

HAWAII ADMINISTRATIVE RULES

TITLE 15

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT,
AND TOURISM

SUBTITLE 14

HOUSING AND COMMUNITY DEVELOPMENT CORPORATION OF HAWAII

CHAPTER 162

MORTGAGE CREDIT CERTIFICATE PROGRAM

Subchapter 1 General Provisions

\$15-162-1 Purpose
\$15-162-2 Definitions
\$15-162-3 Delegation

Subchapter 2 Conformance with Federal MCC
Program Requirements

\$15-162-10 Conformance with Federal MCC Program
\$15-162-11 Program requirements
\$15-162-12 Waivers and variances
\$15-162-13 Interpretation

Subchapter 3 The Program

\$15-162-20 General description of the program
\$15-162-21 Election not to issue qualified mortgage
bonds
\$15-162-22 State certification
\$15-162-23 List of participating lenders
\$15-162-24 Charges
\$15-162-25 Revocation of an election

Subchapter 4 Miscellaneous

\$15-162-30 Procedural guide
\$15-162-31 Falsification of application

Contents

Historical note: Chapter 162 of Title 15, Hawaii Administrative Rules, is based substantially upon Chapter 312 of Title 6 of the Hawaii Administrative Rules. [Eff 7/26/90; R **OCT 25 1999**]

SUBCHAPTER 1

GENERAL PROVISIONS

§15-162-1 Purpose. The mortgage credit certificate program is a federal program which the corporation is authorized and designated to carry out pursuant to §201G-15, Hawaii Revised Statutes.

These rules are adopted pursuant to chapter 91, HRS, to enable the corporation to establish one or more mortgage credit certificate programs in accordance with the requirements of the Internal Revenue Code of the Internal Revenue Service, including sections 25 and 103A thereof, and the corresponding regulations promulgated thereunder. [Eff **OCT 25 1999**] (Auth: HRS §201G-15) (Imp: HRS §201G-15)

§15-162-2 Definitions. (a) Whenever used in these rules, unless the context otherwise requires:

"Board" means the board of directors of the corporation.

"Corporation" means the housing and community development corporation of Hawaii, a public body and a body corporate and politic of the State of Hawaii.

"Executive director" means the executive director of the corporation.

"Eligible borrower" means a person who is eligible to be a holder of an MCC.

"Federal MCC program" means the mortgage credit certificate program which was established pursuant to the IRC, including section 25 thereof, and the regulations promulgated thereunder.

"HRS" means the Hawaii Revised Statutes.

"IRC" means the Internal Revenue Code of the Internal Revenue Service, including sections 25 and 103A thereof, and the corresponding regulations promulgated thereunder.

"IRS" means the Internal Revenue Service.

"MCC" means a mortgage credit certificate which is

issued under the program.

"Program" means each and every qualified mortgage credit certificate program of the corporation which the corporation elects to authorize in accordance with the requirements of the federal MCC program.

"Rules" means these rules.

"State" means the State of Hawaii.

(b) The definitions of other terms used in these rules shall have the meaning ascribed to such terms under the IRC, including sections 25 and 103A thereof, for the federal MCC program, and the same are hereby incorporated by reference. [Eff **OCT 25 1999**] (Auth: HRS §201G-15) (Imp: HRS §201G-15)

§15-162-3 Delegation. The board delegates to the executive director or the executive director's designee the authority to implement and carry out the purposes of these rules. [Eff **OCT 25 1999**] (Auth: HRS §201G-15) (Imp: HRS §201G-15)

SUBCHAPTER 2

CONFORMANCE WITH FEDERAL MCC REQUIREMENTS

§15-162-10 Conformance with federal MCC program requirements. All applicable requirements of the federal MCC program, including all IRC laws, regulations and interpretations and amendments thereto which may be promulgated hereafter, will be operative with respect to the program. [Eff **OCT 25 1999**] (Auth: HRS §201G-15) (Imp: HRS §201G-15)

§15-162-11 Program requirements. The corporation shall follow the procedures for implementing the program in accordance with the requirements of the federal MCC program. The corporation may establish its own eligibility and other requirements for participation in the program by applicants for MCCS, lenders, and developers to the fullest extent allowed by the federal MCC program. [Eff **OCT 25 1999**] (Auth: HRS §201G-15) (Imp: HRS §201G-15)

§15-162-12 Waivers and variances. The board by resolution may waive or vary provisions of these rules provided that such waivers or variances are not inconsistent with the federal MCC program. [Eff **OCT 25 1999**] (Auth: HRS §201G-15) (Imp: HRS §201G-15)

§15-162-13 Interpretation. These rules shall be construed in a manner which is consistent with the laws, regulations, and interpretations pertaining to the federal MCC program. If there is any conflict or inconsistency between these rules and the laws, regulations, and interpretations pertaining to the federal MCC program, the provisions, regulations, and interpretations of the federal MCC program will control. [Eff **OCT 25 1999**] (Auth: HRS §201G-15) (Imp: HRS §201G-15)

SUBCHAPTER 3

THE PROGRAM

§15-162-20 General description of the program. Under the federal MCC program, an eligible borrower is entitled to a credit against the eligible borrower's federal income tax as a percentage of the interest paid on a mortgage loan which the eligible borrower has obtained to finance the acquisition, qualified rehabilitation, or qualified home improvement of the eligible borrower's principal residence. The corporation shall determine the maximum amount of credit which shall be available to eligible borrower in accordance with the requirements of the federal MCC program. [Eff **OCT 25 1999**] (Auth: HRS §201G-15) (Imp: HRS §201G-15)

§15-162-21 Election not to issue qualified mortgage bonds. To establish a program, the corporation shall take action to elect not to issue an amount of qualified mortgage bonds that the corporation might otherwise issue under section 103A of the IRC and the regulations thereunder during each calendar year and in lieu thereof to issue MCCs to eligible borrowers

in accordance with the requirements of the federal MCC program. The corporation shall follow the requirements of the federal MCC program in making such election. [Eff **OCT 25 1999**] (Auth: HRS §201G-15) (Imp: HRS §201G-15)

§15-162-22 State certification. The governor of the State or the governor's designee or the director of finance of the State shall make the State certification in accordance with the requirements of the federal MCC program. [Eff **OCT 25 1999**] (Auth: HRS §201G-15) (Imp: HRS §201G-15)

§15-162-23 List of participating lenders. The corporation may maintain a list of lenders that are participating in the program subject to the requirements of the federal MCC program. [Eff **OCT 25 1999**] (Auth: HRS §201G-15) (Imp: HRS §201G-15)

§15-162-24 Charges. Subject to the requirements of the federal MCC program, the corporation may establish a schedule of fees which applicants for MCCS, mortgage lenders, and developers will be required to pay to participate in the program. [Eff **OCT 25 1999**] (Auth: HRS §201G-15) (Imp: HRS §201G-15)

§15-162-25 Revocation of an election. The corporation may revoke, in whole or in part, the authority to issue MCCs under the program in accordance with the requirements of the federal MCC program. [Eff **OCT 25 1999**] (Auth: HRS §201G-15) (Imp: HRS §201G-15)

SUBCHAPTER 4

MISCELLANEOUS

§15-162-30 Procedural guide. The operation and implementation of each program shall be conducted in

§15-162-30

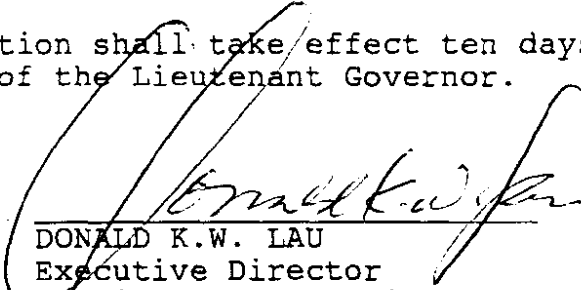
accordance with these rules and the requirements of the federal MCC program. The corporation may prepare a procedural guide which the corporation may amend or supplement from time to time in the corporation's sole discretion. A copy of all forms and guides, if any, shall at all times be kept at the principal office of the corporation in its most current form and shall be available for inspection at the corporation's normal business hours. [Eff **OCT 25 1999**] (Auth: HRS §201G-15)

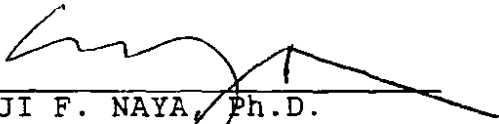
§15-162-31 Falsification of application. All information which an applicant for an MCC is required to furnish shall be signed and verified by such applicant in accordance with the requirements of the federal MCC program. Falsification of any information contained in any application shall be subject to the criminal sanctions of the Hawaii Penal Code, part V, section 710-1063, HRS, and shall constitute a misdemeanor. [Eff **OCT 25 1999**] (Auth: HRS §201G-15) (Imp: HRS §201G-15)

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT,
AND TOURISM

The repeal of chapter 6-312 and the adoption of chapter 15-162, Hawaii Administrative Rules, on the Summary Page dated August 27, 1999, was adopted on August 27, 1999, following public hearings held on Maui on July 15, 1999, Hilo on July 16, 1999, Oahu on July 19, 1999, and Kauai on July 20, 1999, after public notice was given in the Midweek newspaper on June 7, 1999.

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


DONALD K.W. LAU
Executive Director
Housing and Community Development
Corporation of Hawaii



SEIJI F. NAYA, Ph.D.
Director
Department of Business, Economic
Development, and Tourism

APPROVED AS TO FORM:


NEAL H. MIYAHIRA
Director of Finance


Deputy Attorney General

APPROVED:


BENJAMIN J. CAYETANO
Governor
State of Hawaii

Dated: 10-14-99
OCT 15 1999

Filed

LIEUTENANT GOVERNOR'S
OFFICE

'99 OCT 15 P2:16