

FOR ACTION

MOTION: To Authorize the Executive Director to Conduct Public Hearings and Undertake All Other Actions Necessary under Chapter 91, Hawai'i Revised Statutes, and Administrative Directive No. 09-01 to Implement the Repeal and Adoption of New Rules, including Making Non-Substantive Revisions to Formatting as May be Required, to

- (1) Repeal Chapter 195 of Title 15, Hawai'i Administrative Rules ("HAR"), entitled "Section 8 Homeownership Option Program";
- (2) Adopt Proposed New Chapter 2036 of Title 17, HAR, entitled "Section 8 Homeownership Option Program" which is substantially based on Chapter 15-195, HAR, and sets forth the rules and requirements for HPHA's Section 8 Homeownership Program which is a federally funded homeownership program utilizing Section 8 voucher payments to cover mortgage payments, and includes:
 - (a) the proposed amendments to Chapter 15-195, HAR, previously adopted by the Hawaii Public Housing Authority's Board of Directors on January 21, 2016, to go to public hearing; and
 - (b) the deletion of proposed section 17-2036-53, HAR, Recapture of Homeownership Assistance, which had been included in the above-stated proposed amendments to Chapter 15-195, HAR.

I. FACTS

- A. The Hawaii Public Housing Authority (HPHA) Section 8 Homeownership Option Program is governed by a variety of Federal, State, and HPHA statutes and rules, such as the Code of Federal Regulations and Chapter 356D, Hawaii Revised Statutes (HRS).
- B. Act 196, Session Laws of Hawaii (SLH) 2005, as amended by Act 180, SLH 2006, separated the housing financing and development functions from the Housing and Community Development Corporation of Hawaii (HCDCH) resulting in the creation of the Hawaii Housing Finance and Development Corporation (HHFDC), and the Hawaii Public Housing Authority. Act 196 became effective on July 1, 2006. Act 196 provided that all HCDCH administrative rules would remain in effect until amended.

- C. Sections 356D-4 and 356D-13, HRS (Attachment A), authorize the HPHA to adopt administrative rules with the force and effect of law to govern the Section 8 Homeownership Option Program.
- D. The HPHA has consistently managed the Section 8 Homeownership Option Program in accordance with Chapter 15-195 "Section 8 Homeownership Option Program", Hawaii Administrative Rules (HAR).

II. DISCUSSION

- A. On January 21, 2016, the HPHA Board of Directors adopted substantive changes to Chapter 15-195, "Section 8 Homeownership Option Program," HAR, to place the administrative rules chapter governing the Section 8 Homeownership Option Program under Title 17, to correctly reflect that the HPHA is administratively attached to the Department of Human Services, by renumbering Chapter 15-195, HAR, to Chapter 17-2036, HAR, and add new definitions and sections, and amend and repeal various sections to better govern the Resident Advisory Board;
- B. Upon further review, the Department of the Attorney General recommended the repeal of Chapter 15-195, HAR, and adoption of new proposed Chapter 17-2036, HAR, to be adopted as a new chapter under Title 17, due to the extensive amendments to Chapter 15-195, HAR, previously adopted by the HPHA Board on January 21, 2016, which includes but is not limited to:
 - 1. Changing title numbers from Title 15, HAR, to Title 17, HAR; changing subtitle numbers from Subtitle 14, HAR, to Subtitle 5, HAR; and changing chapter numbers from Chapter 195, HAR, to Chapter 2036, HAR;
 - 2. Changing the state department to which HPHA is administratively attached, from Department of Business, Economic Development and Tourism, to Department of Human Services;
 - 3. Adding definitions to section 17-2036-3: Adding "gender identity" and "sexual orientation" as protected classes, consistent with the U.S. Fair Housing Act.
 - 4. Section 17-2036-22, HAR [Eligibility for admission; initial requirements – threaten behavior towards staff]: Adding to qualification requirements that applicant(s) shall not engage in or threaten abusive or violent behavior toward the Authority's staff, consistent with HAR federal public housing qualifications.
 - 5. Section 17-2036-24, HAR [Minimum income requirements – disabled, elderly, welfare assistance]: Clarifying minimum income requirements for disabled and elderly participants, and the regard for welfare assistance income, consistent with the CFR.

6. Section 17-2036-31, HAR [Closing and reopening the waiting list - notices]: Removes minority newspapers and adds posting on the Authority's website for publishing notices, for more effective notice.
7. Section 17-2036-42, HAR [Dwelling unit inspection – independent inspector]: Clarifies that independent inspectors shall be qualified to report on property conditions, including major building systems and components, consistent with the CFR.
8. Section 17-2036-44 [Financing requirements]: Removes Authority's ability to disapprove terms of the mortgage loan to eliminate potential liability of the Authority between the applicant and the lender.
9. Other substantive revisions;

to comply with the procedures set forth in Chapter 91, HRS, Hawai'i Administrative Rules Drafting Manual, and for the purposes of clarity.

- C. This motion is to reflect the Board's intent to repeal Chapter 15-195, HAR, and adopt new proposed Chapter 17-2036, HAR, with similar substantive changes that were adopted by the HPHA Board of Directors at the regular board meeting on January 21, 2016
- D. This motion also requests approval to incorporate an additional change that was not previously considered by the Board of Directors at the January 21, 2016 meeting. The proposed rules include the deletion of Section 15-2036-53, HAR, as it is no longer valid. Federal rules governing the recapture of homeownership assistance was repealed in the Code of Federal Regulations in 2002.
- E. The proposed draft rules in the form attached as Attachment B, repealing Chapter 15-195, HAR, and adopting proposed new Chapter 17-2036, HAR, have been reviewed and approved by the Department of the Attorney General.
- F. Attachment C is for illustrative purposes and shows the differences between proposed new Chapter 17-2036, HAR, and Chapter 15-195, HAR, to be repealed, upon which new Chapter 17-2036, HAR, is substantially based.
- G. Once approved by the HPHA Board of Directors, the agency must request permission to take the proposed Rule to public hearing from the Governor. The HPHA staff must give thirty days notice to the public and hold hearings on the Islands of Kauai, Oahu, Maui, and Hawaii.
- H. Following approval from the Governor to hold public hearings on the proposed amendments, the Executive Director will hold public hearings on

the Islands of Kauai, Oahu, Maui, and Hawaii at a date and locations to be determined.

- I. Based on testimony received during the public viewing and comment period, the Executive Director will make any non-substantive amendments to the draft amendments to and compilation of the Rule prior to or following the public hearing.
- J. After the public hearings, the Executive Director will transmit proposed repeal of Chapter 15-195, HAR, and adoption of Chapter 17-2036, HAR, to the Governor for final approval provided that no substantive amendments are made. Staff anticipates the following updated approximate schedule of the process:

<u>Action</u>	<u>Timeframe</u>
Board For Action (adopt amendments)	November 17, 2016
Request to Governor for public hearing	December 1, 2016
Receive Governor authorization	January 1, 2017
Publish hearing notice (30 day notice)	January 15, 2017
Public Hearing	February 23, 2017
Finalize Rule/Transmit to Governor for Adoption	March 10, 2017
Rule effective	April 1, 2017

III. RECOMMENDATION

That The Board Authorize the Executive Director to Conduct Public Hearings and Undertake All Other Actions Necessary under Chapter 91, Hawai'i Revised Statutes, and Administrative Directive No. 09-01 to Implement the Repeal and Adoption of New Rules, including Making Non-Substantive Revisions to Formatting as May be Required, to

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(a) the proposed amendments to Chapter 15-195, HAR, previously adopted by the Hawaii Public Housing Authority's Board of Directors on January 21, 2016, to go to public hearing; and

(b) the deletion of proposed section 17-2036-53, HAR, Recapture of Homeownership Assistance, which had been included in the above-stated proposed amendments to Chapter 15-195, HAR.

Attachment A: Sections 356D-4, Hawaii Revised Statutes, and §356D-13, Hawaii Revised Statutes

Attachment B: Draft Rules repealing Chapter 15-195, Hawaii Administrative Rules, and adopting new Chapter 17-2036, Hawaii Administrative Rules

Attachment C: Ramseyer format draft showing changes to Chapter 15-195, Hawaii Administrative Rules, for illustration purposes

Prepared by: Barbara Arashiro, Executive Assistant



Approved by the Board of Directors
on the date set forth above

Pono Shim
Chairperson

Attachment A

§356D-4 General powers of the authority. (a) The authority may:

- (1) Sue and be sued;
- (2) Have a seal and alter the same at pleasure;
- (3) Make and execute contracts and other instruments necessary or convenient to the exercise of its powers;
- (4) Adopt bylaws and rules in accordance with chapter 91 for its organization, internal management, and to carry into effect its purposes, powers, and programs;
- (5) Sell, lease, rent, hold, maintain, use, and operate any property, real, personal, or mixed, tangible or intangible, in support of its purposes, powers, and programs; provided that the sale of real property shall be subject to legislative approval;
- (6) Receive by gift, grant, devise, bequest, or otherwise from any source, any property, real, personal, or mixed, intangible or tangible, absolutely or in trust, to be used and disposed of, either the principal or the income thereof, for the benefit only of the residents assisted by its programs; provided that no gift to the authority that has an estimated value of \$1,000 or more shall be accepted unless approved or confirmed by the board; and
- (7) Engage the services of volunteers as deemed appropriate by the authority without regard to chapter 76, 89, 90, 103, or 103D.

(b) In addition to other powers conferred upon it, the authority may do all things necessary and convenient to carry out the powers expressly provided in this chapter. [L 2006, c 180, pt of §2; am L 2013, c 148, §1]

§356D-13 Administration of federal programs. (a) The authority may carry out federal programs

designated to be carried out by a public housing agency, or entity designated by the authority.

(b) The authority shall adopt necessary rules in accordance with chapter 91, including the establishment and collection of reasonable fees for administering the program, to carry out any federal program in subsection (a).

(c) All fees collected for administering the program may be deposited into an appropriate special fund of the authority and may be used to cover the administrative expenses of the authority. [L 2006, c 180, pt of §2

Attachment B

DEPARTMENT OF HUMAN SERVICES

Repeal of Chapter 15-195 and
Adoption of Chapter 17-2036
Hawaii Administrative Rules

April 21, 2016

1. Chapter 195 of Title 15, Hawaii Administrative Rules, entitled "Section 8 Homeownership Option Program" is repealed.

2. Chapter 2036 of Title 17, Hawaii Administrative Rules, entitled "Section 8 Homeownership Option Program" is adopted.

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

Repealed

§§15-195-1 to 15-195-72 Repealed. []

HAWAII ADMINISTRATIVE RULES

TITLE 17

DEPARTMENT OF HUMAN SERVICES

SUBTITLE 5

HAWAII PUBLIC HOUSING AUTHORITY

CHAPTER 2036

SECTION 8 HOMEOWNERSHIP OPTION PROGRAM

SUBCHAPTER 1 General Provisions

- §17-2036-1 Purpose
- §17-2036-2 Definitions
- §17-2036-3 Nondiscrimination
- §17-2036-4 Verification of information
- §§17-2036-5 to 17-2036-20 (Reserved)

SUBCHAPTER 2 Eligibility

- §17-2036-21 Applications
- §17-2036-22 Eligibility for admission; initial requirements
- §17-2036-23 First-time homeowner requirements
- §17-2036-24 Minimum income requirements
- §17-2036-25 Employment requirements
- §17-2036-26 Dwelling unit requirements
- §17-2036-27 Notification of eligibility
- §17-2036-28 Preferences
- §17-2036-29 Waiting list
- §17-2036-30 Removal from the waiting list
- §17-2036-31 Closing and reopening the waiting list
- §17-2036-32 Final application process - selection and certification
- §17-2036-33 Reexaminations
- §17-2036-34 Interim homeownership assistance

Content

- adjustment
- §17-2036-35 Continued assistance; family obligations
- §§17-2036-36 to 17-2036-40 (Reserved)

SUBCHAPTER 3 Home Purchase

- §17-2036-41 Contract of sale; requirements
- §17-2036-42 Dwelling unit inspection
- §17-2036-43 Lender requirements
- §17-2036-44 Financing requirements
- §§17-2036-45 to 17-2036-50 (Reserved)

SUBCHAPTER 4 Homeownership Assistance Payments

- §17-2036-51 Maximum term of homeownership assistance
- §17-2036-52 Housing assistance payments
- §17-2036-53 Recapture of homeownership assistance
- §§17-2036-54 to 17-2036-60 (Reserved)

SUBCHAPTER 5 Operations

- §17-2036-61 Portability
- §17-2036-64 Moves with continued assistance
- §17-2036-66 Termination of participation
- §§17-2036-64 to 17-2036-70 (Reserved)

SUBCHAPTER 6 Miscellaneous Provisions

- §17-2036-71 Severability
- §17-2036-72 Number

Historical Note. Chapter 2036 of Title 17 Hawaii Administrative Rules, is substantially based upon Chapter 15-195, Hawaii Administrative Rules. [Eff:]

SUBCHAPTER 1

GENERAL PROVISIONS

§17-2036-1 Purpose. These rules govern the requirements for participation by eligible families in the section 8 homeownership option program administered by the authority. [Eff:]
(Auth: HRS §§356D-4, 356D-13) (Imp: HRS §356D-13; 24 C.F.R. §982.54)

§17-2036-2 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.

"Authority" means the Hawaii public housing authority.

"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.

"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 authority or the executive director's designated representative.

"Family" means regardless of actual or perceived sexual orientation, gender identity, or marital status, a person or group of persons, as determined by the authority 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 authority 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.

"Gender identity or expression" includes a person's actual or perceived gender, as well as a person's gender identity, gender-related self-image, gender-related appearance, or gender-related expression, regardless of whether that gender identity, gender-related self-image, gender-related appearance, or gender-related expression is different from that traditionally associated with the person's sex at birth.

"HRS" means Hawaii Revised Statutes.

"Home" means a dwelling unit for which the authority 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 authority. 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 authority.

"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 authority.

"Lender" or "mortgage lender" means a mortgage lender as defined in part I, chapter 356D, 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:] (Auth: HRS §§356D-4, 356D-13) (Imp: HRS §356D-13; 24 C.F.R. Parts 5 and 982)

§17-2036-3 Nondiscrimination. (a) The authority 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, gender identity, sexual orientation, handicap or disability or HIV infection.

(b) The authority 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 authority 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:] (Auth: HRS §§356D-4, 356D-13) (Imp: HRS §356D-7; 24 C.F.R. §§982.53, 982.304)

§17-2036-4 Verification of information. (a) The authority 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:] (Auth: HRS §§356D-4, 356D-13) (Imp: HRS §356D-13; 24 C.F.R. §§982.551, 982.552, 982.553, 982.626)

§§17-2036-5 to 17-2036-20 (Reserved).

SUBCHAPTER 2

ELIGIBILITY

§17-2036-21 Applications. (a) A family seeking to participate in the Program shall submit a completed application form. The applicant form shall be provided by the authority. The applicant is permitted to file an application by mailing to or by submitting in person to any of the authority'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:] (Auth: HRS §§356D-4, 356D-13) (Imp: HRS §356D-13; 24 C.F.R. §§982.601, 982.201, 982.202)

§17-2036-22 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 17-2036-23;
 - (4) Satisfies the minimum income requirements set forth in section 17-2036-24;
 - (5) Satisfies the employment requirements set forth in section 17-2036-25;
 - (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 17-2036-41;
 - (10) Satisfies any other initial requirements as determined by the authority and set forth in the PHA section 8 administrative plan; and
 - (11) Not engage in or threaten abusive or violent behavior toward the authority's staff. For purposes of this subsection, "threaten" means an oral or written threat or physical gestures that communicate intent to abuse or commit violence. Abusive or violent behavior may be verbal or physical and include racial epithets, or other language, written or oral, that is customarily used to insult or intimidate.
- (b) The applicant shall also satisfactorily complete a pre-assistance homeownership counseling

program approved by the authority. [Eff:]
(Auth: HRS §§356D-4, 356D-13) (Imp: HRS §§356D-4,
356D-13; 24 C.F.R. §§982.626, 982.627, 982.628,
982.629)

§17-2036-23 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:] (Auth: HRS §§356D-4, 356D-13) (Imp: HRS §356D-13; 24 C.F.R. §982.627)

§17-2036-24 Minimum income requirements. (a)

At commencement of homeownership assistance, the participant shall demonstrate that the annual income, as determined by the authority, of the adult family members who will own the home at commencement of homeownership assistance is not less than:

- (1) In the case of a disabled family, the monthly federal supplemental security income (SSI) benefit for an individual living alone or paying his or her share of food and housing costs multiplied by twelve; or
- (2) In the case of other families, the federal minimum hourly wage multiplied by 2,000 hours.

(b) Except for an elderly family or a disabled family, the authority shall not count any welfare assistance received by the family in determining annual income. In the case of an elderly or disabled family, the authority shall include welfare assistance for the adult family members who will own the home in

determining if the family meets the minimum income requirement.

(c) The disregard of welfare assistance income under subsection (b) only affects the determination of minimum annual income used to determine if a family initially qualifies for commencement of homeownership assistance in accordance with this section, but does not affect:

- (1) The determination of income-eligibility for admission to the voucher program;
 - (2) Calculation of the amount of the family's total tenant payment; or
 - (3) Calculation of the amount of homeownership assistance payments on behalf of the family.
- [Eff:] (Auth: HRS §§356D-4, 356D-13) (Imp: HRS §356D-13; 24 C.F.R. §982.627)

§17-2036-25 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 authority 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:]

(Auth: HRS §§356D-4, 356D-13) (Imp: HRS §356D-13; 24 C.F.R. §982.627)

§17-2036-26 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 authority 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 authority and by an independent inspector designated and paid for by the family; and
- (5) The unit satisfies the housing quality standards.

(b) The authority shall not commence homeownership assistance for occupancy of a home if the authority 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:] (Auth: HRS §§356D-4, 356D-13) (Imp: HRS §356D-13; 24 C.F.R. §§982.352, 982.628)

§17-2036-27 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 authority 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 an informal review as set forth in chapter 17-2036, Hawaii Administrative Rules. [Eff: _____] (Auth: HRS §§356D-4, 356D-13) (Imp: HRS §356D-13; 24 C.F.R. §982.641, 982.554, 982.601)

§17-2036-28 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 authority's family self-sufficiency program; or
- (2) Enrolled and in full compliance with the authority's welfare to work program or other self-sufficiency program approved by the authority.

(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: _____] (Auth: HRS §§356D-4, 356D-13) (Imp: HRS §356D-13; 24 C.F.R. §982.626)

§17-2036-29 Waiting list. (a) The authority 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 authority 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 authority, at least annually, of any change that may affect the applicant's place on the waiting list and the authority'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:]

(Auth: HRS §§356D-4, 356D-13) (Imp: HRS §356D-13; 24 C.F.R. §982.601, 982.204)

§17-2036-30 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 authority 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 17-2036-22;
- (4) The applicant fails to respond to the authority'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 authority on the application or otherwise. [Eff:

] (Auth: HRS §§356D-4,

356D-13) (Imp: HRS §356D-13; 24 C.F.R.
§§982.601, 982.204(c))

§17-2036-31 Closing and reopening the waiting list. (a) The authority may suspend the acceptance of applications and close the waiting list when the authority determines that there are enough applicants on the waiting list to fill anticipated openings over a reasonable time period.

(b) The authority may publicly announce any closure and reopening of the taking of applications pursuant to section 17-2036-21. 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, notifying social service organizations, or posting on the authority's website.

(c) During periods when the waiting list is closed, the authority is not required to maintain a list of persons to be notified when application taking is reopened. [Eff:] (Auth: HRS §§356D-4, 356D-13) (Imp: HRS §356D-13; 24 C.F.R. §§982.601, 982.206)

§17-2036-32 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 17-2036-35, 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 17-2036-26 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 authority 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 authority 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 hinder the applicant from locating a suitable unit. The request for extension shall be in writing and be received by the authority 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 authority's sole discretion.

(2) If an extension is requested and denied, the applicant may be placed on the bottom of the waiting list. [Eff:]

(Auth: HRS §§356D-4, 356D-13) (Imp: HRS §356D-13; 24 C.F.R. § 982.629)

§17-2036-33 Reexaminations. (a) At least once every twelve months, the authority 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

authority may schedule a special reexamination at any time prior to the next annual reexamination.

(c) The participant shall be notified in writing by the authority of the results of any reexamination within a reasonable time. [Eff:]
 (Auth: HRS §§356D-4, 356D-13) (Imp: HRS §356D-13; 24 C.F.R §§5.617, 982.601, 982.516)

§17-2036-34 Interim homeownership assistance adjustment. (a) The authority 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 authority of the results of any reexamination within a reasonable time. [Eff:] (Auth: HRS §§356D-4, 356D-13) (Imp: HRS §356D-13; 24 C.F.R. §982.601, 982.516)

§17-2036-35 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 authority 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 authority before the participant moves out of the home;
 - (6) Notify the authority 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 17-2036, Hawaii Administrative Rules; and
 - (9) Comply with additional requirements that the authority 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:] (Auth: HRS §§356D-4, 356D-13) (Imp: HRS §356D-13; 24 C.F.R. §§982.551, 982.553, 982.633)

§§17-2036-36 to 17-2036-40 (Reserved).

SUBCHAPTER 3

PURCHASE OF DWELLING UNIT

§17-2036-41 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 authority.

(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:] (Auth: HRS §§356D-4, 356D-13) (Imp: HRS §356D-13; 24 C.F.R. §982.631)

§17-2036-42 Dwelling unit inspection.

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

(b) Prior to commencing homeownership assistance, the authority 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 authority, the applicant shall select and pay for an independent inspection conducted by an independent inspector qualified to report on property conditions, including major building systems and components. 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 authority and the applicant. The authority may disapprove the unit for homeownership assistance based on the information in the inspection report. [Eff: _____]
(Auth: HRS §§356D-4, 356D-13) (Imp: HRS §356D-13; 24 C.F.R. §982.631)

§17-2036-43 Lender requirements. (a) The authority shall maintain a list of approved mortgage lenders from which a family may obtain financing to purchase a home.

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

(c) Lenders shall notify the authority when a participant becomes delinquent by more than thirty days. [Eff: _____] (Auth: HRS §§356D-4, 356D-13) (Imp: HRS §356D-13; 24 C.F.R. §§982.625, 982.632)

§17-2036-44 Financing requirements. (a) The family may obtain financing to purchase the dwelling unit from any lender on the authority's approved list of mortgage lenders.

(b) The authority 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] to determine if the loan terms do not meet the authority's qualifications.

(c) The authority may disapprove certain loan types including adjustable rate mortgage loans and balloon payment mortgage loans. [Eff:]
(Auth: HRS §§356D-4, 356D-13) (Imp: HRS §356D-13; 24 C.F.R. §982.632)

§§17-2036-45 to 17-2036-50 (Reserved).

SUBCHAPTER 4

HOMEOWNERSHIP ASSISTANCE PAYMENTS

§17-2036-51 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:] (Auth: HRS §§356D-4, 356D-13) (Imp: HRS §356D-13; 24 C.F.R. §982.634)

§17-2036-52 Homeownership assistance payments.

(a) The authority 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: _____] (Auth: HRS §§356D-4, 356D-13) (Imp: HRS §356D-13; 24 C.F.R. §982.635)

§§17-2036-53 to 17-2036-60 (Reserved).

SUBCHAPTER 5

OPERATIONS

§17-2036-61 Portability. (a) The authority may require applicants who were nonresidents at the time of application to live in its jurisdiction during the first twelve-month period.

(b) The authority 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:] (Auth: HRS §§356D-4, 356D-13) (Imp: HRS §356D-13; 24 C.F.R. §§982.353, 982.355, 982.636)

§17-2036-62 Moves with continued tenant-based assistance. (a) A participant may move to a new unit with continued tenant-based assistance.

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

- (1) The authority 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; orThe participant has moved or has been issued a voucher within the last twelve months.

[Eff:] (Auth: HRS §§356D-4, 356D-13) (Imp: HRS §356D-13; 24 C.F.R. §§982.314, 982.552, 982.637)

§17-2036-63 Termination of participation. (a)
The authority 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 17-2036-35 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:] (Auth:
HRS §§356D-4, 356D-13) (Imp: HRS §356D-13;
24 C.F.R. §§982.551, 982.633, 982.638)

§§17-2036-64 to 17-2036-70 (Reserved).

SUBCHAPTER 6

MISCELLANEOUS PROVISIONS

§§17-2036-71 Severability. If any part,
section, sentence, clause, or phrase of this chapter,
of its application to any person or transaction of
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:] (Auth: HRS
§§356D-4, 356D-13) (Imp: HRS §356D-13)

§17-2036-72 Number. The use of all words used
in the singular shall extend to and include the
plural. [Eff:] (Auth: HRS §§356D-
4, 356D-13) (Imp: HRS §1-17)

DEPARTMENT OF HUMAN SERVICES

The repeal of chapter 15-195 and the adoption of chapter 17-2036, Hawaii Administrative Rules on the Summary Page dated April 21, 2016 was adopted on _____ following public hearings held on Oahu, Maui, Hilo and, Kauai after public notice was given in the Honolulu Star Advertiser, the Hawaii Herald Tribune, West Hawaii Today, The Garden Isle, and The Maui News on __ (date)_____.

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

PONO SHIM
Chairperson
Board of Directors
Hawaii Public Housing Authority

APPROVED AS TO FORM:

Deputy Attorney General

APPROVED:

DAVID Y. IGE
Governor, State of Hawaii

Dated: _____

Filed: _____

Attachment C

HAWAII ADMINISTRATIVE RULES

TITLE [15] 17

DEPARTMENT OF [BUSINESS, ECONOMIC DEVELOPMENT
AND TOURISM] HUMAN SERVICES

SUBTITLE [14] 5

[HOUSING AND COMMUNITY DEVELOPMENT CORPORATION OF
HAWAII] HAWAII PUBLIC HOUSING AUTHORITY

CHAPTER [195] 2036

SECTION 8 HOMEOWNERSHIP OPTION PROGRAM

SUBCHAPTER 1 General Provisions

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SUBCHAPTER 2 Eligibility

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§ [15-195-22] <u>17-2036-22</u>	Eligibility for admission; initial requirements
§ [15-195-23] <u>17-2036-23</u>	First-time homeowner requirements
§ [15-195-24] <u>17-2036-24</u>	Minimum income requirements
§ [15-195-25] <u>17-2036-25</u>	Employment requirements
§ [15-195-26] <u>17-2036-26</u>	Dwelling unit requirements
§ [15-195-27] <u>17-2036-27</u>	Notification of eligibility
§ [15-195-28] <u>17-2036-28</u>	Preferences
§ [15-195-29] <u>17-2036-29</u>	Waiting list
§ [15-195-30] <u>17-2036-30</u>	Removal from the waiting list

Content

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§ [15-195-32]	<u>17-2036-32</u>	Final application process - selection and certification
§ [15-195-33]	<u>17-2036-33</u>	Reexaminations
§ [15-195-34]	<u>17-2036-34</u>	Interim homeownership assistance adjustment
§ [15-195-35]	<u>17-2036-35</u>	Continued assistance; family obligations

SUBCHAPTER 3 Home Purchase

§ [15-195-41]	<u>17-2036-41</u>	Contract of sale; requirements
§ [15-195-42]	<u>17-2036-42</u>	Dwelling unit inspection
§ [15-195-43]	<u>17-2036-43</u>	Lender requirements
§ [15-195-44]	<u>17-2036-44</u>	Financing requirements

SUBCHAPTER 4 Homeownership Assistance Payments

§ [15-195-51]	<u>17-2036-51</u>	Maximum term of homeownership assistance
§ [15-195-52]	<u>17-2036-52</u>	Housing assistance payments
§ [15-195-53]		Recapture of homeownership assistance]

SUBCHAPTER 5 Operations

§ [15-195-61]	<u>17-2036-61</u>	Portability
§ [15-195-64]	<u>17-2036-64</u>	Moves with continued assistance
§ [15-195-66]	<u>17-2036-66</u>	Termination of participation

SUBCHAPTER 6 Miscellaneous Provisions

§ [15-195-71]	<u>17-2036-71</u>	Severability
§ [15-195-72]	<u>17-2036-72</u>	Number

Historical Note. Chapter 2036 of Title 17 Hawaii Administrative Rules, is substantially based upon Chapter 15-195, Hawaii Administrative Rules. [Eff:]

SUBCHAPTER 1

GENERAL PROVISIONS

§[15-195-1]17-2036-1 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.] authority. [Eff: 5/13/2002; am and ren §17-2036-1] (Auth: HRS [§201G-15] §§356D-4, 356D-13) (Imp: HRS [§201G-15;] §356D-13; 24 C.F.R. §982.54)

§[15-195-2]17-2036-2 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.

"Authority" means the Hawaii public housing authority.

"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] authority or the executive director's designated representative.

"Family" means regardless of actual or perceived sexual orientation, gender identity, or marital status, a person or group of persons, as determined by the [corporation,] authority 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 [establish] established by the [corporation] authority 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.

"Gender identity or expression" includes a person's actual or perceived gender, as well as a person's gender identity, gender-related self-image, gender-related appearance, or gender-related expression, regardless of whether that gender identity, gender-related self-image, gender-related appearance, or gender-related expression is different from that traditionally associated with the person's sex at birth.

"HRS" means Hawaii Revised Statutes.

"Home" means a dwelling unit for which the [corporation] authority 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.] authority. 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.] authority.

"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.] authority.

"Lender" or "mortgage lender" means a mortgage lender as defined in part I, chapter [201G,] 356D, 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: 5/13/2002; am and ren §17-2036-2] (Auth: HRS [§201G-15] §§356D-4, 356D-13) (Imp: HRS [§201G-15;] §356D-13; 24 C.F.R. Parts 5 and 982)

§[15-195-3]17-2036-3 Nondiscrimination. (a) The [corporation] authority 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, gender identity, sexual orientation, handicap or disability or HIV infection.

(c) The [corporation] authority 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] authority 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: 5/13/2002; am and ren §17-2036-3] (Auth: HRS [§201G-15] §§356D-4, 356D-13) (Imp: HRS [§201G-15;] §356D-7; 24 C.F.R. §§982.53, 982.304)

§[15-195-4]17-2036-4 Verification of information. (a) The [corporation] authority 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: 5/13/2002; am and ren §17-2036-4] (Auth: HRS [§201G-15] §§356D-4, 356D-13) (Imp: HRS [§201G-15;] §356D-13; 24 C.F.R. §§982.551, 982.552, 982.553, 982.626)

17-2036-5 through 17-2036-20 Reserved

SUBCHAPTER 2

ELIGIBILITY

§[15-195-21] 17-2036-21 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.] authority. The applicant is permitted to file an application by mailing to or by submitting in person to any of the [corporation's] authority'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: 5/13/2002; am and ren §17-2036-21] (Auth: HRS [§201G-15] §§356D-4, 356D-13) (Imp: HRS [§201G-15;] §356D-13; 24 C.F.R. §§982.551, 982.552)

§[15-195-22]17-2036-22 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;] 17-2036-23;
- (4) Satisfies the minimum income requirements set forth in section [15-195-24;] 17-2036-24;
- (5) Satisfies the employment requirements set forth in section [15-195-25;] 17-2036-25;
- (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;] 17-2036-41; [and]

- (10) Satisfies any other initial requirements as determined by the [corporation] authority and set forth in the PHA section 8 administrative plan[.]; and
- (11) Not engage in or threaten abusive or violent behavior toward the authority's staff. For purposes of this subsection, "threaten" means an oral or written threat or physical gestures that communicate intent to abuse or commit violence. Abusive or violent behavior may be verbal or physical and include use of expletives that are generally considered insulting, racial epithets, or other language, written or oral, that is customarily used to insult or intimidate.

(b) The applicant shall also satisfactorily complete a pre-assistance homeownership counseling program approved by the [corporation.] authority.

[Eff: 5/13/2002; am and ren §17-2036-22

] (Auth: HRS [§201G-15] §§356D-4, 356D-13) (Imp: HRS [§201G-15;] §§356D-4, 356D-13; 24 C.F.R. §§982.626, 982.627, 982.628, 982.629)

§[15-195-23] 17-2036-23 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: 5/13/2002; ren §17-2036-23
] (Auth: HRS [§201G-15] §§356D-4, 356D-13) (Imp: HRS [§201G-15;] §356D-13; 24 C.F.R. §982.627

§[15-195-24]17-2036-24 Minimum income requirements. (a) At commencement of homeownership assistance, the participant shall demonstrate that the annual income, as determined by the [corporation,] authority, of the adult family members who will own the home at commencement of homeownership assistance is not less than:

- (1) In the case of a disabled family, the monthly federal supplemental security income (SSI) benefit for an individual living alone or paying his or her share of food and housing costs multiplied by twelve; or
- (2) In the case of other families, the federal minimum hourly wage multiplied by 2,000 hours.

(b) Except for an elderly family or a disabled family, the [corporation] authority shall not count any welfare assistance received by the family in determining annual income. In the case of an elderly or disabled family, the authority shall include welfare assistance for the adult family members who will own the home in determining if the family meets the minimum income requirement.

(c) The disregard of welfare assistance income under subsection (b) only affects the determination of minimum annual income used to determine if a family initially qualifies for commencement of homeownership assistance in accordance with this section, but does not affect:

- (1) The determination of income-eligibility for admission to the voucher program;
- (2) Calculation of the amount of the family's total tenant payment; or
- (3) Calculation of the amount of homeownership assistance payments on behalf of the family.

[Eff: 5/13/2002; am and ren §17-2036-24

] (Auth: HRS [§201G-15]

§§356D-4, 356D-13) (Imp: HRS [§201G-15;]

§356D-13; 24 C.F.R. §982.627)

§[15-195-25]17-2036-25 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] authority 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: 5/13/2002; am and ren §17-2036-25

] (Auth: HRS [§201G-15]

§§356D-4, 356D-13) (Imp: HRS [§201G-15;] §356D-13; 24 C.F.R. §982.627)

§[15-195-26]17-2036-26 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] authority 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] authority and by an independent inspector designated and paid for by the family; and
- (5) The unit satisfies the housing quality standards.

(b) The [corporation] authority shall not commence homeownership assistance for occupancy of a home if the [corporation] authority 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: 5/13/2002; am and ren §17-2036-26] (Auth: HRS [§201G-15] §§356D-4, 356D-13) (Imp: HRS [§201G-15;] §356D-13; 24 C.F.R. §§982.352, 982.628)

§[15-195-27]17-2036-27 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] authority 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,] 17-2036, Hawaii Administrative Rules. [Eff: 5/13/2002; am and ren §17-2036-27] (Auth: HRS [§201G-15] §§356D-4, 356D-13) (Imp: HRS [§201G-15;] §356D-13; 24 C.F.R. §982.638)

§[15-195-28]17-2036-28 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] authority's family self-sufficiency program; or
- (2) Enrolled and in full compliance with the [corporation's] authority's welfare to work program or other self-sufficiency program approved by the [corporation.] authority.

(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: 5/13/2002; am and ren §17-2036-26] (Auth: HRS [§201G-15] §§356D-4, 356D-13) (Imp: HRS [§201G-15;] §356D-13; 24 C.F.R. §982.626)

[§15-195-29]§17-2036-29 Waiting list. (a) The [corporation] authority 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] authority 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,] authority, at least annually, of any change that may affect the applicant's place on the waiting list and the [corporation's] authority'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:

5/13/2002; am and ren §17-2036-30]
 (Auth: HRS [§201G-15] §§356D-4, 356D-13) (Imp: HRS
 [§201G-15;] §356D-13; 24 C.F.R. §982.629)

§[15-195-30]17-2036-30 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] authority 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;] 17-2036-22;
- (4) The applicant fails to respond to the [corporation's] authority'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] authority on the application or otherwise. [Eff: 5/13/2002; am and ren §17-2036-30

] (Auth: HRS [§201G-15] §§356D-4, 356D-13) (Imp: HRS [§201G-15;] §356D-13; 24 C.F.R. §§982.626, 982.629, 982.633)

§[15-195-31]17-2036-31 Closing and reopening the waiting list. (a) The [corporation] authority may suspend the acceptance of applications and close the waiting list when the [corporation] authority

determines that there are enough applicants on the waiting list to fill anticipated openings over a reasonable time period.

(b) The [corporation] authority 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[.], or posting on the authority's website.

(c) During periods when the waiting list is closed, the [corporation] authority is not required to maintain a list of persons to be notified when application taking is reopened. [Eff: 5/13/2002; am and ren §17-2036-31] (Auth: HRS [§201G-15;] §§356D-4, 356D-13) (Imp: HRS [§201G-15] §356D-13; 24 C.F.R. §§982.626, 982.629)

§[15-195-32]17-2036-32 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,] 17-2036-35, 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] 17-2036-26 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] authority 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] authority 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] authority 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.

- (3) An extension may be granted at the [corporation's] authority's sole discretion.
- (4) If an extension is requested and denied, the applicant may be placed on the bottom of the waiting list. [Eff: 5/13/2002; am and ren §17-2036-32] (Auth: HRS [§201G-15] §§356D-4, 356D-13) (Imp: HRS [§201G-15;] §356D-13; 24 C.F.R. § 982.629)

§[15-195-33]17-2036-33 Reexaminations. (a) At least once every twelve months, the [corporation] authority 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] authority 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] authority of the results of any reexamination within a reasonable time. [Eff: 5/13/2002; am and ren §17-2036-33]
(Auth: HRS [§201G-15] §§356D-4, 356D-13) (Imp: HRS [§201G-15;] §356D-13; 24 C.F.R §§5.617, 982.629, 982.635)

§[15-195-34]17-2036-34 Interim homeownership assistance adjustment. (a) The [corporation] authority 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] authority of the results of any reexamination within a reasonable time. [Eff: 5/13/2002; am and ren §17-2036-34] (Auth: HRS [§201G-15] §§356D-4, 356D-13) (Imp: HRS [§201G-15;] §356D-13; 24 C.F.R. §982.635)

§[15-195-35]17-2036-35 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] authority or HUD determines is necessary in the administration of the Program, including information on the following:
 - (iv) 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;
 - (v) Any sale or other transfer of any interest in the home; or
 - (vi) The family's homeownership expenses;
- (5) Notify the [corporation] authority before the participant moves out of the home;
- (6) Notify the [corporation] authority 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,] 17-2036, Hawaii Administrative Rules; and
- (9) Comply with additional requirements that the [corporation] authority may establish including:
 - (iii) Attending post-purchase homeownership counseling; or

(iv) 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: 5/13/2002; am and ren §17-2036-35] (Auth: HRS [§201G-15] §§356D-4, 356D-13) (Imp: HRS [§201G-15;] §356D-13; 24 C.F.R. §§982.551, 982.553, 982.633)

17-2036-36 through 17-2036-40 Reserved

SUBCHAPTER 3

PURCHASE OF DWELLING UNIT

§[15-195-41] 17-2036-41 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.] authority.

(c) 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: 5/13/2002; am and ren §17-2036-41] (Auth: HRS [§201G-15] §§356D-4, 356D-13) (Imp: HRS [§201G-15;] §356D-13; 24 C.F.R. §982.631)

§[15-195-42]17-2036-42 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] authority 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,] authority, the applicant shall select and pay for an independent inspection conducted by an independent inspector[.] qualified to report on property conditions, including major building systems and components. 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] authority and the applicant. The [corporation] authority may disapprove the unit for homeownership assistance based on the information in the inspection report. [Eff: 5/13/2002; am and ren §17-2036-42] (Auth: HRS [§201G-15] §§356D-4, 356D-13) (Imp: HRS [§201G-15;] §356D-13; 24 C.F.R. §982.631)

§[15-195-43]17-2036-43 Lender requirements. (a)

The [corporation] authority 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] authority's approval of the terms of the loan.

(c) Lenders shall notify the [corporation] authority when a participant becomes delinquent by more than thirty days. [Eff: 5/13/2002; am and ren §17-2036-43] (Auth: HRS [§201G-15] §§356D-4, 356D-13) (Imp: HRS [§201G-15;] §356D-13; 24 C.F.R. §§982.625, 982.632)

§[15-195-44]17-2036-44 Financing requirements.

(a) The family may obtain financing to purchase the dwelling unit from any lender on the [corporation's] authority's approved list of mortgage lenders.

(b) The [corporation] authority 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] to determine if the loan terms do not meet the [corporation's] authority'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] authority may disapprove certain loan types including adjustable rate mortgage loans and balloon payment mortgage loans. [Eff: 5/13/2002; am and ren §17-2036-44] (Auth: HRS [§201G-15] §§356D-4, 356D-13) (Imp: HRS [§201G-15;] §356D-13; 24 C.F.R. §982.632)

17-2036-45 through 17-2036-50 Reserved

SUBCHAPTER 4

HOMEOWNERSHIP ASSISTANCE PAYMENTS

§[15-195-51]17-2036-51 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: 5/13/2002; ren §17-2036-51] (Auth: HRS [§201G-15] §§356D-4, 356D-13) (Imp: HRS [§201G-15;] §356D-13; 24 C.F.R. §982.634)

§[15-195-52]17-2036-52 Homeownership assistance payments.

- (a) The [corporation] authority 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: 5/13/2002; am and ren §17-2036-52] (Auth: HRS [§201G-15] §§356D-4, 356D-13) (Imp: HRS [§201G-15;] §356D-13; 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: 5/13/2002; am and ren §17-2036-53]
 (Auth: HRS [§201G-15] §§356D-4, 356D-13) (Imp: HRS [§201G-15;] §356D-13; 24 C.F.R. §982.640)]

17-2036-53 through 17-2036-60 Reserved

SUBCHAPTER 5

OPERATIONS

§[15-195-61]17-2036-61 Portability. (a) The [corporation] authority may require applicants who were nonresidents at the time of application to live in its jurisdiction during the first twelve-month period.

(c) The [corporation] authority 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: 5/13/2002; am and ren §17-2036-61
] (Auth: HRS [§201G-15] §§356D-4, 356D-13) (Imp: HRS [§201G-15;] §356D-13; 24 C.F.R. §§982.353, 982.355, 982.636)

§[15-195-62]17-2036-62 Moves with continued tenant-based assistance. (a) A participant may move to a new unit with continued tenant-based assistance.

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

- (1) The [corporation] authority 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: 5/13/2002; am and ren §17-2036-62
] (Auth: HRS [§201G-15] §§356D-4, 356D-13) (Imp: HRS [§201G-15] §356D-13; 24 C.F.R. §§982.314, 982.552, 982.637)

§[15-195-63]17-2036-63 Termination of participation. (a) The [corporation] authority 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;] 17-2036-35 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: 5/13/2002; am and ren §17-2036-63] (Auth: HRS [§201G-15] §§356D-4, 356D-13) (Imp: HRS [§201G-15] §356D-13; 24 C.F.R. §§982.551, 982.633, 982.638)

17-2036-64 through 17-2036-70 Reserved

SUBCHAPTER 6

MISCELLANEOUS PROVISIONS

§[15-195-71]§17-2036-71 Severability. If any part, section, sentence, clause, of phrase of this chapter, of its application to any person or transaction of 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: 5/13/2002; ren §17-2036-71] (Auth: HRS [§201G-15] §§356D-4, 356D-13) (Imp: HRS [§201G-15] §356D-13)

§[15-195-72]17-2036-72 Number. The use of all words used in the singular shall extend to and include the plural. [Eff: 5/13/2002; am and ren §17-2036-72] (Auth: HRS [§201G-15] §§356D-4, 356D-13) (Imp: HRS §1-17)