

HAWAII ADMINISTRATIVE RULES

TITLE 15

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT
AND TOURISM

SUBTITLE 14

HOUSING AND COMMUNITY DEVELOPMENT CORPORATION OF
HAWAII

CHAPTER 195

SECTION 8 HOMEOWNERSHIP OPTION PROGRAM

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SUBCHAPTER 1

GENERAL PROVISIONS

§15-195-1 Purpose. These rules govern the requirements for participation by eligible families in the section 8 homeownership option program administered by the housing and community development corporation of Hawaii. [Eff **MAY 13 2002**]
 (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. §982.54)

§15-195-2 Definitions. As used in this chapter:
 "Applicant" means an individual or family that submits an application for admission to the Program but is not yet a participant in the Program.

"C.F.R." means the United States Code of Federal Regulations.

"Cooperative" or "housing cooperative" means housing owned by a corporation or association, and where a member of the corporation or association has the right to reside in a particular unit, and to participate in management of the housing.

"Cooperative member" means a family of which one or more members owns membership shares in a cooperative.

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

"Disabled family" means a family whose head, spouse, or sole member is a person with a disability; or two or more persons with disabilities living together; or one or more persons with disabilities living with one or more live-in aides.

"Economic self-sufficiency program" means any program designed to encourage, assist, train, or facilitate the economic independence of HUD-assisted families or to provide work for such families.

"Elderly" or "elderly family" means a family whose head, spouse, or sole member is a person who is at least sixty-two years of age; or two or more

persons who are at least sixty-two years of age living together; or one or more persons who are at least sixty-two years of age living with one or more live-in aides.

"Eligible family" means a family that meets the qualifications and requirements of the Program.

"Executive director" means the executive director of the corporation or the executive director's designated representative.

"Family" means a person or group of persons, as determined by the corporation, approved to reside in a unit with assistance under the Program. A family is comprised of:

- (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 needs and who may be related by blood, marriage, or operation of law and whose head of family has reached the age of majority. Family may include foster children and hanai children;
- (2) An elderly family;
- (3) A disabled family;
- (4) A displaced family;
- (5) The remaining member of a tenant family who is recorded as an authorized occupant on the current list of household members and who has reached the age of majority; or
- (6) A single person who is not an elderly or displaced person, or a person with disabilities, or the remaining member of a tenant family.

"Family self sufficiency program" or "FSS program" means the program established by the corporation in accordance with 24 C.F.R. Part 984 to promote self-sufficiency of assisted families, including the coordination of supportive services.

"First-time homeowner" means a family of which no member owned any present ownership interest in a residence of any family member during the three years before commencement of homeownership assistance for

the family. The term "first-time homeowner" includes a single parent or displaced homemaker who, while married, owned a home with his or her spouse, or resided in a home owned by his or her spouse.

"HRS" means Hawaii Revised Statutes.

"Home" means a dwelling unit for which the corporation pays homeownership assistance.

"Homeowner" means a family of which one or more members hold title to the home.

"Homeownership assistance" means monthly homeownership assistance payments by the corporation. Homeownership assistance payments may be paid to the family, or to a mortgage lender on behalf of the family.

"Homeownership expenses" means a family's allowable monthly expenses for the home, as determined by the corporation.

"Homeownership option" means assistance for a homeowner or cooperative member.

"Housing quality standards" means the HUD minimum quality standards for housing assisted under the tenant-based programs.

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

"Interest in the home" means:

- (1) In the case of assistance for a homeowner, "interest in the home" includes title to the home, any lease or other right to occupy the home, or any other present interest in the home.
- (2) In the case of assistance for a cooperative member, "interest in the home" includes ownership of membership shares in the cooperative, any lease or other right to occupy the home, or any other present interest in the home.

"Independent inspector" means a professional home inspector who is independent of the seller and the corporation.

"Lender" or "mortgage lender" means a mortgage lender as defined in part I, chapter 201G, HRS.

"Live-in aide" means a person who resides with one or more elderly persons, or near elderly persons, or persons with disabilities, and who:

- (1) Is determined to be essential to the care and well-being of the persons;
- (2) Is not obligated for the support of the persons; and
- (3) Would not be living in the unit except to provide the necessary support services.

"Membership shares" means shares in a cooperative. By owning such cooperative shares, the share-owner has the right to reside in a particular unit in the cooperative, and the right to participate in management of the housing.

"Payment standard" means the maximum monthly assistance payment for a family assisted in the section 8 housing choice voucher program before deducting the total tenant payment by the family.

"PHA section 8 administrative plan" means the administrative plan for implementation of the section 8 housing choice voucher program pursuant to 24 C.F.R. Part 982.

"Participant" means a person or family that is receiving homeownership assistance in the Program.

"Portability" means the right to receive section 8 tenant-based assistance outside of the jurisdiction of the initial public housing agency.

"Present ownership interest" means holding title, in whole or in part, to a residence, or ownership, in whole or in part, of membership shares in a cooperative. "Present ownership interest" in a residence does not include the right to purchase title to the residence under a lease-purchase agreement.

"Program" or "homeownership program" means the section 8 homeownership option program.

"Section 8 housing choice voucher program" means the tenant-based section 8 rental voucher program.

"Total tenant payment" means the total amount the HUD rent formula requires the tenant to pay toward rent and utilities. [Eff **MAY 13 2002**] (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. Parts 5 and 982)

§15-195-3 Nondiscrimination. (a) The corporation shall not deny any family or individual the opportunity to apply for or receive assistance under this chapter on the basis of race, color, sex, religion, marital status, creed, national or ethnic origin, age, familial status, or disability.

(b) The corporation shall comply with state and federal nondiscrimination laws and with rules and regulations governing fair housing and equal opportunity in the administration of the Program. The corporation shall provide a family with the United States Department of Housing and Urban Development discrimination complaint form and information on how to file a fair housing complaint if the family claims that discrimination prevented them from finding or leasing a suitable unit under the Program.

[Eff **MAY 13 2002**] (Auth: HRS §201G-15) (Imp: HRS §201G-5; 24 C.F.R. §§982.53, 982.304)

§15-195-4 Verification of information. (a) The corporation shall require an applicant or participant to provide documentation to verify information required to be provided by the family relating to the Program.

(b) An applicant or participant who fails to provide documentation to verify information requested by staff shall be ineligible for participation in the Program. [Eff **MAY 13 2002**] (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. §§982.551; 982.552; 982.553, 982.626)

SUBCHAPTER 2

ELIGIBILITY

§15-195-21 Applications. (a) A family seeking to participate in the Program shall submit a completed application form. The applicant form shall be provided by the corporation. The applicant is permitted to file an application by mailing to or by

submitting in person to any of the corporation's applications offices.

(b) The initial application review shall not require an interview. Only applicants who are determined eligible in the initial review shall be placed on the waiting list. A final eligibility review may be conducted when the applicant reaches the top of the waiting list.

(c) An applicant who has misrepresented material information may not be eligible to apply to and participate in the Program. [Eff MAY 13 2004 (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. §§982.551, 982.552)

§15-195-22 Eligibility for admission; initial requirements. (a) To be eligible for admission in the Program, an applicant shall meet the following qualification requirements:

- (1) Has been admitted to the section 8 housing choice voucher program;
- (2) Is in compliance with the terms of the lease and the section 8 housing choice voucher program;
- (3) Satisfies the first-time homeowner requirements set forth in section 15-195-23;
- (4) Satisfies the minimum income requirements set forth in section 15-195-24;
- (5) Satisfies the employment requirements set forth in section 15-195-25;
- (6) Has pre-qualified for a loan;
- (7) Has not defaulted on a mortgage securing debt to purchase a home under the Program;
- (8) Except for cooperative members who have acquired cooperative membership shares prior to commencement of homeownership assistance, has no present ownership interest in a residence at the commencement of homeownership assistance for the purchase of a home;
- (9) Except for cooperative members who have acquired cooperative membership shares prior

- to the commencement of homeownership assistance, has entered a contract of sale in accordance with section 15-195-41; and
- (10) Satisfies any other initial requirements as determined by the corporation and set forth in the PHA section 8 administrative plan.

(b) The applicant shall also satisfactorily complete a pre-assistance homeownership counseling program approved by the corporation. [Eff **MAY 13 2002**] (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. §§982.626, 982.627, 982.628, 982.629)

§15-195-23 First-time homeowner requirements.

At commencement of homeownership assistance, the participant shall be:

- (1) A first-time homeowner;
- (2) A cooperative member; or
- (3) A family of which a family member is a person with disabilities and use of the homeownership option is needed as a reasonable accommodation so that the Program is readily accessible to and usable by such person. [Eff **MAY 13 2002**] (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. §982.627)

§15-195-24 Minimum income requirements. (a) At commencement of homeownership assistance, the participant shall demonstrate that the annual income, as determined by the corporation, of the adult family members who will own the home at commencement of homeownership assistance is not less than the federal minimum hourly wage multiplied by 2,000 hours.

(b) Except for an elderly family or a disabled family, the corporation shall not count any welfare assistance received by the family in determining annual income. [Eff **MAY 13 2002**] (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. §982.627)

§15-195-25 Employment requirements. (a) Except as provided in subsection (b), the applicant shall demonstrate that one or more adult members of the family who will own the home at commencement of homeownership assistance meets the following employment requirements:

- (1) Is currently employed on a full-time basis, with an average of not less than thirty hours per week; and
- (2) Has been continuously so employed during the year before commencement of homeownership assistance for the family.

(b) The following shall be exempt from the employment requirements:

- (1) An elderly family;
- (2) A disabled family; or
- (3) A family that includes a person with disabilities and the corporation has determined that an exemption is needed as a reasonable accommodation so that the Program is readily accessible to and usable by persons with disabilities. [Eff

MAY 13 2002] (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. §982.627)

§15-195-26 Dwelling unit requirements. (a) The dwelling unit shall satisfy the following dwelling unit requirements:

- (1) The unit is eligible;
- (2) The unit was either under construction or already existing at the time the corporation determined that the family was eligible for homeownership assistance to purchase the unit;
- (3) The unit is either a single family dwelling unit or single dwelling unit in a cooperative or condominium;
- (4) The unit was inspected by the corporation and by an independent inspector designated and paid for by the family; and

(5) The unit satisfies the housing quality standards.

(b) The corporation shall not commence homeownership assistance for occupancy of a home if the corporation has been informed (by HUD or otherwise) that the seller of the home is debarred, suspended, or subject to a limited denial of participation under 24 C.F.R. Part 24. [Eff MAY 13 2002] (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. §§982.352, 982.628)

§15-195-27 Notification of eligibility. (a) An applicant shall be mailed a written notification after an eligibility determination is made. The notification shall specifically state the reasons for the determination.

(b) An eligible applicant shall be issued a certification of section 8 homeownership eligibility.

(c) In the event the corporation has issued all of the section 8 homeownership eligibility certifications, eligible applicants shall be placed on the waiting list.

(d) An applicant determined to be ineligible for admission or participation in the Program shall be afforded an opportunity to request for an informal review as set forth in chapter 15-185, Hawaii Administrative Rules. [Eff MAY 13 2002] (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. §982.638)

§15-195-28 Preferences. (a) Eligible applicants shall be given preference for certification in the Program in the order of the dates of their applications if, at the time they are seeking housing assistance, they fall within the following preference categories:

- (1) Completed or enrolled in and in full compliance with the corporation's family self-sufficiency program; or
- (2) Enrolled and in full compliance with the corporation's welfare to work program or

other self-sufficiency program approved by the corporation.

(b) Preference categories are of equal weight, and an applicant who qualifies for any of the preferences shall receive assistance before any other applicant who does not qualify regardless of:

- (1) Place on the waiting list; or
- (2) Date and time of submission of an application. [Eff **MAY 13 2002**] (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. §982.626)

§15-195-29 Waiting list. (a) The corporation shall maintain a statewide waiting list of applicants who are eligible to obtain a certification of section 8 homeownership eligibility.

(b) All recipients of section 8 housing choice voucher assistance administered by the corporation shall be notified of the opportunity to apply for assistance under the Program.

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

- (1) Applicable preference; and
- (2) Date and time of application's receipt.

(d) An applicant must notify the corporation, at least annually, of any change that may affect the applicant's place on the waiting list and the corporation's ability to contact the applicant.

Changes include; but are not limited to, familial status, financial status, preference status, mailing address and current residence. [Eff **MAY 13 2002**

] (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. §982.629)

§15-195-30 Removal from the waiting list. An applicant shall be removed from the waiting list for any one of the following reasons:

- (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 assistance at least once every twelve months;
- (3) The applicant no longer meets the eligibility criteria set forth in section 15-195-22;
- (4) The applicant fails to respond to the corporation's reasonable contact efforts. Two written notices to the last known address shall 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;
- (6) The applicant refuses a certification of section 8 homeownership eligibility; or
- (7) The applicant misrepresents any material information to the corporation on the application or otherwise. [Eff **MAY 13 2002**
] (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. §§982.626, 982.633)

§15-195-31 Closing and reopening the waiting list. (a) The corporation may suspend the acceptance of applications and close the waiting list when the corporation determines that there are enough applicants on the waiting list to fill anticipated openings over a reasonable time period.

(b) The corporation may publicly announce any closure and reopening of the taking of applications pursuant to section 15-195-21. If the list is opened for only a limited time, the opening announcement shall include the closing date and not require further notice. The announcement may include, but is not limited to, publishing notices in a newspaper of general circulation and minority newspapers or notifying social service organizations.

(c) During periods when the waiting list is closed, the corporation is not required to maintain a

list of persons to be notified when application taking is reopened. [Eff **MAY 13 2002**] (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. §982.626)

§15-195-32 Final application process - selection and certification. (a) Selection for certification shall be from the established waiting list and shall be based on the following:

- (1) Applicable local preferences; and
- (2) Date and time of receipt of application.

(b) Applicants shall sign a statement of homeownership obligations, the terms of which are set forth in section 15-195-35, and shall be issued a certification of section 8 eligibility.

(c) An applicant that has been issued a certification shall be responsible for finding a dwelling unit that meets the requirements of section 15-195-26 prior to the expiration of the certification.

(d) A certification shall expire at the end of ninety days from issuance unless within that time, the family submits a contract of sale, in which case the ninety-day time limit shall be suspended while the corporation reviews the contract of sale.

(e) An applicant may request a ninety-day extension of time to submit a contract of sale before the certification expires. The request for extension shall be in writing and received by the corporation on or postmarked no later than the last day of the certification term. The extension request shall include an explanation for the request and a report on efforts made to locate a suitable unit.

(f) An applicant may request an extension beyond one hundred eighty days provided there are verifiable circumstances beyond the applicant's control that hinders the applicant from locating a suitable unit. The request for extension shall be in writing and be received by the corporation or postmarked no later than the last day of the certification term. The extension request shall include an explanation for the

request and a progress report on efforts made to locate a suitable unit.

- (1) An extension may be granted at the corporation's sole discretion.
- (2) If an extension is requested and denied, the applicant may be placed on the bottom of the waiting list. [Eff **MAY 13 2002**] (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. § 982.629)

§15-195-33 Reexaminations. (a) At least once every twelve months, the corporation may reexamine a family's income, composition and any other matter necessary to determine the participant's housing payment standard and eligibility for continued housing assistance.

(b) If at the time of admission or reexamination, a family's income cannot be reasonably anticipated for the next twelve-month period, the corporation may schedule a special reexamination at any time prior to the next annual reexamination.

(c) The participant shall be notified in writing by the corporation of the results of any reexamination within a reasonable time. [Eff **MAY 13 2002**] (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R §§5.617, 982.629, 982.635)

§15-195-34 Interim homeownership assistance adjustment. (a) The corporation may adjust a participant's homeownership assistance payment between reexaminations if a participant reports a change in income and requests an adjustment.

(b) Adjustments reflecting a higher homeownership assistance payment shall be made effective on the first day of the month following the month the report was made. A participant who has obtained an increase in the homeownership assistance payment under this section, shall report all income increases which occur prior to the next reexamination

and the homeownership assistance payment shall be readjusted accordingly.

(c) An adjustment in the homeownership assistance payment shall be made between reexaminations when a participant's income increases as a result of the inclusion of additional persons with income to the family, and such adjustment shall be made effective on the first day of the second month following the inclusion.

(d) The participant and lender shall be notified in writing by the corporation of the results of any reexamination within a reasonable time. [Eff
MAY 13 2002] (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. §982.635)

§15-195-35 Continued assistance; family obligations. (a) To be eligible for homeownership assistance, the participant shall occupy the home.

(b) The participant shall comply with the following family obligations:

- (1) Attend and complete ongoing homeownership and housing counseling;
- (2) Comply with the terms of any mortgage securing debt incurred to purchase or refinance the home;
- (3) Not convey or transfer the home;
- (4) Supply any required information that the corporation or HUD determines is necessary in the administration of the Program, including information on the following:
 - (i) Any mortgage or other debt incurred to purchase the home, and any refinancing of such debt and information on any satisfaction or payment of the mortgage debt;
 - (ii) Any sale or other transfer of any interest in the home; or
 - (iii) The family's homeownership expenses;
- (5) Notify the corporation before the participant moves out of the home;

- (6) Notify the corporation if the participant defaults on a mortgage securing any debt incurred to purchase the home;
- (7) During the time the participant receives homeownership assistance, no family member may have any ownership interest in any other residential property;
- (8) Not commit drug-related criminal activity or violent criminal activity pursuant to chapter 15-185, Hawaii Administrative Rules; and
- (9) Comply with additional requirements that the corporation may establish including:
 - (i) Attending post-purchase homeownership counseling; or
 - (ii) Having periodic inspections of the dwelling unit.

(c) Prior to commencement of homeownership assistance, the participant shall execute a statement of family obligations in the form prescribed by HUD. In the statement, the family shall agree to comply with all family obligations as cited in paragraph (b) of this section. [Eff **MAY 13 2002**] (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. §§982.551, 982.553, 982.633)

SUBCHAPTER 3

PURCHASE OF DWELLING UNIT

§15-195-41 Contract of sale; requirements.

- (a) Upon finding a dwelling unit that the applicant is willing to purchase, the applicant shall provide a copy of the contract of sale to the corporation.
- (b) The contract of sale shall contain the following information:
 - (1) Specify the price and other terms of sale by the seller to the applicant;

- (2) Provide that the applicant shall arrange for a pre-purchase inspection of the dwelling unit by an independent inspector selected by the applicant;
- (3) Provide that the applicant is not obligated to purchase the unit;
- (4) Provide that the applicant is not obligated to pay for any necessary repairs; and
- (5) Certify that the seller has not been debarred, suspended, or subject to a limited denial of participation under 24 C.F.R. Part 24. [Eff **MAY 13 2002**] (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. §982.631)

§15-195-42 Dwelling unit inspection.

(a) Dwelling units approved for sale in the Program shall meet housing quality standards.

(b) Prior to commencing homeownership assistance, the corporation shall inspect the dwelling unit within a reasonable time after receipt of the applicant's contract of sale.

(c) In addition to the inspection conducted by the corporation, the applicant shall select and pay for an independent inspection conducted by an independent inspector. The independent inspection shall cover major building systems and components, including:

- (i) Foundation and structure;
- (ii) Housing interior and exterior; and
- (iii) Roofing, plumbing, electrical, heating and cooling systems.

(d) The independent inspector shall provide a copy of the inspection report to the corporation and the applicant. The corporation may disapprove the unit for homeownership assistance based on the information in the inspection report. [Eff **MAY 13 2002**]
] (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. §982.631)

§15-195-43 Lender requirements. (a) The corporation shall maintain a list of approved mortgage lenders from which a family may obtain financing to purchase a home.

(b) Lenders shall obtain the corporation's approval of the terms of the loan.

(c) Lenders shall notify the corporation when a participant becomes delinquent by more than thirty days. [Eff **MAY 13 2002**] (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. §982.625)

§15-195-44 Financing requirements. (a) The family may obtain financing to purchase the dwelling unit from any lender on the corporation's approved list of mortgage lenders.

(b) The corporation shall review the terms of the mortgage loan. The corporation may disapprove proposed financing, refinancing or other debt if the corporation determines that the debt is unaffordable, or if the loan terms do not meet the corporation's qualifications. In making such determination, the corporation may take into account other family expenses including child care, unreimbursed medical expenses, homeownership expenses, and other family expenses.

(c) The corporation may disapprove certain loan types including adjustable rate mortgage loans and balloon payment mortgage loans. [Eff **MAY 13 2002**] (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. §982.632)

SUBCHAPTER 4

HOMEOWNERSHIP ASSISTANCE PAYMENTS

§15-195-51 Maximum term of homeownership assistance. (a) Except in the case of a family that

qualifies as an elderly or disabled family, the maximum term of homeownership assistance is as follows:

- (1) Fifteen years, if the initial mortgage incurred to finance the purchase of the home has a term of twenty years or longer; or
- (2) Ten years, in all other cases.

(b) A family shall qualify as an elderly family at the start of the homeownership assistance.

(c) A family may qualify as a disabled family at any time during receipt of homeownership assistance.

(d) If, during the course of homeownership assistance, the family ceases to qualify as an elderly or disabled family, the maximum term of homeownership assistance is fifteen years plus six months. [Eff

MAY 13 2002] (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. §982.635)

§15-195-52 Homeownership assistance payments.

(a) The corporation shall make homeownership assistance payments into a dedicated, limited access account established by the lender or mortgage servicer.

(b) The homeownership assistance payment shall be the lower of:

- (i) The payment standard minus the total tenant payment; or
- (ii) The participant's monthly homeownership expenses minus the total tenant payment.

(c) The payment standard shall be the lower of:

- (i) The payment standard for the family unit size; or
- (ii) The payment standard for the size of the home.

(d) Homeownership expenses shall include the following:

- (i) Principal and interest on the initial mortgage debt and any mortgage insurance premium incurred to finance the purchase of the home and any refinancing of such debt;

- (ii) Real estate taxes and public assessments on the home;
- (iii) Homeowner's insurance;
- (iv) Hurricane insurance;
- (v) An allowance for maintenance expenses;
- (vi) An allowance for the costs of major repairs and replacements;
- (vii) A utility allowance; and
- (viii) Principal and interest on mortgage debt incurred to finance major repairs, replacements, or improvements for the home. [Eff **MAY 13 2002**] (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. §982.635)

§15-195-53 Recapture of homeownership assistance. (a) The corporation shall recapture a percentage of the homeownership assistance provided to the participant upon the participant's sale or refinancing of the home.

(b) The recapture amount upon sale of the home shall be the lesser of:

- (1) The amount of homeownership assistance provided to the participant; or
- (2) The difference between the sales price and the purchase price minus the following:
 - (i) The costs of any capital expenditures;
 - (ii) The costs incurred by the participant in the sale of the home, including closing costs and sales commissions;
 - (iii) The amount of the difference between the sales price and purchase price that is being used, upon sale, towards the purchase of a new home under the section 8 homeownership option; and
 - (iv) Any amounts that have been previously recaptured.

(c) The recapture amount for refinancing shall be the lesser of:

- (1) The amount of homeownership assistance provided to the participant; or
- (2) The difference between the current mortgage debt and the new mortgage debt minus the following:
 - (i) The costs of any capital expenditures;
 - (ii) The costs incurred by the participant in the refinancing of the home, such as closing costs; and
 - (iii) Any amounts that have been previously recaptured as a result of refinancing.

(d) The amount of homeownership assistance subject to recapture shall automatically be reduced over a ten-year period, beginning one year from the purchase date, in annual increments of ten percent. At the end of the ten year period, the amount of homeownership assistance to recapture is zero. [Eff MAY 13 2002] (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. §982.640)

SUBCHAPTER 5

OPERATIONS

§15-195-61 Portability. (a) The corporation may require applicants who were nonresidents at the time of application to live in its jurisdiction during the first twelve-month period.

(b) The corporation shall not absorb a family under portability assistance into its Program unless funds are available and there is no applicant with a preference on the applicable waiting list. [Eff MAY 13 2002] (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. §§982.353, 982.355, 982.636)

§15-195-62 Moves with continued tenant-based assistance. (a) A participant may move to a new unit with continued tenant-based assistance.

(b) The corporation shall deny permission to move to a new unit with continued tenant-based assistance if:

- (1) The corporation does not have sufficient funds to provide continued assistance;
- (2) The participant has defaulted on an FHA-insured mortgage;
- (3) The participant fails to demonstrate that the participant has conveyed title to the home to HUD or a HUD designee and the participant has moved from the home within the period established or approved by HUD; or
- (4) The participant has moved or has been issued a voucher within the last twelve months.
 [Eff **MAY 13 2002**] (Auth: HRS §201G-15)
 (Imp: HRS §201G-15; 24 C.F.R. §§982.314, 982.552, 982.637)

§15-195-63 Termination of participation. (a) The corporation shall terminate a family's participation in the Program when:

- (1) The family fails to comply with the continued assistance requirements set forth in section 15-195-35; or
- (2) The family is dispossessed from the home pursuant to a judgment or order of foreclosure on any mortgage securing debt to purchase the property or any refinancing of such debt. [Eff **MAY 13 2002**] (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. §§982.551, 982.633, 982.638)

SUBCHAPTER 6

MISCELLANEOUS PROVISIONS

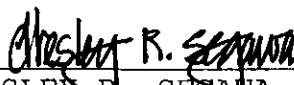
§15-195-71 Severability. If any part, section, sentence, clause, or phrase of this chapter, of its application to any person or transaction or other circumstances is for any reason held to be unconstitutional or invalid, the remaining parts, sections, sentences, clauses, and phrases of this chapter, or the application of this chapter to other persons or transactions or circumstances shall not be affected. [Eff: **MAY 13 2002**] (Auth: HRS §201G-15) (Imp: HRS §201G-15)

§15-195-72 Number. The use of all words used in the singular shall extend to and include the plural. [Eff: **MAY 13 2002**] (Auth: HRS §201G-15) (Imp: HRS §1-17)

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT,
AND TOURISM

The adoption of Chapter 15-195, Hawaii
Administrative Rules, on the Summary page dated April
11, 2002, was adopted on April 11, 2002, following a
public hearing held on March 21, 2002, after public
notice was given in the Midweek on February 11, 2002.

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

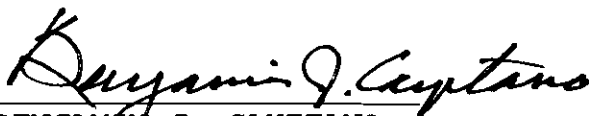


WESLEY R. SEGAWA
Chairperson
Housing and Community
Development Corporation of
Hawaii Board of Directors

APPROVED AS TO FORM:



Deputy Attorney General



BENJAMIN J. CAYETANO
Governor
State of Hawaii

Date: *5/1/02*

MAY 02 2002

Filed

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LIEUTENANT GOVERNOR'S
OFFICE