DEPARTMENT OF HUMAN SERVICES

Adoption of Chapter HPHA-RS
Hawai'i Administrative Rules

June 16, 2016

SUMMARY

Chapter HPHA-RS, Hawai'i Administrative Rules, entitled "Special Rent Supplement Program Emergency Rules", is adopted.

HAWAI'I ADMINISTRATIVE RULES

TITLE 17

DEPARTMENT OF HUMAN SERVICES

SUBTITLE 5

HAWAII PUBLIC HOUSING AUTHORITY

Chapter HPHA-RS

SPECIAL RENT SUPPLEMENT PROGRAM EMERGENCY RULES

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SUBCHAPTER 1

GENERAL PROVISIONS

HPHA-RS-1.0 Findings. The authority finds that:

(a) The Governor of the State of Hawai'i has determined and proclaimed that the homeless situation in the State of Hawai'i is an emergency contemplated by section 127A-14, Hawai'i Revised Statutes ("HRS"), and that this homeless emergency continues, as evidenced by his Proclamation dated October 16, 2015, and Supplementary Proclamations dated October 26, 2015, December 24, 2015, February 19, 2016, and April 22, 2016 ("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 imminent peril to the public health, safety, or morals, or to natural resources as the Governor has declared a homeless emergency in the State of Hawai'i through his Emergency Proclamations;

(d) By Proclamation dated October 16, 2015, the Governor directed all state agencies and officers to cooperate with and extend their services, materials, and facilities as may be required to assist in all efforts to address the objectives of his proclamation in addressing the homeless situation;

(e) By Supplementary Proclamation dated October 26, 2015, the Governor expanded the purpose of his original Proclamation to include all efforts necessary to respond to the current homeless emergency and that state agencies endeavor to include a coordinated response among participating state, county, and private agencies that includes assisting with providing services, training, and opportunities to the homeless population and employing relocation efforts;

(f) The authority agrees with Governor's determination in his Proclamation dated October 16, 2015, that "the lack of secure, safe, and sanitary shelter, and adequate health and social services, for

this large number of people without homes is endangering the health, safety, and welfare of the people, including families and children, and poses a threat to the environment, and demands emergency action to prevent or mitigate suffering, injury, loss, or damage";

(g) The authority finds that homelessness presents an immediate threat to the health and safety of unsheltered individuals and families, including an impact on social determinants of health, increased exposure to the elements, communicable diseases, and unsanitary conditions;

(h) There is an ongoing need for long-term housing and permanent housing to serve homeless individuals and families as evidenced by the Second Supplementary Proclamation dated December 24, 2015, and Third Supplementary Proclamation dated February 19, 2016;

(i) There is a disparity between income and housing which is a barrier to permanent housing, and rental subsidy programs can address this barrier for individuals and families who are currently experiencing homelessness.

(j) Homeless emergency shelters and homeless transitional shelters provide only temporary shelter for those who are homeless and do not constitute permanent housing;

(k) Individuals and families residing in homeless emergency shelters or homeless transitional shelters need to relocate and have access to permanent housing;

(l) These emergency rules assist eligible homeless individuals and families residing in and receiving services from emergency or transitional shelters by providing them a special rental subsidy to help them transition into and secure permanent housing;

(m) The rental subsidy programs have been implemented in Hawaii for over two decades;

(n) Rental subsidy programs make better use of existing inventory, ameliorate the need for government agencies to construct and maintain new buildings, and provide economic benefit for those with available

units;

(o) These emergency rules assist shelter providers with placing their clients into permanent housing and provide six months of continuous follow up case management;

(p) The special rent supplement program administered by these emergency rules encourages unsheltered individuals and families experiencing homelessness to enter into emergency or transitional shelters so they become eligible for the permanent housing assistance and case management available thru this special program;

(q) These rules support shelter facilities that assist homeless individuals and families seeking help thereby creating a strong continuum of care;

(r) These emergency rules are necessary to provide emergency relief and implement the Governor's emergency homeless initiatives set forth in the Emergency Proclamations; and

(s) Based on the above, there is an imminent peril to the public health, safety or morals, or to natural resources caused by the homeless situation requiring immediate adoption of these emergency rules upon less than thirty days' notice of hearing.

(t) These findings are based on the authority Board of Director's personal knowledge and professional experiences.

HPHA-RS-1.1 Purpose. These emergency rules are adopted based on the findings in section HPHA-RS-1.0, and set forth the requirements for participation by eligible applicants and housing owners in this special rent supplement program administered by the authority under Chapter 356D, Part VIII, Hawai'i Revised Statutes, to address the homelessness emergency ("Special Rent Supplement Program").

HPHA-RS-1.2 Applicability. Notwithstanding Chapter 15-184, Hawai'i Administrative Rules ("HAR"), Rent Supplement Program, and any subsequent repeal and adoption of new administrative rules to replace Chapter 15-184, HAR (collectively, "RSP HARs"), these

rules shall apply only to applicants and participants of this Special Rent Supplement Program; provided that upon expiration of these emergency rules, these rules shall terminate, and the RSP HARs shall apply to all participants of this Special Rent Supplement Program. Notwithstanding the termination of these rules, any rent supplement agreement executed pursuant to this Special Rent Supplement Program and these rules shall continue and be in effect for a period not to exceed 12 months.

HPHA-RS-2 Definitions. As used in this chapter:

"Applicant" means an individual or family who resides in a homeless emergency shelter or homeless transitional shelter and who submits an application to participate in the program but is not yet a participant in the program.

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

"Authority" means the Hawaii public housing authority.

"Criminal activity" means conduct constituting a criminal violation of federal law, HRS, or local ordinances regardless of whether there has been an arrest or conviction for such activity and without satisfying the standard of proof for a criminal conviction.

"Displaced" means a family or elderly individual who is without housing, about to be without housing or was without housing within three years prior to applying for housing assistance and was displaced by some public or governmental action.

"Drug" means a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. §802) as it existed on December 18, 2014.

"Drug-related criminal activity" means the illegal possession, manufacture, sale, distribution, use or possession with intent to manufacture, sell, distribute, or use, of a controlled substance as defined in Section 102 of the Controlled Substances

Act (21 U.S.C. §802).

"Dwelling unit" means a house, apartment or group of rooms, intended for residential occupancy as separate living quarters with each unit having direct access from either the outside of the building or through a common hall with each unit being equipped with complete kitchen and bathroom facilities for the exclusive use of the occupants, and is located in Hawaii. Dwelling units that present a serious health or safety hazard shall not be acceptable for use by participants of the program.

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

"Executive Director" means the executive director of the Hawaii Public Housing Authority.

"Family" means:

(1) One or more persons who live or intend to occupy a dwelling unit and whose income and resources are available to meet the family's need and who may, but need not be, related by blood, marriage, or operation of law, including foster children and hanai children and whose head of household has reached the age of majority, or is otherwise legally emancipated;

(2) A person who is pregnant or in the process of securing legal custody of a minor child or children, and who has reached the age of majority or is otherwise emancipated.

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

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

"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.

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

"Homeless emergency shelter" means a homeless facility designed to provide temporary shelter and appropriate and available services to homeless families or individuals for up to six weeks. Emergency shelters are characterized by their short-term, walk-in nature, with the option for participants to enter into a case plan upon entry and community living quarters.

"Homeless transitional shelter" means a homeless facility designed to provide temporary shelter and appropriate and available social services to homeless families or individuals for up to twenty-four months.

"Household" includes "family", "elderly", and "displaced".

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

"Housing owner" means the same as defined in section 356D-152, HRS, and may include an agent of an owner.

"HRS" means the Hawaii revised statutes.

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

"Minor" means a person less than eighteen years of age. An unborn child may not be counted as a minor.

"Participant" means the same as tenant.

"Program" means the Special Rent Supplement Program administered by the authority.

"Provider agency" means the organization meeting the qualifying standards under HPHA-RS-8 that is selected and contracted by the authority to administer this program, in whole or part, and provide rent supplement payments on behalf of participants under this program.

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

"Security deposit" means a monetary deposit required by a landlord prior to occupancy of the dwelling unit.

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

"Shared housing" means a dwelling unit with two or more bedrooms that is occupied by more than one person or household which share the housing cost for the dwelling.

"Standard unit" means the same as "dwelling unit".

"Tenant" means a qualified person or family that is participating in the program.

"Unassisted household" means a person or family who is not participating in the program.

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

"Very low income" means 50 per cent of the median household income for the area as determined by the U.S. Department of Housing and Urban Development.

"Violent criminal activity" means any criminal activity that includes the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage.

HPHA-RS-3 Income limits. To be eligible to participate or continue participation in the program, an applicant's or tenant's adjusted household income shall not exceed the very low income limits most recently determined by the U.S. Department of Housing and Urban Development.

HPHA-RS-4 Asset limits. (a) An elderly family

having assets valued at more than twice its applicable income limit is ineligible to participate in the program.

(b) A non-elderly family having assets which are valued at more than one and one half times its applicable income limit is ineligible to participate in the program.

HPHA-RS-5 Asset transfer. All assets transferred or assigned to another party, within a twenty-four month period prior to submitting an application or for the purpose of continuing to qualify for participation in the program, shall be included in determining a household's assets.

HPHA-RS-6 Occupancy guidelines. Eligible applicants and tenants shall abide by the occupancy standards for admission and continued occupancy in this program as prescribed in exhibit A, entitled "Occupancy Standards", located at the end of this chapter.

HPHA-RS-7 Program administration. (a) The authority may enter into contract with provider agencies to administer this program in whole or in part.

(b) Notwithstanding that services to administer this program may be contracted with provider agencies, the authority reserves the right to approve participation for eligible applicants.

(c) The provider agency shall administer this program in compliance with these emergency rules (Chapter HPHA-RS) until the termination of these rules as set forth in HPHA-RS-1.2. Upon termination of these rules, the provider agency shall administer this program pursuant to Chapter 15-184, HAR, Rent Supplement Program, or any adoption of new administrative rules to replace Chapter 15-184, HAR.

HPHA-RS-8 Qualifying standards for provider agencies. (a) Any provider agency contracted to administer this special rent supplement program shall meet the following requirements:

(1) (A) Be a for-profit organization incorporated under the laws of the State; or

(b) Be a nonprofit organization determined by the internal revenue services to be exempt from federal income tax with a governing board whose members have no material conflict of interest and serve without compensation;

(2) Have at least one year's experience working with homeless families; provided that the authority may grant an exception where the organization has otherwise demonstrated the necessary experience or capacity to manage the contract in this program area; and

(3) Have no outstanding balances owed to the authority, except that the executive director may grant exceptions for debts recently acquired that are under an approved payment plan.

(b) The authority may require provider agencies to submit information, including but not limited to, information on the agency's background, position descriptions and staff resume, program plan and design, and certification that the provider agency has a functioning accounting system that is operated in accordance with generally accepted accounting principles. The authority may accept verification by the department of human services in lieu of documentation listed above.

(c) Upon the commencement and completion of a contract, the authority shall require a provider agency to submit a valid tax clearance certificate from the state department of taxation and the internal revenue service.

(d) Upon commencement of a contract, the authority shall require a provider to submit a certificate of compliance from the department of labor and industrial relations and a certificate of good

standing from the department of commerce and consumer affairs. Alternatively, a provider agency may submit a certificate of compliance from the Hawaii compliance express to demonstrate compliance with the department of taxation, internal revenue service, department of labor and industrial relations, and department of commerce and consumer affairs.

(e) The authority may contract with a provider agency that is a religious or faith-based organization provided that the provider agency agrees to administer and implement all eligible activities under this program in a manner that is free from religious influence and in accordance with the following:

(1) Provider agency will provide services and rent supplement assistance in a manner free from discrimination and will not limit services or give preference to persons on the basis of religion;

(2) Provider agency will not exert religious influence, such as requiring prayer or attendance in religious services, as a condition of participation.

HPHA-RS-8 Payments to provider agencies. (a) The authority may make or contract to make payments to a provider agency qualified under section HPHA-RS-7.

(b) Funds received shall be used for rent supplement payments under HPHA-RS-31. The authority may reserve an amount of funds for the administration of the program by the authority or provider agencies.

(c) Payments to provider agencies may be made in advance by the authority on a monthly basis to ensure timely payments on behalf of program participants.

(d) Requests for payments shall be in the form prescribed by the authority. The request for payment shall, at a minimum, include a list of program participants, pending applicants, and computation of the amount requested.

HPHA-RS-9 Applicant and participant files. (a)

All applicant and participant files and personal information given or made available to the authority or a provider agency in the course of administration of this program shall be treated as confidential and maintained in secured equipment or rooms.

(b) All applicant and participant information shall be made available and accessible to the authority for the purposes of monitoring, quality control, audit or other program purposes.

(c) All applicant and participant information and files shall turned over to the authority within 5 business days at the completion of this program or termination of the provider agency contract.

SUBCHAPTER 2

ELIGIBILITY

HPHA-RS-11 Application. (a) A person seeking to participate in the program shall submit a completed application form, provided by the authority. The form shall include, but not be limited to, information relating to household income, household composition, social security number or a certification that the member does not have a social security number for each household member, evidence of citizenship or eligible immigrant status as provided under 24 C.F.R. §5.508, as it existed on April 7, 2016, for each household member, financial condition, and other program information necessary to determine eligibility and program demographics.

(b) The applicant shall be placed on a special statewide waiting list upon submission of a completed application form. Placement on the special statewide waiting list shall not be deemed a determination of eligibility or admission.

(c) An applicant who has misrepresented material information or has willfully withheld important information on the application form submitted to the authority shall not be eligible to file an application with the authority for placement on the regular

waiting list under RSP HARs for twelve months from the date of written notification from the authority.

HPHA-RS-12 Verification. Applicants and tenants in the program shall provide, prior to admission or as the authority may require, documentation setting forth information concerning household income, household composition, social security number or a certification that the member does not have a social security number for each household member, evidence of citizenship or eligible immigrant status as provided under 24 C.F.R. §5.508, as it existed on April 7, 2016, for each household member, financial condition or other information as may be requested.

HPHA-RS-13 Eligibility for participation. (a) To be eligible to participate or continue participation in the program, the applicant and applicant's household members or tenant and tenant's household members shall:

(1) Qualify as a household;
(2) Have an adjusted household income which does not exceed the applicable income limit;
(3) Have assets which do not exceed the applicable asset limit;
(4) Have earning capabilities or whose financial situation gives reasonable assurance of meeting the rental payments on time as they become due;
(5) Not own, in whole or a majority interest in, a dwelling unit in the state of Hawaii;
(6) Not have an outstanding debt owed to the authority;
(7) Be eligible for a monthly rent supplement payment of a minimum of $25 and not more than $1,000;
(8) Provide a social security number for all family members or certify that the person does not have a social security number;
(9) Meet all requirements of part VIII, chapter 356D, HRS;

(10) Have their primary place of residence in Hawai'i or intends to make Hawai'i their primary place of residence;

(11) Not have engaged in criminal activity involving crimes against persons or property that is a threat to the health, safety, or property of others, for three years prior to admission;

(12) Not have been evicted from any of the authority's housing programs for drug related criminal activity for three years prior to admission. For purposes of this subsection, in determining eligibility, the authority may consider whether the evicted applicant or household member has successfully completed a rehabilitation program approved by the authority, or whether the circumstances leading to eviction no longer exist;

(13) Not engage in any drug related or violent criminal activity;

(14) Not engage in the illegal use of a drug or give the authority or its provider agency reasonable cause to believe that the illegal use of a drug, pattern of illegal use, abuse of alcohol, or pattern of abuse of alcohol may interfere with the health and safety of the residents, or the right to peaceful enjoyment of the premises by other residents;

(A) For the purposes of this subsection "reasonable cause to believe" means by the preponderance of the evidence;

(B) For the purposes of this subsection, in determining whether to deny eligibility based on a pattern of use of a drug or a pattern of abuse of alcohol, the authority may consider rehabilitation as provided for under 42 U.S.C. §13661(b)(2)(A)-(C) effective October 1, 1999;

(15) Except for a newborn child, a person shall not be permitted to join or rejoin the

household until it is verified that the person meets the eligibility requirements set forth in this section;

(16) Not engage in or threaten abusive or violent behavior toward the authority's or the provider agency'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 intimidate;

(17) Not cause any harm or damage to the authority, its staff, agents, representatives, or programs;

(18) Furnish evidence of citizenship or eligible immigrant status as provided for in 24 C.F.R. §5.508, as it existed on April 7, 2016; and

(19) Be referred from a homeless shelter, outreach, grant, or supportive service provider who has assisted the applicant in completion of an application for rent supplement, in locating a qualified dwelling unit and who agrees to provide case management follow-up services for no less than six months after applicant placement in this Special Rent Supplement Program.

(b) The provider agency shall make the initial determination that the applicant and applicant's household members are eligible to participate in the program, or that the tenant and tenant's household members are eligible to continue to participate in this program, as set forth in subsection (a), and forward its determination of eligibility and supporting documentation to the authority for final approval.

SUBCHAPTER 3

TENANT SELECTION

HPHA-RS-21 Nondiscrimination. (a) The authority and its provider agency 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.

HPHA-RS-22 Special statewide waiting list. (a) The authority shall maintain a special statewide waiting list of applicants who may be eligible to obtain a certification of rent supplement eligibility.

(b) Placement of applicants on the special statewide waiting list shall be based upon date and time of receipt of completed application.

(c) An applicant must notify the provider agency, of any change that may affect the applicant's place on the special statewide waiting list and the provider agency's ability to contact the applicant. Changes include, but are not limited to, familial status, financial status, preference status, mailing address and current residence.

(d) The special statewide waiting list established by these rules will terminate upon expiration of these emergency rules.

HPHA-RS-23 Preference. Notwithstanding the preference set forth in section 15-184-14, HAR,

preference shall be given to applicants with a completed application and documentation verifying that the applicant has secured a qualified dwelling unit. Participation in the program shall be determined in order of submission date of proposed rental agreement or other documentation which identifies a qualified unit by an applicant on the wait list.

HPHA-RS-24 Removal from special statewide waiting list. (a) An applicant may be removed from the waiting list for one of the following reasons:

(1) The applicant requests that the applicant's name be removed;

(2) The applicant no longer meets the eligibility criteria set forth in section HPHA-RS-13;

(3) The applicant fails to respond to the authority's reasonable efforts such as correspondence to the last known address to contact them;

(4) The applicant fails without good cause to keep a scheduled interview or to provide requested information necessary to determine eligibility; or

(5) An applicant who has misrepresented material information or has wilfully withheld important information from the authority shall be removed from the waiting list for twelve months.

(b) The authority may consider reinstatement of an applicant on the special statewide waiting list due to extenuating circumstances. The authority may assign a new date and time to the application based on the date and time of notification of an acceptable reason for failure to respond to the authority.

(c) Reinstatement of an applicant to the special statewide waiting list must occur prior to the expiration of these emergency rules.

HPHA-RS-25 Ineligible applicant. An applicant determined to be ineligible for participation in the

program shall be notified in writing of the termination and the reasons thereof by the authority or its designated representative.

HPHA-RS-26 Closing the special statewide waiting list. (a) The authority, at its discretion, may restrict or refuse acceptance of applications to the special statewide waiting list, when it determines that it is unable to assist applicants on the waiting list within a reasonable period of time.

(b) The authority shall publicly announce any closure and reopening of the application process for this special program by posting a notice on its website or in publication in a newspaper of general circulation.

SUBCHAPTER 4

RENT

HPHA-RS-31 Rent supplement payments. (a) The authority or its provider agency shall pay directly to the housing owner, or authorized representative, on behalf of a tenant, a monthly amount which is the difference between the established monthly rent for the tenant's dwelling unit and the tenant's allocable share of rent as established in section HPHA-RS-32 below; provided that the authority or its provider agency shall not make any initial monthly payments that exceed $1,000 on behalf of any tenant.

(b) Rent supplement payments will be made on behalf of a tenant for the period that the rental unit is occupied; except that if the tenant vacates the dwelling unit without proper notice, rent supplement payments will be continued to the time that the rental agreement could legally be terminated or to the date that the unit is re-rented, or to the last day of the month that the tenant vacated the unit and rent supplement payment was already made, whichever comes first.

(c) Initial monthly payments of up to $1,000 shall be reduced to regular monthly payments of no more than $500 on behalf of any tenant after six months of initial placement into a dwelling unit.

HPHA-RS-32 Rent calculation. (a) The tenant's allocable share of monthly rent shall be determined by subtracting $100 per minor child from the household income; multiplied by thirty per cent; divided by twelve and rounded to the closest dollar amount.

Example: tenant's household income = $15,000
number of minor children = 2

	$15,000	(household income)
-	$ 200	(less $100 for each minor)
	$14,800	
x	30%	
	$ 4,440	
÷	12	
	$ 370	tenant's allowable share of monthly rent

(b) The tenant shall pay to the landlord the allocable share of monthly rent as determined in subsection (a).

HPHA-RS-33 Reexamination. (a) The authority or its provider agency shall review the household's income, household composition and any other related matter to adjust, if necessary, the tenant's allocable share of monthly rent and the authority's rent supplement payment.

(b) A non-elderly household shall be reexamined at least once every twelve months.

(c) An elderly household shall be reexamined at least once every twenty-four months.

(d) If at the time of admission or annual reexamination, a household's income cannot be reasonably determined for the next twelve months, a six month reexamination may be scheduled.

(e) The tenant's allocable share of monthly rent shall be adjusted between reexaminations when a person

with income is added to the household and the adjustment shall be effective on the first day of the second month following the approved inclusion.

(f) Reexamination may be performed either in-person or via mail.

HPHA-RS-34 Security deposits. (a) No portion of the rent supplement payments shall be applied or allocated to any security deposit demanded by a housing owner. The authority shall not be responsible for nor be required to pay a housing owner for the security deposit.

(b) The tenant may be referred to grant making agencies under contract with the Department of Human Services for assistance with security deposits.

SUBCHAPTER 5

RENT SUPPLEMENT AGREEMENTS

HPHA-RS-41 Rent supplement agreement - housing owners. (a) A rent supplement agreement, used by the authority, shall be executed between the authority and housing owners who rent dwelling units to tenants of the program. The form shall include, but not be limited to, an acknowledgment of the rental agreement between the owner and participant, the amount of rent and supplemental assistance, date that payment is due, to whom payment is to be made and the owner's and authority's responsibilities.

(b) Amendments to the rent supplement agreement shall be in writing, and approved by the authority and the housing owner.

HPHA-RS-42 Rent supplement agreement - tenants. (a) The head(s) of household of a tenant household shall execute a rent supplement agreement, used by the authority prior to participating in the program. The form shall include, but not be limited to, an

acknowledgment of an agreement between the tenant and the authority, the rent and amount of supplemental assistance and the participant's and authority, responsibilities.

(b) The rent supplement agreement between the authority and tenant shall set forth the conditions of participation in the program.

HPHA-RS-43 Authority's responsibility. Other than the agreed-to rent supplement for the monthly rent, the authority shall not be held responsible to the housing owner for any portion of the tenant's allocable share of the rent, or be held responsible to the housing owner or tenant for any damages, breakage, or losses to the dwelling unit or any portion thereof, or to the furnishings, fixtures, and appliances where the same may have been caused by the tenant, housing owner or other causes.

HPHA-RS-44 Rent supplement agreement - termination. (a) A tenant shall give the provider agency at least thirty days written notice prior to the date that the tenant will withdraw from participation in the program.

(b) The authority or its provider agency may terminate a tenant's participation in the program when a tenant has:

(1) Established a pattern of late rent payments or is chronically delinquent with rent payments;
(2) Submitted false or misleading information or willfully withheld important information from the authority;
(3) Violated any provision of the rules or chapter 356D, HRS, as related to this program;
(4) Had the rental agreement terminated by the housing owner; or
(5) Transferred without prior approval to a dwelling unit of same or higher rent that does not meet the authority's occupancy

standards.

(c) If a tenant has submitted false or misleading information or has willfully withheld important information which reduced the tenant's allocable monthly share of rent, the tenant shall reimburse the authority for the amount of supplemental overpayment. Repayment shall be made in accordance with a repayment plan as approved by the authority.

(d) The authority may terminate the rent supplement agreement when a tenant, any member of the tenant's household or guest or other person under the tenant's control:

(1) Engages in violent criminal activity on or near the premises;

(2) Whose illegal use of a drug, or abuse of alcohol, is determined by the authority to interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents;

(3) Engages in criminal activity that interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents; or

(4) Engages in any drug related criminal activity on or off the premises assisted by the program.

(e) The authority shall give a tenant thirty days written notice prior to the date of termination of the rent supplement agreement.

(f) A housing owner shall give the authority thirty days written notice prior to the date the housing owner plans to withdraw from the program.

(g) The authority may suspend or terminate the rent supplement agreement based on the amount of funding available for the program.

SUBCHAPTER 6

QUALIFIED HOUSING DWELLING UNIT

HPHA-RS-51 <u>Eligibility for shared housing.</u> The

following criteria shall apply for participation in shared housing:

(1) Eligibility requirements established in section HPHA-RS-13 shall apply;

(2) Preference provisions established in section HPHA-RS-23 shall apply;

(3) Two or more related or unrelated families may occupy a housing unit, provided that occupancy is in compliance with exhibit A, entitled "Occupancy Standards", located at the end of this chapter;

(4) Except for a studio and a one bedroom unit, a participant and an unassisted person or household, which may include the housing owner, may reside in a shared housing unit;

(5) Two or more participant families may reside in a shared housing unit; and

(6) A housing owner who resides in the shared housing unit may not be related to the participant.

HPHA-RS-52 Eligible dwelling units. (a) An acceptable dwelling unit for shared housing is the same as defined in section HPHA-RS-2 with the following exceptions:

(1) Common space areas may be shared by all individuals and families living in the shared housing unit;

(2) Separate private bedrooms that are adequate in size for the participant's household size shall be available; and

(3) Areas, traditionally not designated for sleeping purposes, including but not limited to the bathroom(s), kitchen, dining room, utility room, and patio, shall be used as common areas unless mutually deemed by occupants of the dwelling unit to be exclusive use of an individual or household.

(b) The authority shall determine the acceptability of units for shared housing taking into consideration the adequacy of space, security, and other conditions so as not to pose any threat to

health and safety of the participants.

(c) The authority shall determine the number of participants in this program.

HPHA-RS-53 Allocable share of rent. The allocable share of the dwelling unit rent shall be a prorated amount that is equitable and acceptable to the authority, the owner, and the participant.

HPHA-RS-54 Shared housing addendum. An addendum to the rent supplement agreements for the housing owner and tenant, setting forth the conditions for shared housing, shall be executed by the housing owner, participant and authority.

SUBCHAPTER 7

MISCELLANEOUS PROVISIONS

HPHA-RS-61 Severability. If any part, section, sentence, clause, or phrase of this chapter, or its application to any person or transaction or other circumstances is for any reason held to be unconstitutional or invalid, the remaining parts, sections, sentences, clauses, and phrases of this chapter, or the application of this chapter to other persons or transactions or circumstances shall not be affected.

HPHA-RS-62 Number. The use of all words used in the singular shall extend to and include the plural.

HPHA-RS-63 Force and effect of law. These emergency rules shall have the force and effect of law.

Exhibit A

OCCUPANCY STANDARDS

In determining the appropriate dwelling unit size for assistance, the following criteria shall be applied:

1. The smallest unit suitable for the household's shall be considered and each bedroom shall be occupied by at least one person.

2. The dwelling unit shall permit up to the maximum number of persons to occupy the unit in accordance with prevailing zoning, and county building, health, and fire codes.

3. Every member of the household, regardless of age, shall be counted as a person; except that a child not yet born by a pregnant household member shall not be counted as a person in determining unit size.

4. Children who are in the process of being adopted, or whose legal custody is being obtained by a household, will be included as members of the household for the purposes of determining unit size.

5. A foster child shall be included in determining unit size only if the child will remain in the unit for more than six months.

6. Persons of different generations, persons of opposite sex (other than spouses) over the age of five, and unrelated adults may be allocated separate bedrooms.

7. A live-in attendant may be provided a separate bedroom; however, no additional bedrooms will be provided for the attendant's household.

8. A person with a valid medical ailment may be allowed a separate bedroom, provided the necessity for the separate bedroom is verified by a signed statement from a medical doctor and other supporting data.

SPECIAL RENT SUPPLEMENT PROGRAM EMERGENCY RULES

Chapter HPHA-RS Special Rent Supplement Program Emergency Rules, Hawai'i Administrative Rules, on the Summary Page dated June 16, 2016 were adopted on June 16, 2016, by the Hawai'i Public Housing Authority Board of Directors at its regular monthly board meeting with prior public notice provided in accordance with section 92-7, Hawai'i Revised Statutes, and with abbreviated notice and hearing pursuant to section 91-3(b), Hawai'i Revised Statues.

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), Hawai'i Revised Statutes.

PONO SHIM, Chairperson
Board of Directors
Hawaii Public Housing Authority

Pursuant to my Supplementary Proclamation of October 26, 2015, which authorizes and invokes "sections 127A-13 and 127A-12, Hawai'i Revised Statutes, by suspending, as allowed by law, the following statutes and regulations to the extent necessary for the purpose of providing emergency relief as necessary to address the homeless emergency contemplated in my October 16, Proclamation and this Supplementary Proclamation: a. Chapter 91, Hawai'i Revised Statutes, Administrative Procedure, as those provisions relate to rulemaking[,]" by signature below, I approve these rules.

APPROVED:

DAVID Y. IGE
Governor
State of Hawai'i
Dated: _____

APPROVED AS TO FORM:

Deputy Attorney General

Filed

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LIEUTENANT GOVERNOR'S OFFICE

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