

HAWAII ADMINISTRATIVE RULES

TITLE 15

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT
AND TOURISM

SUBTITLE 14

HOUSING AND COMMUNITY DEVELOPMENT CORPORATION OF HAWAII

CHAPTER 163

HULA MAE MULTI-FAMILY RENTAL HOUSING PROGRAM

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Historical note: Chapter 163 of Title 15, Hawaii Administrative Rules, is based substantially upon Chapter 313 of Title 6, Hawaii Administrative Rules. [Eff 8/25/90; am and comp 5/24/93; R **OCT 25 1999**]

SUBCHAPTER 1

GENERAL PROVISIONS

§15-163-1 Purpose. This rule is adopted under chapter 91, HRS, and implements part II, chapter 201G, HRS, and the following objectives:

- (1) Increase the supply of affordable rental units available in the State;
- (2) Make funds available at feasible interest rates to make eligible project loans in order to permit the construction of eligible project; and
- (3) Encourage the participation of qualified sponsors in the programs authorized by part II, chapter 201G, HRS. [Eff **OCT 25 1999**]
(Auth: HRS §201G-187) (Imp: HRS §201G-188)

§15-163-2 Definitions. As used in this chapter and the procedural handbook:

"Administrator" means the executive director employed by the corporation or the executive director's designated representative.

"Bonds" means the revenue bond issued to finance all or any part of the advance commitment program, the loans to lenders program, the purchase of existing loans program, and the eligible project loan funding program authorized under part III, chapter 201G, HRS.

"Corporation" means the housing and community

development corporation of Hawaii.

"Eligible project loan" means an eligible project loan as defined in part III, chapter 201G, HRS, and which also meets the requirements of the procedural handbook.

"Mortgage lender" means a mortgage lender as defined in part III, chapter 201G, HRS.

"Procedural handbook" means a set of instructions, guidelines, terms, and conditions for making, funding, and servicing eligible project loans.

"Qualified sponsor" means a qualified sponsor as defined in part III, chapter 201G, HRS, and who is determined by the corporation to have articles of incorporation or comparable documents of organization or a written agreement with the corporation which, in addition to other requirements of law, provides that if the person or entity receives an eligible project loan from the corporation as provided for in part III, chapter 201G, HRS, it shall be authorized to enter into an agreement with the corporation, providing for regulations with respect to rents, profits, dividends, and dispositions of property or franchises.

"Rule" means the provisions under these rules adopted pursuant to part III, chapter 201G, and chapter 91, HRS.

"State" means the State of Hawaii.

[Eff **OCT 25 1999**] (Auth: HRS §201G-187) (Imp: HRS §§201G-192, 201G-193, 201G-194, 201G-195, 201G-196)

§15-163-3 Delegation. The corporation delegates to the administrator the authority to implement and carry out the purposes of this chapter.

[Eff **OCT 25 1999**] (Auth: HRS §201G-187) (Imp: HRS §§201G-2, 201G-3)

SUBCHAPTER 2

ELIGIBLE PROJECT LOAN FUNDING PROGRAM

§6-311-10 Purpose. The purpose of this program is to provide eligible project loans to qualified sponsors by directly making or by contracting with eligible project loan servicers to fund eligible project loans. [Eff **OCT 25 1999**] (Auth: HRS §201G-

187) (Imp: HRS §§201G-192, 201G-194, 201G-195, 201G-196)

§15-163-11 Definitions. As used in this subchapter and the procedural handbook:

"Commitment letter" means the corporation's notice to a qualified sponsor of the acceptance of the eligible project loan application subject to the acceptance and conditions of the eligible project loan servicing agreement, if applicable.

"Eligible project loan application" means an application from a qualified sponsor, in such form as prescribed by the corporation, requesting an eligible project loan.

"Eligible project loan servicer" means a mortgage lender or its designee as approved by the corporation which has executed an eligible project loan servicing agreement.

"Eligible project loan servicing agreement" means an agreement among a qualified sponsor, an eligible project loan servicer, and the corporation in a form as prescribed by the corporation to fund and service or service an eligible project loan.

"Eligible project loan servicing agreement application" means an application from an eligible project loan servicer, in such form as prescribed by the corporation, requesting a contract with the corporation and qualified sponsor to fund and service or service an eligible project loan to a qualified sponsor. [Eff **OCT 25 1999**] (Auth: HRS §201G-194) (Imp: HRS §§201G-192, 201G-194, 201G-195, 201G-196)

§15-163-12 Process and procedures. (a) Eligible project loan applications and eligible project loan servicing agreement applications shall be available at the principal office of the corporation.

(b) In order for a qualified sponsor to submit an eligible project loan application, the qualified sponsor shall also submit an eligible project loan servicing agreement application or evidence satisfactory to the corporation or other servicing arrangements and evidence that the eligible project has received a conditional commitment or site appraisal and marketing analysis letter from the Federal Housing Administration or similar commitment documents from

other insuring or guaranteeing agencies of the federal government or other evidence that the eligible project loan meets the requirements specified in the procedural handbook by the corporation for eligible project loans not insured or guaranteed by the federal government.

(c) After receipt of eligible project loan applications and other documents required in subsection (b) above, the corporation shall, subject to such terms and conditions as described in the procedural handbook, issue its commitment letter to the qualified sponsor.

(d) The corporation shall establish fees and charges payable to the corporation and the eligible project loan servicer and shall establish such restrictions, as deemed necessary, on the annual return to the qualified sponsor, as described in the:

- (1) Commitment letter;
- (2) Eligible project loan servicing agreement; and
- (3) Procedural handbook.

(e) The operation and implementation of the eligible project loan funding program shall be conducted in accordance with these rules and the procedural handbook as amended or supplemented from time to time by the corporation at its sole discretion. A copy of the procedural handbook in its most current form, shall at all times be kept at the principal office of the corporation and shall be available for inspection during normal business hours.

[Eff **OCT 25 1999**] (Auth: HRS §201G-187) (Imp: HRS §§201G-192, 201G-194, 201G-195, 201G-196)

SUBCHAPTER 3

LOANS TO LENDERS PROGRAM

§15-163-20 Purpose. The purpose of this program is to provide loans to mortgage lenders to be used to make eligible project loans. The loan amount shall be based on an agreement by mortgage lenders to originate a specified principal amount of eligible project loans. [Eff **OCT 25 1999**] (Auth: HRS §201G-187) (Imp: HRS §201G-192)

§15-163-21 Definitions. As used in this subchapter and the procedural handbook:

"Lender loan application" means a mortgage lender's application, in such form as may be prescribed by the corporation, to receive a loan from the corporation for the purpose of making eligible project loans pursuant to the terms of the loan agreement.

"Loan agreement" means an agreement between the corporation and the mortgage lender, in such form as may be prescribed by the corporation, which outlines the terms and conditions of the loan being made to the mortgage lender for the purpose of making eligible project loans in accordance with the procedural handbook. [Eff **OCT 25 1999**] (Auth: HRS §201G-187) (Imp: HRS §201G-192)

§15-163-22 Process and procedures. (a) The corporation will advertise that lender loan applications are available to mortgage lenders at the principal office of the corporation at least thirty days prior to the deadline for submission of such applications to the corporation.

(b) The corporation may consider, among other things, in allocating the funds available for project loans:

- (1) The financial condition of the mortgage lenders who submitted lender loan applications;
- (2) The demonstrated ability of the mortgage lenders to act as makers and servicers of the eligible project loans; and
- (3) The eligible project loans to be made by the mortgage lender.

(c) The corporation shall establish fees and charges payable to the corporation and the mortgage lender and shall establish such restrictions, as deemed necessary, on the annual return to the qualified sponsor and the mortgage lender, as described in the:

- (1) Loan agreement; and
- (2) Procedural handbook.

(d) The loan agreement shall contain the terms and conditions of the loan to the mortgage lender which may include, among other things, the following:

- (1) The amount and nature of the collateral security the corporation may require;
- (2) The maturity date of the loan;

- (3) Prepayment penalties, if any;
 - (4) The eligible project loans to be made by the mortgage lender; and
 - (5) The qualified sponsor to whom the mortgage lender will make an eligible project loan.
- (e) The operation and implementation of the loans to lenders program shall be conducted in accordance with this rule and the procedural handbook as amended or supplemented from time to time by the corporation at its sole discretion. A copy of the procedural handbook, in its most current form, shall at all times be kept at the principal office of the corporation and shall be available for inspection during normal business hours. [Eff **OCT 25 1999**] (Auth: HRS §201G-187) (Imp: HRS §§201G-192, 201G-193)

SUBCHAPTER 4

ADVANCE COMMITMENTS PROGRAM

§15-163-30 Purpose. The purpose of this program is to allow the corporation to purchase eligible project loans from mortgage lenders. The purchase shall be based on an advance commitment by mortgage lenders to deliver a specified amount of the eligible project loans to the corporation. [Eff **OCT 25 1999**] (Auth: HRS §201G-187) (Imp: HRS §201G-195)

§§15-163-31 to 15-163-32 (Reserved)

SUBCHAPTER 5

PURCHASE OF EXISTING LOANS PROGRAM

§15-163-40 Purpose. The purpose of this program is to provide funds to mortgage lenders to be used to make eligible project loans. The funding shall be based on an agreement by mortgage lenders to deliver a specified amount of existing loans and mortgage lenders shall use the funds to originate eligible project loans. [Eff **OCT 25 1999**] (Auth: HRS §201G-187) (Imp: HRS §201G-194)

§§15-163-41 to 15-163-42 (Reserved)

SUBCHAPTER 6

MISCELLANEOUS PROVISIONS

§15-163-50 Yield on mortgage loans. Mortgage loans financed, funded or made by the corporation under this chapter shall bear interest at a rate which shall produce a yield to the corporation on the mortgage loans sufficient to:

- (1) Pay interest on the related issue of the corporation's bonds;
- (2) Provide adequate reserves, if any, for the holders of the bonds; and
- (3) Cover the operating costs of the corporation of the program;

provided the yield on the mortgage loans shall not exceed the maximum allowed pursuant to Section 103(c) of the Internal Revenue Code of 1954, as amended, or any successor statute thereto, and the applicable regulations promulgated by the United States Department of the Treasury. [Eff **OCT 25 1999**] (Auth: HRS §201G-187) (Imp: HRS §§201G-188, 201G-189, 201G-190)

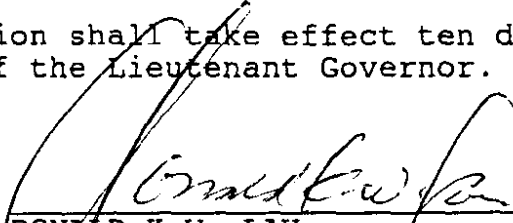
§15-163-51 Waiver. The corporation, by resolution, may waive or vary provisions of this rule to conform to the requirements of applicable federal requirements. [Eff **OCT 25 1999**] (Auth: HRS §201G-187) (Imp: HRS §201G-188)

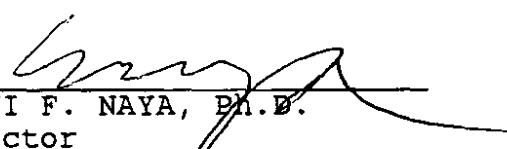
§15-163-52 Arbitrage. It is the intent of the corporation not to exceed the arbitrage limitation of the Internal Revenue Code and the corporation may waive any provision of this rule in any instance to comply with the arbitrage limitation. [Eff **OCT 25 1999**] (Auth: HRS §201G-187) (Imp: HRS §201G-169)

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT,
AND TOURISM


The repeal of chapter 6-313 and the adoption of chapter 15-163, 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.


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Dated: _____

OCT 15 1999

Filed

LIEUTENANT GOVERNOR'S
OFFICE

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