

Hawaii Public Housing Authority Emergency Rules
Relating to COVID-19 Emergency

§1	Findings
§2	Purpose
§3	Authority
§4	Applicability
§5	Definitions
§6	Social Distancing
§7	Communications and Interactions Utilizing Electronic Means
§8	Rental Agreement Termination
§9	Minimum Rents
§10	Other Charges
§11	Annual Reexaminations
§12	Income verification
§13	Enterprise Income Verification Monitoring
§14	Community Service and Self-Sufficiency Requirement
§15	Over Income Families
§16	Utility Allowances

§1 Findings. The authority finds that:

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

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

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

(d) The authority agrees with the Governor that the ongoing COVID-19 pandemic is of such magnitude to warrant protective action by the authority to prevent the spread of

§1

COVID-19 as COVID-19 continues to endanger the health, safety, and welfare of the people;

(e) These emergency rules protect the health, safety, and welfare of the public, all participants in the authority's programs, and authority staff by setting forth social distancing requirements to control the spread of COVID-19, waiving minimum rent for qualified families participating in the authority's state-aided elderly, state-aided family, and federally-assisted public housing programs, and providing the authority shall not terminate a public housing rental agreement for nonpayment of rent and other charges related to rent, or impose fees and charges related to nonpayment of rent pursuant to the Coronavirus Aid, Relief, and Economic Security (CARES) Act, Pub. L. No. 116-136 (March 27, 2020);

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

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

(h) These findings are based on the authority's Board of Directors' personal knowledge and professional experiences.

§2 Purpose. These emergency rules are adopted based on the findings in section 1 to respond to the COVID-19 emergency declared by the Governor and enable the authority to perform its duties while protecting the health, safety, and welfare of the public, all participants in the authority's programs, and authority staff by setting forth social distancing requirements

to control the spread of COVID-19, waiving minimum rent for qualified families participating in the authority's state-aided elderly, state-aided family, and federally-assisted public housing programs, delaying or suspending program requirements as allowed under PIH Notice PIH 2020-05 so the authority may utilize HUD's waivers of, and alternative requirements for numerous statutory and regulatory requirements to keep the authority's federal public housing program operational, and providing the authority shall not terminate a public housing rental agreement for nonpayment of rent and other charges related to rent, or impose fees and charges related to nonpayment of rent pursuant to the Coronavirus Aid, Relief, and Economic Security (CARES) Act, Pub. L. No. 116-136 (March 27, 2020) which is attached as Exhibit A.

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

§4 Applicability. Notwithstanding Chapter 15-185 Section 8 - Housing Choice Voucher Program, Chapter 15-186 State-Aided Elderly Public Housing Projects, Chapter 15-193 State-Aided Family Public Housing Projects, Chapter 17-2000 Rules of Practice and Procedure, Chapter 17-2020 Eviction - Practice and Procedure, Chapter 17-2021 Grievance Procedure, Chapter 17-2028 Federally-Assisted Public Housing Projects, Chapter 17-2032 Resident Advisory Board, Chapter 17-2033 Rent Supplement Program, Chapter 17-2036 Section 8 Homeownership Option Program, and Chapter 17-2038 State Eviction - Practice and Procedure, and any subsequent repeal or revisions, these rules shall apply to all aforementioned administrative rule chapters; provided that upon expiration of these emergency rules, these rules shall terminate.

§5 Definitions. All definitions provided in these rules shall be the same as those provided in chapter 356D, HRS or Chapter 15-185 Section 8 - Housing Choice Voucher Program, Chapter 15-186 State-Aided Elderly Public Housing Projects, Chapter 15-193 State-Aided Family Public Housing Projects,

Chapter 17-2000 Rules of Practice and Procedure, Chapter 17-2020 Eviction - Practice and Procedure, Chapter 17-2021 Grievance Procedure, Chapter 17-2028 Federally-Assisted Public Housing Projects, Chapter 17-2032 Resident Advisory Board, Chapter 17-2033 Rent Supplement Program, Chapter 17-2036 Section 8 Homeownership Option Program and Chapter 17-2038 State Eviction - Practice and Procedure.

§6 Social Distancing. The authority shall comply with state and county proclamations, orders, and rules relating to implementing social distancing strategies to reduce the spread of COVID-19 and take every reasonable precaution to perform the authority's in compliance with social distancing recommendations and guidelines relating to COVID-19 issued by the United States Centers for Disease Control and Prevention, the Governor of the State of Hawaii, Hawaii Emergency Management Agency, and Hawaii Department of Health throughout the COVID-19 emergency period.

§7 Communications and Interactions Utilizing Electronic Means. All face-to-face communications or interactions required by Chapter 15-185 Section 8 - Housing Choice Voucher Program, Chapter 15-186 State-Aided Elderly Public Housing Projects, Chapter 15-193 State-Aided Family Public Housing Projects, Chapter 17-2000 Rules of Practice and Procedure, Chapter 17-2020 Eviction - Practice and Procedure, Chapter 17-2021 Grievance Procedure, Chapter 17-2028 Federally-Assisted Public Housing Projects, Chapter 17-2032 Resident Advisory Board, Chapter 17-2033 Rent Supplement Program, Chapter 17-2036 Section 8 Homeownership Option Program, and Chapter 17-2038 State Eviction - Practice and Procedure, are suspended and shall be conducted through alternative electronic means, including but not limited to U.S. mail, telephone, e-mail, or video conferencing.

§8 Rental Agreement Termination. (a) A family participating in the following authority housing programs, section 15-186-48 State-Aided Elderly Public Housing Projects, section 15-193-48 State-Aided Family Public Housing Projects, or section 17-2028-59 Federally-Assisted Public Housing Projects,

shall give the authority at least twenty-eight days written notice that the family will vacate the family's dwelling unit prior to the vacate date.

(b) The authority shall not terminate any rental agreement for nonpayment of rent or other fees or charges until the 120-day temporary moratorium on eviction filings has passed pursuant to the Coronavirus Aid, Relief, and Economic Security (CARES) Act, Pub. L. No. 116-136 (March 27, 2020) which is attached as Exhibit A.

§9 Minimum Rents. (a) Notwithstanding the minimum monthly rent required by section 15-186-61 State-Aided Elderly Public Housing Projects, section 15-193-61 State-Aided Family Public Housing Projects, and section 17-2028-61 Federally-Assisted Public Housing Projects, the minimum rent for an individual or family participating in these programs shall be \$0.00 (zero dollars) if any of the following conditions exist:

- (1) The income of the family has decreased because of changed circumstances, including loss of employment or contributions;
 - (2) A death has occurred in the family which affects income; or
 - (3) Other circumstances determined by the authority or HUD.
- (b) The authority shall reinstate minimum rents 30 calendar days after the 120-day moratorium required by the Coronavirus Aid, Relief, and Economic Security (CARES) Act, Pub. L. No. 116-136 (March 27, 2020) which is attached as Exhibit A has passed.

§10 Other Charges. (a) The authority shall not charge the tenant fees, penalties, or other charges related to nonpayment of rent until the 120-day temporary moratorium on eviction filings has passed pursuant to the Coronavirus Aid, Relief, and Economic Security (CARES) Act, Pub. L. No. 116-136 (March 27, 2020) which is attached as Exhibit A. This rule applies to Chapter 15-186 State-Aided Elderly Public Housing Projects, Chapter 15-193 State-Aided Family Public Housing Projects, and section 17-2028-64 Federally-Assisted Public Housing Projects.

(b) The authority may charge a family, in addition to monthly rent and applicable utility charges, maintenance costs such as costs to repair tenant-caused damages to the dwelling unit, including appliances or equipment furnished by the authority, that are in excess of ordinary wear and tear, and costs to repair to project buildings, facilities, or common areas damaged by the action of, or negligence of the family or the family's guest or visitor.

§11 Annual Reexaminations. Pursuant to PIH Notice 2020-05, annual reexaminations required at least once every twelve months under section 17-2028-53 Federally-Assisted Public Housing Projects, section 15-185-32 Section 8 - Housing Choice Voucher Program, section 15-186-42 State-Aided Elderly Public Housing Projects, section 15-193-42 State-Aided Family Public Housing Projects may be delayed beyond the twelve month requirement.

§12 Income verification. Pursuant to PIH Notice 2020-05, HPHA may forgo third party income verification requirement for interim reexaminations, annual reexaminations, or special reexaminations, including the use of the Enterprise Income Verification System. Self-certification by a family may be considered as the highest form of income verification to process a reexamination. Families will be held responsible for any material discrepancies discovered and the HPHA shall take enforcement action consistent with its policies.

§13 Enterprise. Income Verification Monitoring. Pursuant to PIH Notice 2020-05, monitoring of the EIV reports are required on a monthly basis. The authority may elect not to perform monthly monitoring during the period of availability under PIH Notice 2020-05.

§14 Community Service and Self-Sufficiency Requirement. Pursuant to PIH Notice 2020-05, the community service and self-

sufficiency requirement which mandates that each adult resident of public housing, except for exempt family member and required to be annually reexamined under section 17-2025-53, Federally-Assisted Public Housing Projects, is suspended for the period of availability under PIH Notice 2020-05.

§15 Over Income Families. Pursuant to PIH Notice 2020-05, families whose income exceeds the program maximum income level for two consecutive years may be allowed to remain in their units and continue to pay the same rental amount until the next annual income recertification.

§16 Utility Allowances. Pursuant to PIH Notice 2020-05, the review of utility allowances required under section 17-2028-7, Federally-Assisted Public Housing Projects, may be suspended so long as it is completed by the deadline allowed under PIH Notice 2020-05.

Hawaii Public Housing Authority Emergency Rules
Relating to COVID-19 Emergency

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

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

Robert J. Hall

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

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

APPROVED:

David Y. Ige

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

APPROVED AS TO FORM:

[Signature]

Deputy Attorney General

Filed