal conviction no longer exists;
- (7) Not have been evicted from any of the corporation's housing programs for drug-related criminal activity for three years. For the purposes of this subsection, in determining eligibility, the corporation shall consider whether the evicted applicant or household member has successfully completed a rehabilitation program approved by the corporation, or whether the circumstances leading to eviction no longer exist. This subsection does not apply to an applicant or household member ineligible under section 15-193-20(a)(2);
  - (8) Not engage in any drug-related criminal activity or violent criminal activity. For the purposes of this subsection, "violent criminal activity" means any illegal criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against the person or property of another;
  - (9) Not engage in the illegal use of a controlled substance or give the corporation reasonable cause to believe that the illegal use of a controlled substance, pattern of illegal use, abuse of alcohol, or pattern of abuse may interfere with the health, safety of the residents, or right to peaceful enjoyment of the premises by other residents;
    - (A) For the purposes of this subsection, "reasonable cause to believe" means by a preponderance of the evidence;
    - (B) For the purposes of this subsection, in determining whether to deny eligibility based on a pattern of illegal use of a controlled substance or a pattern of abuse of alcohol, the corporation may consider rehabilitation as provided for under 42 U.S.C. §13661(b)(2)(A)-(C), effective October 1, 1999, which is incorporated by reference and attached as exhibit C;

- (10) Provide a social security number for all family members who are over five years old or certify that the person does not have a social security number; and
- (11) Furnish evidence that the applicant is a citizen of the United States or a resident alien. [Eff **DEC 13 2001**] (Auth HRS §201G-4) (Imp: HRS §§201G-4, 201G-42)

§15-193-22 Notification of eligibility. (a) An applicant shall be notified in writing by the staff as to the applicant's eligibility after a determination is made and the notification shall specifically state the reasons for determination.

(b) An eligible applicant shall be placed on a waiting list.

(c) An ineligible applicant may request an informal hearing within fourteen days after date of the written notification. The informal hearing shall be conducted by someone other than the person or the person's subordinates who made or approved the decision. [Eff **DEC 13 2001**] (Auth: HRS §201G-4) (Imp: HRS §201G-42)

### SUBCHAPTER 3

#### TENANT SELECTION

§15-193-30 Nondiscrimination. Tenant selection and assignment shall be made without regard race, sex, color, religion, marital status, familial status, ancestry, disability, age, or HIV (human immunodeficiency virus) infection. [Eff **DEC 13 2001**] (Auth: HRS §201G-4) (Imp: HRS §§201G-5, 201G-42, 515-3)

§15-193-31 Preference. (a) Except for those units design for a specific purpose (such as units for person with disabilities), applicants for admission into state public housing projects shall be given

preference for placement in a state-aided family housing project in the following order:

- (1) The elderly;
  - (2) The displaced;
  - (3) Disabled veterans with service connected disabilities;
  - (4) Families of deceased veterans whose death was determined to be service connected;
  - (5) Other veterans;
  - (6) Families residing in a transitional shelter for the homeless and who have successfully completed a social service plan; and
  - (7) Other families determined by the staff.
- (b) Regardless of the date and time of

application, an applicant who will be the sole occupant of a unit and who is not elderly, or displaced, or a person with disabilities, shall not have preference over elderly, displaced, or disabled families with up to two members. [Eff

(Auth: HRS §201G-4) (Imp: HRS §201G-42) ]

DEC 13 2001

§15-193-32 Loss of preference. An applicant who declines an offer, without just cause, of a housing unit or who voluntarily requests cancellation of the application after declining an offer shall lose all preferences and priorities for a period of twelve months from the date the offer was declined or from the date of the request for cancellation. [Eff

DEC 13 2001 ] (Auth: HRS 201G-4) (Imp: HRS §§201G-4, 201G-42)

§15-193-33 Waiting lists. (a) The corporation shall maintain a waiting list of all apparently eligible applicants for each of state-aided family housing projects.

(b) Applicants shall be notified of the opportunity to apply for and be placed on any and all waiting lists through notices posted in a conspicuous place at the corporation's offices which accept applications and a printed statement in the corporation's informational material on its application process.

(c) Placement of applicants on a waiting list shall be based upon the following:

- (1) Type of project;
- (2) Size of dwelling unit required based on occupancy standards;
- (3) Type of dwelling unit required (e.g., accessible for persons with disabilities);
- (4) Applicable state preference; and
- (5) Date and time of receipt of application.

(d) An applicant must notify the corporation of any change, which will affect applicant's place on a waiting list and the corporation's ability to contact applicant. Changes include, but are not limited to, family status, financial status, preference status, mailing address, and current residence.

(e) An applicant may continue to be on a waiting list even though applicant is a tenant in or receiving housing assistance from another housing program. [Eff

DEC 13 2001 ] (Auth: HRS §201G-4) (Imp: HRS §§201G-4, 201G-42)

§15-193-34 Removal from waiting lists. An applicant shall not be removed from a waiting list unless:

- (1) The applicant requests that applicant's name be removed;
- (2) The applicant fails to notify the corporation of applicant's continued interest for housing at least once every twelve months;
- (3) The applicant no longer meets the eligibility criteria set forth in section 15-193-21;
- (4) The applicant fails to respond to the corporation's reasonable contact efforts. Correspondence to the last known address will constitute reasonable effort to contact;
- (5) The applicant fails without good cause to keep a scheduled interview or to provide requested information necessary to determine eligibility; or
- (6) The applicant misrepresents any material information to the corporation in the application or otherwise. [Eff

DEC 13 2001 ] (Auth: HRS §201G-4) (Imp: HRS §201G-42)

§15-193-35 Closing the waiting lists. (a) The corporation, at its discretion, may restrict acceptance of applications, and close the waiting lists in whole or in part, when it determines that it will be unable to assist all the applicants on the waiting lists within a reasonable period of time.

(b) The corporation shall publicly announce any closure and reopening of the application process.

(c) During periods when application acceptance is closed and until it is reopened, the corporation shall not maintain a list of persons to be notified when application acceptance is reopened. [Eff

**DEC 13 2001** ] (Auth: HRS §201G-4)  
(Imp: HRS §§201G-4, 201G-42)

§15-193-36 Offers. (a) An applicant shall be afforded only one offer to rent a suitable unit. The offer shall be based on what is available in a requested housing project on the day of the offer. If there is more than one suitable unit available on the day of the offer, the unit offered shall be the one with the earliest vacancy date.

(b) Offers to eligible applicants shall be made in sequence based upon the following:

- (1) Size of dwelling unit required;
- (2) Type of project needed;
- (3) Type of dwelling unit required (e.g., accessible units for the mobility, hearing or visually impaired);
- (4) Factors affecting priorities and preferences as established by the corporation;
- (5) Date and time the application was received.

(c) Upon refusal of an offer, without good cause, the applicant's name will be moved to the bottom of all waiting lists on which the applicant's name has been placed.

(d) An applicant shall not be considered to have been offered a unit if an offer has been declined for good cause. Good cause may include, but is not limited to the following:

- (1) The unit is not of the proper size or type and the applicant would be able to reside there only temporarily (e.g., a specially

- designed unit that is awaiting a person with disabilities applicant needing such a unit);
- (2) The unit offered is unsuitable for health or safety reasons for the applicant;
  - (3) The applicant is unable to move at the time of the offer and presents clear evidence which substantiates this to the corporation's satisfaction, such as:
    - (A) A doctor verifies that the applicant has just undergone major surgery and needs a period to recuperate;
    - (B) A court verifies that the applicant is serving on a jury which has been sequestered;
    - (C) A landlord verifies that the applicant has an existing lease that cannot breach without causing undue financial hardship.
  - (4) The applicant's acceptance of the offer would result in undue hardship not related to consideration of race, color, national origin, or language and the applicant presents evidence which substantiates this to the corporation's satisfaction (e.g., where current employment or day care facilities are inaccessible). [Eff DEC 13 2001 ] (Auth: HRS §201G-4) (Imp: HRS §§201G-4, 201G-42)

§15-193-37 Occupancy of accessible dwelling units. The corporation shall take the following nondiscriminatory steps to maximize the utilization of accessible units by eligible individuals whose disability requires the accessibility features of the particular unit.

- (a) When an accessible unit becomes vacant the corporation shall, before offering such units to an applicant without disabilities, offer the unit:
  - (1) First, to a current occupant of another unit of the same project or other projects within the same housing program, having disabilities requiring the accessibility features of the vacant unit and occupying a unit not having such features, or, if no such occupant exists, then

(2) Second, to an eligible qualified applicant on the waiting list having a disability requiring the accessibility features of the vacant unit.

(b) When an applicant who is not disabled accepts a unit with accessibility features, the applicant shall transfer to a non-accessible unit when one becomes available. [Eff **DEC 13 2001**] (Auth: HRS §201G-4) (Imp: HRS §§201G-4, 201G-42)

#### SUBCHAPTER 4

#### OCCUPANCY AND RENTAL AGREEMENT

§15-193-40 Rental agreement. (a) A tenant shall enter into a rental agreement with the corporation which sets forth the conditions of occupancy for the tenant including, but not limited to, the rental terms, security deposit, eligibility reexaminations and rental adjustments, and for welfare recipients, authorization for the corporation to draw rental payments directly from their EBT or bank account.

(b) No tenant shall be permitted to remain in a housing project without a valid rental agreement. [Eff **DEC 13 2001**] (Auth: HRS §201G-4) (Imp: HRS §§201G-4, 201G-42, 201G-43)

§15-193-41 Eligibility for continued occupancy.

(a) To be eligible for continued occupancy in a family housing project, the tenant shall:

- (1) Qualify as a family;
- (2) Conform to the occupancy standards;
- (3) Have an income that does not exceed the applicable income limit for continued occupancy;
- (4) Have assets that do not exceed the applicable limits for continued occupancy;
- (5) Not have a record of conduct or behavior which may be detrimental to the project, its tenants or employees; and

(b) Except for a newborn child, a person shall not be permitted to join or rejoin the family until it

(c) is verified that the person meets the eligibility requirements set forth in section 15-193-21. [Eff **DEC 13 2001** ] (Auth: HRS §201G-4) (Imp: HRS §§201G-4, 201G-42, 201G-43)

§15-193-42 Reexamination. At least once every twelve months, the corporation shall reexamine a tenant's annual income, assets, family composition, and any other matter necessary to determine a tenant's rent and eligibility for continued occupancy. [[Eff **DEC 13 2001** ] (Auth: HRS §201G-4) (Imp: HRS §§201G-4, 201G-42, 201G-43)

§15-193-43 Reexamination results. (a) A tenant shall be given written notification within a reasonable time, after determination by the staff, of both the tenant's eligibility for continued occupancy and rent schedule.

(b) A tenant found ineligible for continued occupancy by the staff shall be required to vacate the dwelling unit within ninety days from the date of ineligibility.

(c) A tenant aggrieved by the reexamination results may request a hearing pursuant to the corporation's grievance procedure as provided in section 15-183, HRS. [Eff **DEC 13 2001** ] (Auth: HRS §201G-4) (Imp: HRS §§201G-4, 201G-42)

§15-193-44 Special reexamination. If at the time of admission or reexamination, a family's income cannot be reasonably determined for the next twelve months, a special reexamination shall be scheduled within three months. [Eff **DEC 13 2001** ] (Auth: HRS §201G-4) (Imp: HRS §§201G-4, 201G-42)

§15-193-45 Interim rent adjustment. (a) If applicable, the corporation may adjust a tenant's rent between reexamination if a tenant reports a change in family income.

(b) Adjustments, reflecting a lower rent, shall be made effective on the first of the month following the month the report was made.

(c) A tenant who has obtained a decrease in rent under this section, shall report all income increases which occur prior to the next reexamination and rent shall be readjusted accordingly. Any increase in rent shall be effective on the first day of the second month following the month in which the change occurred.

(d) A tenant who fails to report any increase in income after obtaining a decrease in rent under this section shall be subject to a back rent charge retroactive to the month in which the rent increase should have been made.

(e) Rent adjustment shall be made between reexaminations when a person with income is added to the family and the rent adjustment shall be effective on the first of the second month following the approved inclusion. [Eff **DEC 13 2001** ] (Auth: HRS §201G-4) (Imp: HRS §§201G-4, 201G-42, 201G-43)

§15-193-46 Tenant transfers. (a) Tenant transfers will be made without regard to race, sex, color, religion, marital status, familial status, ancestry, disability, age, or HIV (human immunodeficiency virus) infection.

(b) The corporation may transfer a tenant to another dwelling unit:

- (1) To prevent overcrowding or under utilization of a dwelling unit as determined by the corporation at the time of the annual or interim reexamination;
- (2) To preserve the purpose for which a project or unit was specifically developed or designed such as to meet the needs of the elderly, or a person with disabilities;
- (3) To meet a verifiable health or safety need; or
- (4) For economic reasons affecting the tenant or the corporation.

(c) Tenant transfers shall take priority over new admissions.

(d) Tenant shall be afforded one offer to transfer to a unit that meets the criteria set forth in

subsection (b) within the same housing project in which the tenant resides. If such unit is not available, tenant may then be offered a unit in another housing project under the control of the management unit. If such a unit is not available, tenant may then be offered a suitable unit on the island on which tenant resides. Declining an offer to transfer for good cause as determined by the corporation shall not be considered a refusal.

(e) Tenant shall not be transferred during periods when eviction proceedings have been initiated or are in process against such tenant or during any period of conditional deferment of eviction action against such tenant.

(f) Tenant who is not current with rent or other charges and who does not have an approved payment arrangement shall not be transferred until the situation is resolved to the satisfaction of the corporation.

(g) The corporation may terminate the rental agreement of a tenant who refuses to transfer as required by the corporation. [Eff **DEC 13 2001** 1  
 (Auth: HRS §201G-4) (Imp: HRS §§201G-4, 201G-42)

§15-193-47 Backcharges. A tenant shall pay in full any backcharges within one hundred eighty days after being notified by the staff of the backcharge. Failure to do so shall result in the termination of the rental agreement for non-payment of rent. [Eff **DEC 13 2001** (Auth: HRS §201G-4) (Imp: HRS §§201G-4, 201G-42, 201G-43)

§15-193-48 Rental agreement termination. (a) A tenant shall give the corporation at least twenty-eight days written notice that the tenant will vacate the tenant's unit prior to the vacate date.

(b) The corporation may terminate a rental agreement when a tenant, any member of the tenant's household, or any guest or other person under the tenant's control:

- (1) Fails to observe or perform any covenant or obligation of the rental agreement, or rule of the corporation or housing project, or law or

ordinance of a governmental agency that pertains to or establishes standards of occupancy;

- (2) Engages in the illegal use of a controlled substance;
- (3) Whose illegal use of a controlled substance, or abuse of alcohol, is determined by the corporation to interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents;
- (4) Who the corporation determines engages in any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents; or
- (5) Who the corporation determines engages in any drug-related criminal activity on or near the corporation's property.

(c) The corporation shall give a tenant written notice of the proposed termination of the rental agreement of not less than:

- (1) Fourteen days in the case of failure to pay rent;
- (2) A reasonable time commensurate with the exigencies of the situation in the case of creation or maintenance of a threat to the health or safety of other tenants or project employees;
- (3) Thirty days in all other cases.

(d) The corporation shall terminate a rental agreement in accordance with chapter 201G, HRS. [Eff  
DEC 13 2001 ] (Auth: HRS §201G-4)  
(Imp: HRS §201G-42)

#### SUBCHAPTER 5 RENTS AND SECURITY DEPOSITS

§15-193-60 Security deposits. A tenant shall pay a security deposit, prior to admission to a housing project, in an amount not to exceed one month's rent. The security deposit may be applied to rent or used to repay charges owed to the corporation upon the termination of the rental agreement. [Eff  
DEC 13 2001 ] (Auth: HRS §201G-4) (Imp: HRS §§201G-42, 201G-43, 521-44)

§15-193-61 Minimum rents. (a) The minimum rent shall be based upon the number of bedrooms in the dwelling unit.

(b) The minimum rents for state-aided family projects are set forth in exhibit D, which is incorporated by reference and attached. [Eff **DEC 13 2001** ] (Auth: HRS §§201G-4) (Imp: HRS §§201G-4, 201G-44)

§15-193-62 Rent. A tenant shall pay thirty percent of adjusted annual income for rent or a minimum rent, as set forth in 15-193-61, whichever is greater. [Eff **DEC 13 2001** ] (Auth: HRS §§201G-4), (Imp: HRS §§201G-4, 201G-43)

§15-193-63 Determining net earned income. The net earned income for a tenant family shall be determined by the following process:

1. From the gross annual earned income of each adult household member, deduct a standard deduction of twenty per cent; and if applicable,
2. After the twenty per cent standard deduction, deduct from the remainder an education credit for a household member that is a full-time student seeking a post-secondary education. The education credit, which is provided for a tenant family and not individual family members, is calculated as:
  - A. The actual amount received from scholarship(s) to attain a post-secondary education degree; or
  - B. One thousand dollars (\$1,000) per year; whichever is less. [Eff **DEC 13 2001** ] (Auth: HRS §201G-4) (Imp: HRS §§201G-42, 201G-43)

§15-193-64 Determining net unearned income. The net unearned income for a tenant family shall be determined by the following process:

1. If applicable, from the gross annual unearned income of each adult household member, deduct

- Medicare premiums that are actually deducted from social security benefits; and
2. If a household member is a full-time student seeking a post-secondary education, deduct an education credit, which is provided for a tenant family and not individual family members. The education credit is calculated as:
    - A. The actual amount received from scholarship(s) to attain a post-secondary education degree; or
    - B. One thousand dollars (\$1,000) per year; whichever is less. [Eff **DEC 13 2001** ] (Auth: HRS §201G-4) (Imp: HRS §§201G-42, 201G-43)

§15-193-65 Determining adjusted annual income. Adjusted annual income is determined by adding the net earned income, as set forth in 15-193-63, to the net unearned income, as set forth in 15-193-64. [Eff **DEC 13 2001** ] (Auth: HRS §201G-4) (Imp: HRS §§201G-42, 201G-43)

## SUBCHAPTER 6

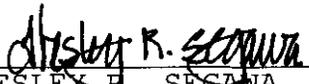
### MISCELLANEOUS PROVISIONS

§15-193-70 Severability. If any part, section, sentence, clause, or phrase of this chapter, or its application to any person or transaction or other circumstances, is for any reason held to be unconstitutional or invalid, the remaining parts, sections, sentences, clauses, and phrases of this chapter, or the application of this chapter to other persons or transactions or circumstances, shall not be affected. [Eff **DEC 13 2001** ] (Auth: HRS §201G-4) (Imp: HRS §1-23)

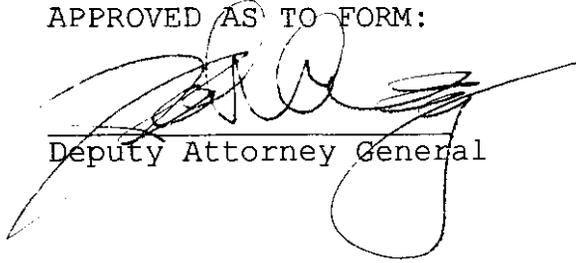
DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT,  
AND TOURISM

The adoption of Chapter 15-193, Hawaii Administrative Rules, on the Summary page dated September 20, 2001 was adopted on September 20, 2001 following public hearings held on December 13, 2000 and August 28, 2001, after public notice was given in the Midweek on November 13, 2000 and in the Honolulu Advertiser on July 27, 2001, respectfully.

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

  
WESLEY H. SEGAWA  
Chairperson  
Housing and Community  
Development Corporation  
of Hawaii Board of  
Directors

APPROVED AS TO FORM:

  
Deputy Attorney General

  
BENJAMIN J. CAYETANO  
Governor  
State of Hawaii

Date: 11-30-01

DEC 03 2001

Filed

01 DEC -3 P4:24

LIEUTENANT GOVERNOR'S  
OFFICE

## METHODOLOGY FOR CALCULATING INCOME LIMITS

Income limits are calculated using a set of formula relationships. The U.S. Department of Housing and Urban Development (HUD) estimates median family income based on the most recent census data estimates updated with a combination of local Bureau of Labor statistics data and census divisional data. Separate median family income estimates are calculated for all Metropolitan Statistical Areas, Primary Metropolitan Statistical Areas and Metropolitan Counties.

**Very Low-Income Limits:**

Low-income limits are calculated using a set of formula relationships. The first step is to calculate the very-low income limits based on 50 percent of the estimated area median income for a four-person family as determined by HUD. Adjustments are then made if the 50 percent number is outside of formula constraints.

More specifically, the very low-income limit for a four-person family is calculated as follows:

50 percent of the area median family income is calculated and set as the tentative four-person family income limit;

If it is lower, the four-person income limit is increased to the amount at which 35 per cent of it equals 85 per cent of the annualized two-bedroom Section 8 Fair Market Rent or FMR (this adjusts income limits upward for areas where rental housing costs are unusually high in relation to the median income.

If it is higher, the four-person income limit is reduced to the amount at which 30 per cent of it equals 120 per cent of the two-bedroom FMR (this adjusts income limits downward for areas where rental housing costs are unusually low in relation to the median income);

To minimize program management problems, income limits are being held at the most recent fiscal year levels in areas where the FMR reductions would have resulted in lower income limits; and in no instance are income

EXHIBIT A

limits less than if based on the State non-metropolitan median family income level.

**Low-Income Limits:**

The next step is to calculate the low-income limits. Most four-person low-income limits are the higher of 80 percent of the area median family income or 80 percent of the State nonmetropolitan median family income level. Because the very low-income limits are not always based on 50 percent of median, calculating low-income limits as 80 percent of median would produce anomalies inconsistent with statutory intent (e.g., very low-income limits could be higher than low-income limits). The calculation normally used, therefore, is to set the four-person low-income limit at 1.6 (i.e., 80%/50%) times the relevant four-person very low-income limit. The only exception is that the resulting income limit may not exceed the U.S. median family income level except when justified by high housing costs. Use of very low-income limits as a starting point for calculating other income limits has the effect of adjusting low-income limits in areas where the very low-income limits have been adjusted because of unusually high or low housing-cost-to-income relationships.

**Family Size Adjustments:**

Family size adjustments are made to provide higher income limits for larger families and lower income limits for smaller families. The factors used are as follows:

Number of Persons in Family and Percentage Adjustments

1	2	3	4	5	6	7	8
70%	80%	90%	Base	108%	116%	124%	132%

Income limits for families with more than eight persons are not included in the printed lists because of space limitations. For each person in excess of eight, 8

percent of the four-person base should be added to the eight-person income limit. (For example, the nine-person limit equals 140 percent [132 + 8] of the relevant four-person income limit.) All income limits are rounded to the nearest \$50 to reduce administrative burden.

#### Income Limits for Admissions and Continued Occupancy

Based upon the foregoing methodology, the following table sets forth the calculated income limits for admissions and continued occupancy in State-aided family public housing. These income limits are adjusted periodically whenever the HUD estimates of area median income are revised and are, therefore, subject to change.

#### Income and Asset Limits for Admission (Effective March 29, 2001)

County	1 Person	2 Persons	3 Persons	4 Persons	5 Persons	6 Persons	7 Persons	8 Persons
Honolulu	\$22,600	\$25,850	\$29,050	\$32,300	\$34,900	\$37,450	\$40,050	\$42,650
Hawaii	18,100	20,700	23,250	25,850	27,800	30,000	32,050	34,100
Kauai	22,600	25,850	29,050	32,300	34,900	37,450	40,050	42,650
Maui	23,750	27,150	30,550	33,950	36,650	39,400	42,100	44,800

#### Income and Asset Limits for Continued Occupancy (Effective March 29, 2001)

County	1 Person	2 Persons	3 Persons	4 Persons	5 Persons	6 Persons	7 Persons	8 Persons
Honolulu	\$36,200	\$41,350	\$46,500	\$51,700	\$55,800	\$59,950	\$64,100	\$68,200
Hawaii	28,950	33,100	37,200	41,350	44,650	48,000	51,300	54,600
Kauai	36,200	41,350	46,500	51,700	55,800	59,950	64,100	68,200
Maui	38,000	43,450	48,900	54,300	58,650	63,000	67,350	71,700

OCCUPANCY STANDARDS  
2001

Unit allotment is based in accordance with the prevailing zoning and county building, health and fire codes. In determining the appropriate dwelling unit size for assistance, the following criteria shall be applied:

1. A family shall be assigned to the smallest unit suitable for its needs and each bedroom shall be occupied by at least one person.
2. The dwelling unit assigned should permit up to the maximum number of persons to occupy the unit in accordance with prevailing zoning and county building, health, and fire codes.
3. Every member of the household, regardless of age, shall be counted as a person. Children expected to be born by pregnant household members will also be counted as a person.
4. At the written request of the applicant, the HCDCH shall take into consideration in determining unit allotment, factors that include but are not limited to the following:
  - a. In the case of single parents and dependent(s), separate bedrooms may be allotted to the parent and to the child/children; or
  - b. Children of opposite sexes may be allotted separate bedrooms for each gender; or
  - c. A person with valid medical ailments may be allotted a separate bedroom, provided the necessity for the separate bedroom is verified by a signed statement from a medical doctor and other supporting data; or
  - d. A live-in care attendant of necessity may be allotted a separated bedroom.

EXHIBIT B

- e. Children who are in the process of being adopted, or whose legal custody is being obtained by a household will be included as members of the household for the purpose of determining unit size.
  
- f. One person, the remaining member of a tenant family, may with prior consent of the HCDCH, be permitted to continue to occupy the smallest size unit. The remaining member, may, with prior consent of the HCDCH, add another person to the household, provided the new household qualifies as a family for continued occupancy and a larger dwelling is not required to accommodate the enlarged household.

MINIMUM RENTS FOR  
STATE-AIDED FAMILY PUBLIC HOUSING PROJECTS  
(Effective DEC 13 2001)

The Minimum Monthly rents for all tenants of State-aided family public housing projects are as follows:

No. of Bedrooms	Monthly Minimum Rent
1	\$108
2	128
3	152
4	180
5	212