

HAWAII ADMINISTRATIVE RULES

TITLE 15

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT,  
AND TOURISM

SUBTITLE 14

HOUSING AND COMMUNITY DEVELOPMENT CORPORATION OF HAWAII

CHAPTER 180

RENTAL HOUSING TRUST FUND PROGRAM

Subchapter 1 General Provisions

\$15-180-1	Purpose
\$15-180-2	Definitions
\$15-180-3	Business hours and location
\$15-180-4	Submittal and filing of documents
\$15-180-5	Authentication of program documents
\$15-180-6	Access to program's records
\$15-180-7	Limitation on access to program's records
\$15-180-8	Fees
\$15-180-9	Authority to hire outside consultants
\$15-180-10	Severability
\$15-180-11	Applicability of rules
\$15-180-12	Gender and number

Subchapter 2 Advisory Commission Membership

\$15-180-21	County government official
\$15-180-22	Governor's designated representative
\$15-180-23	Public members
\$15-180-24	Terms of office

Subchapter 3 Advisory Commission Officers

\$15-180-31	Officers
\$15-180-32	Chairperson
\$15-180-33	Vice chairperson
\$15-180-34	Selection and election of officers

## Contents

### Subchapter 4 Advisory Commission Meetings

§15-180-41	Annual meeting
§15-180-42	Regular meetings
§15-180-43	Informational meetings
§15-180-44	Change of meeting dates, times, and places
§15-180-45	Special meetings
§15-180-46	Executive meetings
§15-180-47	Emergency meetings
§15-180-48	Manner of voting
§15-180-49	Agenda
§15-180-50	Notice
§15-180-51	Minutes
§15-180-52	Quorum and number of votes necessary for action
§15-180-53	Inclusion on agenda
§15-180-54	Disqualification of member of advisory commission

### Subchapter 5 Proceedings Before the Advisory Commission

§15-180-61	General rule
§15-180-62	Appearances before the advisory commission
§15-180-63	Extensions of time
§15-180-64	Amendment of documents
§15-180-65	Retention of documents

### Subchapter 6 Rental Housing Trust Fund

§15-180-71	Project criteria for funding; minimum requirements
§15-180-72	Rental housing trust fund; allowable uses
§15-180-73	Rental housing trust fund; project administrative expenses
§15-180-74	Loans and grants to nonprofit and governmental entities
§15-180-75	Loans to for-profit entities

Subchapter 7 Application Procedures

- \$15-180-81 Applications for program funds
- \$15-180-82 Evaluation of requests for program funds
- \$15-180-83 Corporation action
- \$15-180-84 Commitment of program funds
- \$15-180-85 Conditions for program funds

Subchapter 8 Reporting and Other Requirements

- \$15-180-91 Procedural manual
- \$15-180-92 Books and records
- \$15-180-93 Audit and cost certification
- \$15-180-94 Annual report to the governor and the legislature
- \$15-180-95 Annual evaluation of program

Subchapter 9 Other Provisions

- \$15-180-101 Forms

**Historical note:** Chapter 15-180, Hawaii Administrative Rules, is based substantially upon chapters 6-401, 6-411, Hawaii Administrative Rules. [Eff 7/2/93; R **OCT 25 1999** ]

SUBCHAPTER 1

GENERAL PROVISIONS

**§15-180-1 Purpose.** These rules are adopted pursuant to chapters 91 and 92, HRS, and implement chapter 201G, HRS, which establishes a "rental housing trust fund" as a continuous renewable resource to assist lower income families and individuals, including the homeless and special need groups, in obtaining rental housing. [Eff **OCT 25 1999** ] (Auth: HRS §201G-434) (Imp: HRS §201G-432)

**§15-180-2 Definitions.** Whenever used in this chapter, unless otherwise specifically defined:  
 "Advisory commission" means the rental housing

trust fund advisory commission established pursuant to section 201G-433, HRS.

"Capacity building" means the process of increasing an organization's ability to achieve specific goals. Capacity building is often necessary when a nonprofit community-based organization undertakes development activities for the first time. Costs associated with capacity building may include, but are not limited to, administrative and salary costs, rent, technical assistance, technical training, travel, literature, consultant fees, attorneys fees and other costs associated with drafting articles of incorporation, bylaws, and other legal documents; and reimbursement of other costs incurred by a nonprofit organization in obtaining tax exempt status under sections 501(c)(2),(3) or (4) of the Internal Revenue Code of 1986, as amended.

"Chairperson" means the duly selected chair of the of the advisory commission or a designated representative.

"Commissioners" means the members of the advisory commission as defined in section 201G-433, HRS.

"Corporation" means the housing and community development corporation of Hawaii as defined by section 201G-1, HRS.

"Develop" or "development" means the planning, financing, acquisition of real and personal property, demolition of existing structures, clearance of real property, construction, reconstruction, alteration, or repairing of approaches, streets, sidewalks, utilities, and services, or other site improvements, or construction, reconstruction, repair, remodeling, extension, equipment, or furnishing of buildings or other structures, or any combination of the foregoing, of any housing project. It also includes any and all undertakings necessary therefor, and the acquisition of any housing, in whole or in part.

"Equity gap financing" means additional funds required to make a development project financially feasible, usually cash or subordinated debt used to fill the "gap" between available financing, available subsidies, and total development cost.

"Executive director" means the executive director of the corporation or the executive director's designated representative.

"Government" includes the State and the United States and any political subdivision, agency, or

instrumentality, corporate or otherwise, of the United States.

"Government record" means information maintained by an agency in written, auditory, visual, electronic, or other physical form as defined in section 92F-3, HRS.

"Governor" means the duly elected governor of the State of Hawaii whose office was created by Article V of the Constitution of the State of Hawaii.

"Grant" means funds given to a nonprofit or governmental entity for the purpose of financing a qualified housing project located within the State of Hawaii, with no obligation to repay the monies.

"Homeless person" means an individual who lacks a fixed, regular, and adequate nighttime residence; and an individual who has a primary nighttime residence that is a supervised publicly or privately operated shelter designed to provide temporary living accommodations, an institution that provides a temporary residence for individuals intended to be institutionalized, or a public or private place not designated for, or ordinarily used as, a regular accommodation for human beings. Homeless persons may include, but are not limited to, elders, substance abusers, the mentally ill, abused persons, youth runaways, single- and two-parent families, and others with special needs.

"Housing", "housing project", or "project" means a plan, design, or undertaking for the development of dwelling units, and includes all real and personal property, buildings and improvements, commercial space, lands for farming and gardening, community facilities acquired or constructed or to be acquired or constructed, and all tangible or intangible assets held or used in connection with the housing project.

"HRS" means the Hawaii revised statutes.

"Legislature" means the legislature of the State of Hawaii, which was created pursuant to Article III of the Constitution of the State of Hawaii.

"Loan" means funds lent to a nonprofit, governmental or for-profit entity for the purpose of financing a qualified housing project located within the State of Hawaii with the obligation to repay the funds according to specific terms and conditions as set by the corporation with assistance from the advisory commission.

"Lower cost housing" in the context of identifying

the persons or families intended to be served by such housing, includes housing for lower income persons or families.

"Lower income persons or families" includes those whose incomes are identified as one hundred percent or less of the area median income. For the purpose of these rules, such persons or families include persons or families within the following income groups:

- (1) Those earning sixty per cent of the area median income and below; and
- (2) Those earning between sixty per cent and one hundred per cent of the area median income.

"Median income" or "area median income" shall be the median income for each of the counties of Honolulu, Hawaii, Maui, and Kauai as determined by the United States Department of Housing and Urban Development from time to time, and as adjusted by family size.

"Meetings" means the convening of the advisory commission following due notice as prescribed under chapter 92, HRS.

"Nonprofit organization" means a corporation, association, or other duly chartered entity which is registered with the State, and which has received a written determination from the Internal Revenue Service that it is exempt under either section 501(c)(3), section 501(c)(4), or so much of section 501(c)(2) as applies to title holding corporations that turn over their income to organizations that are exempt under either section 501(c)(3) or 501(c)(4), of the Internal Revenue Code of 1986, as amended.

"Obligations" mean mortgages or other debt securities.

"Party" means any person permitted or entitled as of right to participate in a proceeding before the advisory commission.

"Person" means an individual, partnership, corporation, association through a representative, or public or private organization of any character other than the advisory commission.

"Predevelopment activities" means those housing-related activities which are attributable to a specific housing project. Costs associated with predevelopment activities must be allocable to a specific housing project and may include, but are not limited to, staff and administrative costs; rent; legal fees; preliminary site acquisition costs; consultant fees for preliminary studies, feasibility studies, planning, design,

engineering, soils studies, and environmental studies.

"Proceeding" refers to any matter brought before the advisory commission for action following due consideration of the objectives, goals, policies, and all related matters of the advisory commission.

"Program" means the rental housing trust fund program.

"Program funds" means funds which are from the rental housing trust fund.

"Qualified housing project" means a rental housing project which complies with the requirements for funding set forth under this chapter.

"Rental housing trust fund" or "trust fund" means the fund which was established pursuant to chapter 201G, HRS.

"Rules" means these rules.

"Special needs" means social problems, age, or physical or mental handicaps which may impair a person's ability to live independently and for whom such ability can be improved by more suitable housing conditions.

"Staff" means the employed personnel of the housing and community development corporation of Hawaii, or other government agencies who provide technical and support services to the advisory commission.

"Subordinate mortgage" means a mortgage which is stipulated to be junior or inferior to one or more other mortgages. The subordinate mortgage may allow that, with the consent of the corporation, the mortgagor can refinance the mortgagor's property with a new first mortgage and still remain in a subordinate position. [Eff. **OCT 25 1999**] (Auth: HRS §201G-434) (Imp: HRS §§91-1, 201G-433, 201G-434)

**§15-180-3 Business hours and location.** (a) The principal office of the advisory commission is located in the offices of the housing and community development corporation of Hawaii at 677 Queen Street, Suite 300, Honolulu, Hawaii 96813. All communication to the advisory commission shall be transmitted to the advisory commission's office c/o the above address.

(b) The principal office of the advisory commission shall be open Monday through Friday, holidays excepted, from 7:45 a.m. to 4:30 p.m. of each week day, unless otherwise provided by statute or

executive order. [Eff **OCT 25 1999** ] (Auth: HRS  
§201G-434) (Imp: HRS §§80-1, 201G-434)

**§15-180-4 Submittal and filing of documents.** (a)

All documents and requests to the advisory commission of every nature shall be in writing addressed to the advisory commission or the chairperson, as may be appropriate under the circumstances, and transmitted to the advisory commission within the time limits prescribed by law, rules, or by order of the advisory commission. The date of filing shall be established by the time-date stamp on the document.

(b) All documents filed with the advisory commission shall be either written in dark ink, typewritten, mimeographed, or printed; shall be plainly legible, and shall be on strong, durable paper no larger than 8-1/2" x 11" in size, unless otherwise specified by the advisory commission, except that maps, charts, tables, and other like documents may be larger, folded to the size of the papers to which they are attached.

- (1) All documents filed by any person or agency in any proceeding shall state on the first page thereof the name, mailing address and business telephone number, if any, of the individual who may be served with any documents filed in the proceeding;
- (2) The original of each document shall be signed in black ink by the party; and
- (3) Reproduction may be by any process, provided all copies are clear and permanently legible.

(c) All documents must be signed by the party or the party's agent. The signature of the person constitutes a verification that he or she has read the document, that to the best of his or her knowledge, information, and belief, every statement contained therein is true and no such statement is misleading; and that it is not interposed for delay.

(d) Unless otherwise required by these rules or the advisory commission, there shall be filed with the advisory commission an original and ten copies of each document. Additional documents shall be promptly provided upon request of the chairperson.

[Eff **OCT 25 1999** ] (Auth: HRS §201G-434) (Imp: HRS  
§201G-434)



**\$15-180-5 Authentication of program.** The executive director is authorized to certify as to the authenticity of documents on file in the offices of the corporation. [Eff **OCT 25 1999** ] (Auth: HRS §201G-434) (Imp: HRS §201G-434)

**\$15-180-6 Access to program records.** (a) All government records of the program shall be open for inspection in the principal office of the corporation during established business hours, unless access to such records is restricted or closed by law.

(b) A request for access to or copies of government records shall be made in writing to the executive director and shall include a clear and concise description of the records sought. All such requests must be signed by the requesting party or the party's authorized representative.

(c) The corporation shall not be required to prepare a compilation or summary of its records in response to a request for records.

(d) Copies of the government records shall be available in accordance with (b) above, and payment of the reasonable costs of reproduction set forth in section 92-21, HRS, and the fee for searching, reviewing, or segregating the records set forth in office of information practices, Hawaii administrative rules, title 5, subtitle 4, chapter 43. Reasonable costs of reproduction shall include, but are not limited to, actual time for reproduction, material costs, including electricity cost, equipment and equipment rental costs, costs for certification and labor costs for monitoring the public inspection of the records to prevent theft, loss, defacement, or alteration of the records. [Eff **OCT 25 1999** ] (Auth: HRS §§92F-11, 201G-434) (Imp: HRS §§92F-11, 92-21)

**\$15-180-7 Limitation on access to program records.** Access to program records are subject to the limitations set forth in section 92F-13, HRS. [Eff **OCT 25 1999** ] (Auth: HRS §§92F-11, 201G-434) (Imp: HRS §92F-13)

**\$15-180-8 Fees.** The corporation shall have the right to charge reasonable fees for processing any

instrument or taking any action required under this chapter. Such fees shall be as prescribed in the procedural manual developed pursuant to section 15-180-91. [Eff **OCT 25 1999** ] (Auth: HRS §201G-434) (Imp: HRS §201G-434)

**§15-180-9 Authority to hire outside consultants.** The corporation may hire outside consultants when in the determination of the corporation the services to be performed by the consultant are essential in carrying out the purposes of the fund. [Eff **OCT 25 1999** ] (Auth: HRS §201G-434) (Imp: HRS §201G-434)

**§15-180-10 Severability.** If any rule of the program is found in whole or in part by a court of competent jurisdiction to be invalid under law, such finding shall not affect the remaining rules or any part therein. [Eff **OCT 25 1999** ] (Auth: HRS §201G-434) (Imp: HRS §1-23)

**§15-180-11 Applicability of rules.** The rules under this chapter shall apply to all practices and procedures of the advisory commission, provided that where these rules are inconsistent with the advisory commission's rules under another chapter, these rules shall be superseded by the specific rule of practice and procedure of the other chapter. The advisory commission shall refer to Robert's Rules of Order for guidance on procedural matters not addressed in the advisory commission's rules or in law. [Eff **OCT 25 1999** ] (Auth: HRS §201G-434) (Imp: HRS §201G-434)

**§15-180-12 Gender and number.** In any rule of the program, all words used in the masculine or singular shall extend to and include the feminine or plural. [Eff **OCT 25 1999** ] (Auth: HRS §201G-434) (Imp: HRS §1-17)

## SUBCHAPTER 2

## ADVISORY COMMISSION MEMBERSHIP

**§15-180-21 County government official.** A county government official selected and appointed by the governor on a rotating basis among the counties, or his or her designated representative or replacement, shall be an ex officio voting member of the advisory commission. The advisory commission shall maintain a current list of at least one such county government official from each county and submit such list to the governor as requested. [Eff **OCT 25 1999**] (Auth: HRS §201G-434) (Imp: HRS §201G-433)

**§15-180-22 Governor's designated representative.** The governor's designated representative shall be an ex officio voting member of the commission. [Eff **OCT 25 1999**] (Auth: HRS §201G-434) (Imp: HRS §201G-433)

**§15-180-23 Public members.** (a) The five public members shall be representative of the following categories of organizations:

- 1) Real estate brokers/rental property managers;
- 2) Tenants/renters advocacy organizations;
- 3) Non profit housing developers/low income service providers;
- 4) Mortgage lenders; and
- 5) Architects/planners.

(b) As part of the appointment process for the initial five public members, an appropriate organization from each of the categories of organizations enumerated above shall submit a list of three public member nominees to the governor. The governor shall select and appoint one public member from each such category from the lists submitted.

(c) The advisory commission shall establish a list of names and addresses of appropriate organizations from each of the categories of organizations enumerated above. The advisory commission shall enter the name and address of any appropriate organization that requests in writing to be entered on each such list and any requests in writing

by such organizations for corrections thereto.

(d) If a public member vacancy occurs, the advisory commission shall mail the appropriate application forms to and solicit in writing lists of three public member nominees from all organizations on the list of appropriate organizations for the departing public member's category of organization enumerated above. The advisory commission shall submit to the governor all lists of nominees with completed application forms received by the advisory commission from any appropriate organization within thirty days of the initial mailing, whether or not such list of nominees is from an organization that was on the advisory commission's list of appropriate organizations at the time of such initial mailing. The governor shall select and appoint a replacement public member for such category from the lists of nominees so submitted. [Eff **OCT 25 1999**] (Auth: HRS §201G-434) (Imp: HRS §201G-433)

**§15-180-24 Terms of office.** The members of the commission shall serve staggered terms as set forth in section 201G-433, HRS. [Eff **OCT 25 1999**] (Auth: HRS §201G-434) (Imp: HRS §201G-433)

### SUBCHAPTER 3

#### ADVISORY COMMISSION OFFICERS

**§15-180-31 Officers.** The officers of the advisory commission shall be a chairperson and a vice chairperson. [Eff **OCT 25 1999**] (Auth: HRS §201G-434) (Imp: HRS §201G-433)

**§15-180-32 Chairperson.** The chairperson shall be a public member elected by the members of the advisory commission and shall serve not more than two one-year terms as chairperson. The chairperson shall preside at all meetings of the advisory commission. At each meeting, the chairperson shall submit such recommendations and information as the chairperson may consider proper concerning the business, affairs, and policies of the advisory commission.

[Eff **OCT 25 1999** ] (Auth: HRS §201G-434) (Imp: HRS §201G-433)

**§15-180-33 Vice chairperson.** The vice chairperson shall be a public member elected by the members of the advisory commission. The vice chairperson shall perform the duties of the chairperson in the absence or incapacity of the chairperson; in the case of resignation, removal, or death of the chairperson, the vice chairperson shall perform such duties as are imposed on the chairperson until such time as the members of the advisory commission shall elect a new chairperson. [Eff **OCT 25 1999** ] (Auth: HRS §201G-434) (Imp: HRS §201G-433)

**§15-180-34 Selection and election of officers.** The chairperson and vice chairperson shall be elected at the annual meeting of the advisory commission from among the public members of the advisory commission and shall hold office for one year or until their successors are duly elected and qualified. If any vacancy shall occur in the office of the chairperson or the vice chairperson, such vacancy shall be filled by the election of a successor to such office from among the public members of the advisory commission at any regular meeting of the advisory commission and such successor shall hold office until the next annual meeting of the advisory commission or until a successor is duly elected and qualified. [Eff **OCT 25 1999** ] (Auth: HRS §201G-434) (Imp: HRS §201G-433)

SUBCHAPTER 4

ADVISORY COMMISSION MEETINGS

**§15-180-41 Annual meeting.** The annual meeting of the advisory commission shall be held with notice on the first Friday of July at 8:30 a.m., at the regular meeting place of the advisory commission. In the event such date shall fall on a legal holiday, the annual meeting shall be held on the next succeeding secular day. Any and all business may be transacted at the annual meeting with notice being given thereof.



[Eff **OCT 25 1999** ] (Auth: HRS §201G-434) (Imp: HRS §§92-7, 201G-434)

**§15-180-42 Regular meetings.** Regular meetings shall be held with notice at the regular meeting place of the advisory commission on the first Friday of each month at 9:00 a.m., unless the same shall be a legal holiday, in which event, said meeting shall be held on the next succeeding secular day at the said hour.

[Eff **OCT 25 1999** ] (Auth: HRS §201G-434) (Imp: HRS §§92-7, 201G-433)

**§15-180-43 Informational meetings.** Informational meetings may be held with notice at the regular meeting place of the advisory commission on the day preceding a regular meeting. [Eff **OCT 25 1999** ] (Auth: HRS §201G-434) (Imp: HRS §§92-7, 201G-433)

**§15-180-44 Change of meeting dates, times, and places.** The advisory commission may hold its regular, informational, or annual meetings on dates, times, and places other than the stipulated dates, times, and places, provided, however, that proper notice be given of the changes of dates, times, and places.

[Eff **OCT 25 1999** ] (Auth: HRS §201G-434) (Imp: HRS §§92-7, 201G-434)

**§15-180-45 Special meetings.** The chairperson may, when deemed expedient, and shall, upon the written request of two members of the advisory commission, call a special meeting of the advisory commission for the purpose of transacting any business designated in the notice. The notice of special meeting may be delivered to each member of the advisory commission or may be mailed to the business or home address of each member of the advisory commission at least seventy-two hours prior to the date of such special meeting. At such meeting no business shall be considered other than as designated in the notice. [Eff **OCT 25 1999** ] (Auth: HRS §201G-434) (Imp: HRS §§92-7, 201G-434)

**\$15-180-46 Executive meetings.** The advisory commission may hold an executive meeting closed to the public upon the fulfillment of the requirements therefore and for the reasons prescribed by law. [Eff **OCT 25 1999** ] (Auth: HRS §201G-434) (Imp: HRS §§92-4, 92-5)

**\$15-180-47 Emergency meetings.** The advisory commission may hold an emergency meeting upon finding that an imminent peril to the public health, safety, or welfare exists. The advisory commission shall adhere to all emergency meeting requirements as prescribed by law. [Eff **OCT 25 1999** ] (Auth: HRS §201G-434) (Imp: HRS §92-8)

**\$15-180-48 Manner of voting.** The voting on all questions coming before the advisory commission shall be by motion, duly seconded, and the vote shall be entered upon the minutes of such meeting. For resolutions and when requested by the chairperson or any member, a roll call shall be taken. [Eff **OCT 25 1999** ] (Auth: HRS §201G-434) (Imp: HRS §§92-9, 201G-434)

**\$15-180-49 Agenda.** Staff shall prepare the agenda for the meetings of the advisory commission, as directed by the chairperson. [Eff **OCT 25 1999** ] (Auth: HRS §201G-434) (Imp: HRS §201G-434)

**\$15-180-50 Notice.** Notice of the meetings of the advisory commission shall satisfy the requirements of section 92-7, HRS. [Eff **OCT 25 1999** ] (Auth: HRS §201G-434) (Imp: HRS §92-7)

**\$15-180-51 Minutes.** The advisory commission shall maintain written minutes in compliance with section 92-9, HRS. [Eff **OCT 25 1999** ] (Auth: HRS §201G-434) (Imp: HRS §92-9)



**§15-180-52 Quorum and number of votes necessary for action.** Four commissioners shall constitute a quorum and the affirmative vote of at least four commissioners shall determine any action.  
[Eff **OCT 25 1999** ] (Auth: HRS §201G-434) (Imp: HRS §201G-434)

**§15-180-53 Inclusion on agenda.** (a) Requests from members of the public to be included on the agenda of a meeting shall be in writing and must be received by staff at least twenty calendar days before the scheduled meeting. The request shall be summarized, and shall include the action being requested of the advisory commission.

(b) The name of the requesting party shall be placed on the agenda for the next scheduled meeting except when the chairperson determines that the volume or substance of the items scheduled for the next meeting or the location thereof warrant the placement of the requesting party's name on the agenda of a subsequent meeting.

(c) The advisory commission shall maintain a list of all names and addresses of persons who have requested, in writing, notification of the advisory commission's meetings. The list shall be updated annually.

(d) Written requests to the advisory commission requiring a response shall be accompanied by a stamped, self-addressed envelope. [Eff **OCT 25 1999** ] (Auth: HRS §201G-434) (Imp: HRS §92-7)

**§15-180-54 Disqualification of member of advisory commission.** No matter shall be heard by a member of the advisory commission who:

- (1) Has any pecuniary interest in the matter being heard; or
  - (2) Is related within the third degree by blood or marriage to any party to the proceeding.
- [Eff **OCT 25 1999** ] (Auth: HRS §201G-4)  
(Imp: HRS §201G-4)

## SUBCHAPTER 5

## PROCEEDINGS BEFORE THE ADVISORY COMMISSION

**§15-180-61 General rule.** All persons and parties shall comply with these rules when appearing before the advisory commission. The advisory commission may waive, modify, or suspend any of the provisions of this chapter to the extent permitted by law. All persons and parties shall have a reasonable opportunity to present evidence and argument on all the issues involved. [Eff **OCT 25 1999** ] (Auth: HRS §201G-434) (Imp: HRS §§91-9(d), 201G-434)

**§15-180-62 Appearances before the advisory commission.** (a) A party to a proceeding before the advisory commission may appear in person or through an authorized representative if the party is an individual; through an authorized representative if the party is a partnership, commission, trust or association; or through an officer or employee if the party is a state agency or political subdivision of the State.

(b) The advisory commission may at any time require an authorized representative of a party to demonstrate or prove that he or she has the authority to act in such capacity.

(c) An appearance before the advisory commission may be made by speaker telephone or other electronic means, with the approval of the chairperson. [Eff **OCT 25 1999** ] (Auth: HRS §201G-434) (Imp: HRS §201G-434)

**§15-180-63 Extensions of time.** Unless otherwise provided in this subchapter, whenever a party is required to take action within a period of time prescribed or allowed by applicable order, statute, or rule, the executive director may:

- (1) Approve a written stipulation signed by all parties extending such time period; or
- (2) Extend such time period upon written request of the party requesting the extension for good cause shown. [Eff **OCT 25 1999** ] (Auth: HRS §201G-434) (Imp: HRS §91-9)

**§15-180-64 Amendment of documents.** If any document filed with the advisory commission is not in substantial conformity with applicable rules of the advisory commission, the advisory commission may accept and file such documents and may request the filing of an amended document in conformance with the applicable rules. The mere fact of filing shall not waive any failure to comply with the rules herein, or any other legal requirement. If an amended document is requested by the advisory commission, the amended document shall be effective as of the date the advisory commission receives it. [Eff **OCT 25 1999** ] (Auth: HRS §201G-434) (Imp: HRS §201G-434)

**§15-180-65 Retention of documents.** All documents filed with the advisory commission shall be retained by the corporation in its files. The corporation may permit the withdrawal of original documents upon submission of properly authenticated copies to replace the original documents. [Eff **OCT 25 1999** ] (Auth: HRS §201G-434) (Imp: HRS §201G-434)

#### SUBCHAPTER 6

#### RENTAL HOUSING TRUST FUND

**§15-180-71 Project criteria for funding; minimum requirements.** Qualified housing projects funded in whole or in part through loans or grants from the rental housing trust fund must meet the following criteria:

- (1) At least fifty per cent of the available units shall be for persons and families with incomes at or below sixty per cent of the area median gross income at the time of admission into the housing project; and
- (2) At least ten per cent of the available units are for persons and families with incomes at or below thirty per cent of the median income; and
- (3) The remaining units must be for persons or families with incomes at or below one hundred per cent of the area median gross income at

the time of admission into the housing project;  
 provided, however, that if there is an insufficient number of persons or families who meet the income qualifying criteria for admission into the housing project, the corporation may permit the developer to rent units to higher income tenants in order to ensure full occupancy of funded projects.

Commencing with fiscal year 1999-2000, at the close of each biennium, at least one-third of the funds allocated to construction projects for the period shall have been committed to projects that guarantee affordable units to persons or families with incomes at or below thirty per cent of the median income pursuant to (2) above. [Eff **OCT 25 1999** ] (Auth: HRS §201G-434) (Imp: HRS §201G-432)

**§15-180-72 Rental housing trust fund; allowable uses.** (a) The rental housing trust fund may be utilized to provide loans or grants for the development, pre-development, construction, acquisition, preservation, and substantial rehabilitation of rental housing units that meet the criteria for eligibility in sections 15-180-71 and 15-180-82. Additionally, an amount from the fund may be used to pay for administrative expenses incurred by the corporation and the advisory commission in administering the fund.

(b) Activities eligible for assistance from the fund shall include but not be limited to:

- (1) Planning;
- (2) Design;
- (3) Land acquisition;
- (4) Costs of options;
- (5) Agreements of sale;
- (6) Downpayments;
- (7) Equity financing, including the leveraging of moneys with the use of fund assets;
- (8) New construction or rehabilitation activities;
- (9) Acquisition of housing units for the purpose of preservation as lower cost housing;
- (10) Pre-development activity grants or loans to nonprofit organizations or governmental agencies provided that an organization or agency may be eligible to receive one grant

- or loan per rental housing project;
- (11) Capacity building grants to nonprofit organizations, provided that an organization may be eligible to receive no more than \$150,000 per nonprofit organization;
  - (12) For participation in interim construction loans provided by private lenders or in loan programs administered by government agencies, such as the dwelling unit revolving fund and the homes revolving fund administered by the corporation; and
  - (13) Other housing development services or activities as approved by the corporation on a case-by-case basis. [Eff **OCT 25 1999** ] (Auth: HRS §201G-434) (Imp: HRS §§201G-432, 201G-432, 201G-435)

**§15-180-73 Rental housing trust fund; project administrative expenses.** Program funds cannot be used to finance the day-to-day administrative expenses of projects which are allotted trust fund moneys. For the purposes of this chapter, "day-to-day administrative expenses of projects" shall refer to the administration of the project after occupancy of the units has taken place. [Eff **OCT 25 1999** ] (Auth: HRS §201G-434) (Imp: HRS §201G-432)

**§15-180-74 Loans and grants to nonprofit and governmental entities.** (a) Loans and grants may be provided to nonprofit or governmental entities for the purposes set forth in section 15-180-71 and shall be subject to the additional conditions set forth in this section.

(b) The corporation, with the assistance of the advisory commission, shall objectively review each project on a case-by-case basis to determine whether a loan or grant is to be provided, and shall not be predisposed to providing loans over grants. The corporation shall also set forth the terms and conditions of the loan or grant, including the interest rate, repayment requirements, if applicable, appropriate security, and the like. The corporation may waive the repayment of funds used for predevelopment activities if the project fails to materialize through no fault of the recipient.

(c) The corporation, with the assistance of the advisory commission, shall take all reasonable steps necessary to ensure that projects funded shall remain affordable for the economic life of the project or for as long as rental housing trust fund moneys are invested in the project; provided, however, that upon the request of the project owners, the corporation shall have the authority to waive the conditions of the loan or grant due to extreme hardship or if such modifications are in conformity with the corporation's then existing rules for loans and grants for new projects. For example, the corporation, in conformity with its then existing rules, shall have the authority to subordinate an existing loan or grant to a subsequent rehabilitation mortgage loan.

(d) The corporation, with the assistance of the advisory commission, shall ensure that loans and grants provided for equity gap financing or interim construction purposes are secured to safeguard against a change in the use or ownership of the project, or the project no longer fulfilling the intended purpose for which the grant was provided. Loans and grants may be secured through any of the following means:

- (1) Use of a forgivable or subordinated mortgage;
- (2) Development of a project on government-owned land with conditions attached to the land;
- (3) Use of a regulatory agreement; or
- (4) Any of a combination of the above.

(e) The corporation, with the assistance of the advisory commission, shall establish provisions for monitoring the following:

- (1) The progress of nonprofit entities in developing and expanding their development capabilities or proceeding with pre-development activities if grants or loans are used for capacity building or pre-development purposes;
- (2) The progress of projects receiving loans and grants under these rules; and
- (3) Compliance with the terms and conditions of the loan or grant.

The corporation shall have the right to rescind or recapture moneys loaned or granted if the terms of the contract are not fulfilled. [Eff. **OCT 25 1999**]  
 (Auth: HRS §201G-434) (Imp: HRS §§201G-432, 201G-435)

**§15-180-75 Loans to for-profit entities.** (a) Loans may be provided to for-profit entities for the purposes set forth in section 15-180-71 and shall be subject to any additional conditions set forth in this section.

(b) The corporation, with the assistance of the advisory commission, shall set forth the terms and conditions of the loan on a case-by-case basis, including the interest rate, repayment requirements, appropriate security, and the like.

(c) The corporation, with the assistance of the advisory commission, shall take all reasonable steps necessary to ensure that projects funded shall remain affordable for the economic life of the project or for as long as rental housing trust fund moneys are invested in the project.

(d) The corporation, with the assistance of the advisory commission, shall ensure that loans provided under this section are secured to safeguard against a change in the use or ownership of the project, or the project no longer fulfilling the intended purpose for which the loan was provided. Loans may be secured through any of the following means:

- (1) Use of a forgivable or subordinated mortgage;
- (2) Development of a project on government-owned land with conditions attached to the land;
- (3) Use of a regulatory agreement; or
- (4) Any of a combination of the above.

(e) The corporation, with the assistance of the advisory commission, shall establish provisions for monitoring the following:

- (1) The progress of projects receiving loans under this section; and
- (2) Compliance with the terms and conditions of the loan.

The corporation shall have the right to rescind or recapture moneys loaned if the terms of the contract are not fulfilled. [Eff. **OCT 25 1999**] (Auth: HRS §201G-434) (Imp: HRS §§201G-432, 201G-432, 201G-435)

SUBCHAPTER 7

APPLICATION PROCEDURES

**\$15-180-81 Applications for program funds.** (a)

At the start of each fiscal year, the corporation, with the assistance of the advisory commission, shall commence with an outreach program, advertising the availability of moneys from the trust fund. Such outreach shall include, but shall not necessarily be limited to:

- (1) A direct mailing to all known interested parties notifying the parties of funding availability;
- (2) Publishing a notice of funding availability in a newspaper of general circulation, as well as in each of the major local newspapers;
- (3) Issuing press releases to major media; and
- (4) Any other means deemed appropriate by the commission.

(b) Applicants desiring to utilize trust fund moneys shall submit to the corporation an application containing such information and filed in such manner as required in the procedural manual.

[Eff **OCT 25 1999** ] (Auth: HRS §201G-434)(Imp: HRS §201G-436)

**\$15-180-82 Evaluation of requests for program funds.** (a) The corporation, with the assistance of the advisory commission, will review and evaluate each application for program funds, and shall take into consideration factors such as compliance with the purposes and intent of chapter 201G, HRS, and other relevant factors.

(b) In evaluating the requests for program funding, the corporation, with the assistance of the advisory commission, shall provide a preference to projects meeting the following criteria which are listed in descending order of priority:

- (1) Projects which serve the original target group;
- (2) Projects which provide the maximum number of units for the least amount of subsidy;
- (3) Projects which are committed to serving the



original target population over a longer period of time;

- (4) Projects which increase the integration of income levels of the immediate community area;
- (5) Projects which meet the geographic needs of the target population, such as proximity to employment centers and services;
- (6) Projects being developed by applicants with a favorable past performance with fund moneys;

provided that the corporation may include other criteria as it deems necessary to carry out the purposes of the fund. If the corporation, after applying the process described in this section, finds a nonprofit project equally ranked with a for-profit or government project, the corporation shall give preference to the nonprofit project in allotting fund moneys.

(c) In evaluating the requests for program funds, the corporation with the assistance of the advisory commission, shall also provide a preference to projects producing units in at least one of the following categories:

- (1) Multi-family projects;
- (2) Attached single-family units;
- (3) Apartments;
- (4) Townhouses;
- (5) Housing units above commercial or industrial space;
- (6) Single room occupancy units;
- (7) Accessory apartment units;
- (8) Employee housing; and
- (9) Other types of units meeting the criteria for eligibility as set forth in subsection (b).

[Eff **OCT 25 1999** ] (Auth: HRS §§201G-434, 201G-436) (Imp: HRS §201G-436)

**§15-180-83 Corporation action.** (a) The corporation may accept a request that program funds be allocated or may deny a request for program funds for a project. The corporation may also defer action on any request for project funds and may request that additional information be submitted. If the corporation accepts a request that program funds be allocated for a project, the corporation must make specific findings that the use and application of

program funds for the project are consistent with the purposes of the program and must submit a recommendation to the governor that program funds be allocated for the project.

(b) For any project that the corporation recommends to be assisted by program funds, the corporation shall provide the governor with a summary of the project to be developed. The summary shall include:

- (1) The various aspects of the project, including any projects or loan programs to be a part of the program;
- (2) The methods of financing the project or loans;
- (3) If applicable, how the program funds will be returned to the program;
- (4) Specific findings that the application of program funds will meet the requirements of the program and that the application of program funds will comply with the primary objectives of the program;
- (5) Other information which the corporation deems relevant; and
- (6) Other information as the governor may request. [Eff **OCT 25 1999** ] (Auth: HRS §201G-434) (Imp: HRS §201G-434)

**§15-180-84 Commitment of program funds.** Program funds may be committed in participation with other lenders. The corporation shall not issue nor make any commitment of program funds for any project unless the corporation has first made a determination that the purposes and amounts for which program funds are to be applied are consistent with the purposes of the program and the governor has approved the commitment of program funds for the project. All commitments for program funds shall be made subject to availability of program funds. [Eff **OCT 25 1999** ] (Auth: HRS §201G-434) (Imp: HRS §201G-434)

**§15-180-85 Conditions for program funds.** For a commitment of project funds, the corporation may require the applicant to enter into an agreement with the corporation, such as a development agreement or regulatory agreement, evidencing the applicant's

obligation to develop the project in a manner which will carry out the intent and purpose of the program. The corporation may require the applicant to prepare and maintain such records, including cost certifications, which evidence that project funds are being applied in a manner which meets the requirements of the program.

Additionally, the corporation may impose such requirements including restrictions covering the sale of dwelling units set forth in sections 201G-125 through 201G-131, HRS, or such other restrictions which the corporation shall require as a condition for project funds. [Eff **OCT 25 1999** ] (Auth: HRS §201G-434) (Imp: HRS §201G-434)

## SUBCHAPTER 8

### REPORTING AND OTHER REQUIREMENTS

**§15-180-91 Procedural manual.** The advisory commission and the corporation shall produce, maintain, and update a procedural manual which sets forth specific terms and conditions of loans or grants provided under these rules. The procedural manual shall include such items as:

- (1) The applications process;
- (2) Information required of applicants;
- (3) The allocation plan, including a selection criteria point system;
- (4) Fees to be charged;
- (5) The rights of the corporation and advisory commission; and
- (6) A compliance monitoring plan, including but not limited to, rental rates; terms of compliance; tenant income verification, certification, and recertification; rent restrictions, if any; eviction of tenants; audits; reporting requirements; fees; and non-compliance penalties.

[Eff **OCT 25 1999** ] (Auth: HRS §201G-434)  
(Imp: HRS §201G-434)

**§15-180-92 Books and records.** The corporation shall insure that proper books and records are

appropriately maintained. The books shall show, among other things, the amount and purpose of the application of moneys on deposit in the rental housing trust fund and the source of the moneys and separate accounting for earnings on moneys on deposit in the rental housing trust fund and proceeds of borrowings in accordance with generally accepted accounting principles and procedures. [Eff **OCT 25 1999** ] (Auth: HRS §201G-434) (Imp: HRS §201G-434)

**§15-180-93 Audit and cost certification.** All books and records of a project shall be subject to audit and all expenditures of a project shall be subject to cost certification. [Eff **OCT 25 1999** ] (Auth: HRS §201G-434) (Imp: HRS §201G-434)

**§15-180-94 Annual report to the governor and legislature.** The corporation shall at least once a year file with the governor and the legislature a report of the trust fund activities for the preceding year. As used in this section, the term year shall mean the fiscal year beginning on July 1 and ending on June 30. The annual report shall provide the following information on the status of its programs and finances:

- (1) A description of projects being developed in the current fiscal biennium including:
  - (A) A summary listing of such projects;
  - (B) The status of each project;
  - (C) The methods of project financing of grants and loans;
  - (D) Other information deemed significant;
- (2) Commencing with the 2000 regular session of the Hawaii Legislature, documentation of existing projects in compliance with 15-180-71(2);
- (3) A status report of:
  - (A) Actual expenditures made for the purposes of the trust fund in the prior completed fiscal year;
  - (B) Estimated expenditures anticipated for the current fiscal year; and
- (4) An annual financial audit and report, conducted by a certified public accounting firm and based on the fiscal year beginning

on July 1 and ending on June 30.

[Eff **OCT 25 1999** ] (Auth: HRS §201G-434)  
(Imp: HRS §201G-434)

**§15-180-95 Annual evaluation of program.** The commission shall evaluate the trust fund program each year and shall report its evaluation with suggested changes to the legislature not fewer than twenty days before the convening of each regular session, starting with the 1998 regular session. [Eff **OCT 25 1999** ] (Auth: HRS §201G-434) (Imp: HRS §201G-434)

#### SUBCHAPTER 9

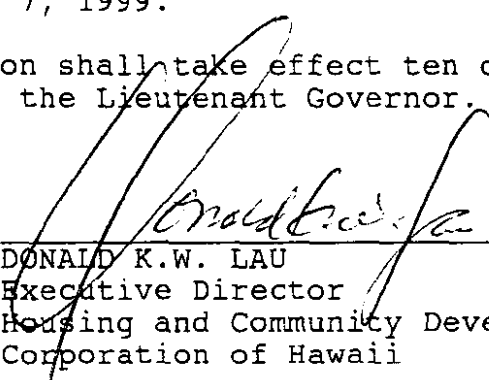
#### OTHER PROVISIONS

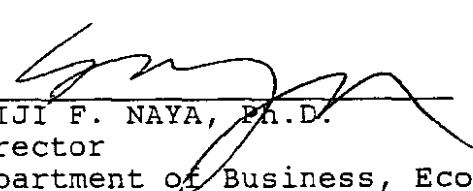
**§15-180-101 Forms.** The corporation, with the assistance of the advisory commission, may prescribe and use such forms as it may reasonably require to carry out its functions. The corporation at any time may create, modify, amend or delete any forms in order to effectuate the purposes herein. [Eff **OCT 25 1999** ] (Auth: HRS §201G-434) (Imp: HRS §201G-434)

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT,  
AND TOURISM

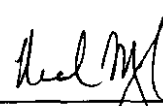
The repeal of chapters 6-401 and 6-411 and the adoption of chapter 15-180, Hawaii Administrative Rules, on the Summary Page dated August 27, 1999, was adopted on August 27, 1999, following public hearings held on Maui on July 15, 1999, Hilo on July 16, 1999, Oahu on July 19, 1999, and Kauai on July 20, 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 P2:07