

Hawaii Public Housing Authority
Section 8 - Housing Choice Voucher Emergency Rules Relating to
COVID-19 Emergency

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S8-§1 Findings. The authority finds that:

(a) The Governor of the State of Hawaii has determined and proclaimed that the COVID-19 pandemic in the State of Hawaii is an emergency contemplated by section 127A-2 and 127A-14, Hawaii Revised Statutes ("HRS"), and that this emergency continues, as evidenced by his Proclamation dated March 4, 2020, and Supplementary Proclamations dated March 16, 2020, March 21, 2020, March 23, 2020, and March 31, 2020 ("Emergency Proclamations");

(b) Section 127A-2, HRS, defines "emergency" as "any occurrence, or imminent threat thereof, which results or may likely result in substantial injury or harm to the population or substantial damage to or loss of property";

(c) There is an occurrence of a severe and extraordinary event that constitutes a public health emergency which continues to evolve and spread around the globe and is now spreading in the community which has caused damages, losses and suffering of such character and magnitude to affect the health, welfare, and living conditions of a substantial number of persons, and is anticipated to affect the economy of the State of Hawaii as the Governor has declared through his Emergency Proclamations;

(d) By Supplementary Proclamation dated March 16, 2020, the Governor directed all state agencies and officers to cooperate with and suspend statutes related to any administrative procedures in Chapter 91, HRS in order for state agencies to more effectively provide emergency relief and engage

in emergency management functions as may be required to assist in all efforts to address the objectives of his proclamation;

(e) As the authority agrees with the Governor that the ongoing COVID-19 pandemic is of such magnitude to warrant protective action, the authority finds it must provide emergency relief to its Section 8 - Housing Choice Voucher Program participants who lost employment or income due to the COVID-19 emergency;

(f) These emergency rules provide financial relief assistance to the authority's Section 8 - Housing Choice Voucher program participants by allowing interim rent adjustments to be effective as of the date the participant's income decreased due the COVID-19 emergency;

(g) These emergency rules enable the authority to delay or suspend program requirements as allowed under HUD Notice PIH 2020-05 regarding COVID-19 Statutory and Regulatory Waivers for the Public Housing, Housing Choice Voucher, Indian Housing Block Grant and Indian Community Development Block Grant Programs, Suspension of Public Housing Assessment System and Section Eight Management Assessment Program dated April 10, 2020, issued by HUD to public housing agencies ("PIH Notice 2020-05"). In PIH Notice 2020-05, HUD waived and established alternative requirements for numerous statutory and regulatory requirements for the Housing Choice Voucher program, pursuant to the authority provided to HUD under the Coronavirus Aid, Relief and Economic Security (CARES) Act, Public Law 116-136 (March 27, 2020);

(h) Based on the above, there is an imminent peril to the public health, safety or morals, caused by the COVID-19 pandemic statewide requiring immediate adoption of these emergency rules upon less than thirty days' notice of hearing; and

(i) These findings are based on the Board's personal knowledge and professional experiences.

S8-§2 Purpose. These emergency rules are adopted based on the findings in section S8-1 to respond to the COVID-19 emergency declared by the Governor, enable the authority to provide certain financial relief to participating families in the authority's Section 8 Housing Choice Voucher Program due to the COVID-19 emergency, and allow the authority to delay or suspend program requirements as allowed under PIH Notice 2020-05 so the authority may utilize HUD's waivers of, and alternative

requirements for numerous statutory and regulatory requirements to keep the authority's Section 8 - Housing Choice Voucher program operational.

S8-§3 Authority. These rules are adopted pursuant to section 91-3, HRS.

S8-§4 Applicability. Notwithstanding Chapter 15-185 Section 8 - Housing Choice Voucher Program, and any subsequent repeal or revisions, these rules shall apply to the authority's Section 8 Housing Choice Voucher Program participants and modify certain sections in Chapter 15-185; provided that upon expiration of these emergency rules, these rules shall terminate.

S8-§5 Definitions. (a) All definitions provided in these rules shall be the same as those provided in chapter 356D, HRS and Chapter 15-185 unless an expanded definition is provided specifically by these rules.

(b) As used in these rules:

"Authority" means the Hawaii public housing authority.

"Board" means the board of the directors of the Hawaii public housing authority.

S8-§6 Interim Rent Adjustment. (a) Section 15-185-33 is suspended. While Section 15-185-33 is suspended, this section shall apply.

(b) The authority may adjust a participant's rent between reexaminations if a participant reports a change in income.

(c) Adjustments reflecting a lower rent shall be made effective as of the date the participant's income decreased due the COVID-19 emergency. A participant who has obtained a decrease in rent under this section shall report all income increases which occur prior to the next reexamination and rent may be readjusted accordingly.

(d) A rent adjustment 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.

(e) The participant and owner shall be notified in writing by the authority of the results of any reexamination within a reasonable time.

S8-§7 Initial inspections. Pursuant to PIH Notice 2020-05, the authority may execute a HAP contract on a dwelling unit that fails the initial inspection required under section 15-185-42, provided such failure was the result of only non-life-threatening deficiencies, and corrections are made within the HUD allowed time period, without affecting the housing assistance payment.

S8-§8 Voucher briefing. Pursuant to PIH Notice 2020-05, the authority may use alternative methods to conduct voucher issuance oral briefings required by section 15-185-29 provided these alternative methods shall not be conducted beyond July 31, 2020.

S8-§9 Payment standard. Pursuant to PIH Notice 2020-05, in addition to payment standard rules set forth in section 15-185-55, the authority may apply a payment standard increase at any time (e.g., interim reexamination or owner rent increase) after the effective date of the increase in the payment standard amount, provided the increased payment standard is used to calculate the HAP no later than the effective date of the participant's first regular reexamination following the change.

S8-§10 Housing assistance payment contract execution. (a) Pursuant to PIH Notice 2020-05, the authority shall execute a HAP contract no later than 120 days from the beginning of the lease term provided the contract is executed no later than July 31, 2020.

(b) On or after August 1, 2020, the authority shall use

best efforts to execute the HAP contract before the beginning of the lease term and execute the HAP contract no later than 60 days from the beginning of the lease term. Any HAP contract executed after the 60-day period is void and the authority shall not pay any housing assistance payments to the owner.

S8-§11 Absence from unit. Pursuant to PIH Notice 2020-05, the authority may continue to provide housing assistance payments when a participant is absent from the unit more than 180 consecutive calendar days due to extenuating circumstances, provided the absence from the unit does not extend beyond December 31, 2020. Extenuating circumstances include but are not limited to hospitalization of participant, extended stays at nursing homes, or caring for family members.

S8-§12 Automatic termination of HAP contract. Pursuant to PIH Notice 2020-05, should the participant's income increase to the extent that the housing assistance payment is reduced to \$0 (zero dollars), the authority will not automatically terminate the HAP contract 180 days after the last housing assistance payment to the owner. Instead of automatic termination, the authority, upon written notice to the owner and participant, may extend the period of time following the last payment to the owner beyond the normally applicable 180 days.

SECTION 8 - HOUSING CHOICE VOUCHER EMERGENCY RULES RELATING TO COVID-19 EMERGENCY

The Hawaii Public Housing Authority Section 8 - Housing Choice Voucher Emergency Rules Relating to COVID-19 Emergency, Hawaii Administrative Rule, were adopted on April 16, 2020, by the Hawaii Public Housing Authority Board of Directors at its regular monthly board meeting with prior public notice provided in accordance with section 92-7 and section 91-3(b), Hawaii Revised Statutes.

These rules shall take effect upon filing with the Office of the Lieutenant Governor for a period of not longer than 120 days unless extended in compliance with section 91-3(b), Hawaii Revised Statutes.

Robert J. Hall

ROBERT J. HALL, Chairperson
Board of Directors
Hawaii Public Housing Authority

Pursuant to my Proclamation dated March 4, 2020, and Supplementary Proclamations dated March 16, 2020, March 21, 2020, March 23, 2020, and March 31, 2020, relating to COVID-19, I approve these rules.

APPROVED:

David Y. Ige

DAVID Y. IGE
Governor
State of Hawaii
Dated: 05-12-2020

APPROVED AS TO FORM:

James G. ...

Deputy Attorney General

Filed

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OFFICE

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