
A BILL FOR AN ACT

RELATING TO TEACHERS' HOUSING.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The Legislature finds that it is in the
2 interests of the State of Hawaii to create an incentive for
3 persons to become and remain classroom teachers in the public
4 schools. A shortage of teachers compromises the quality of
5 public education, particularly in areas of the State where it is
6 difficult to attract and retain qualified personnel. Housing
7 incentives can be an effective tool in the recruitment and
8 retention of highly qualified teachers. Given the current
9 shortage of available and affordable rental housing, second
10 mortgage loan financing for down payment and closing cost
11 expenses will assist new classroom teachers to purchase a
12 residence and remain in Hawaii, thereby enabling the State to
13 maintain and improve the quality of public education.

14 The purpose of this Act is to authorize second mortgage
15 loans for downpayment and closing costs of teachers employed and
16 assigned by the department of education, and to make an
17 appropriation to the teachers' housing revolving fund for this
18 purpose.



1 PART I

2 SECTION 2. Chapter 201G, Hawaii Revised Statutes, is
3 amended by adding a new section to part III, subpart H, to be
4 appropriately designated and to read as follows:

5 "§201G- Expenditures from the teachers' housing
6 revolving fund. Notwithstanding any law to the contrary, the
7 teachers' housing revolving fund shall be used to carry out the
8 purposes of this subpart with respect to teachers."

9 SECTION 3. Section 201G-1, Hawaii Revised Statutes, is
10 amended by adding a new definition to be appropriately inserted
11 and to read as follows:

12 "Teacher" means a teacher assigned and employed by the
13 department of education."

14 SECTION 4. Section 201G-141, Hawaii Revised Statutes, is
15 amended to read as follows:

16 **"§201G-141 Purpose.** The purpose of this subpart is to
17 create a special fund for the accounting and control of receipts
18 and disbursements in connection with the administration's
19 functions of planning, construction, financing, repair,
20 maintenance, and operation of housing for teachers employed and
21 assigned by the department of education. Teacher housing shall

1 be provided only if the community does not have adequate housing
2 for teachers at reasonable cost."

3 SECTION 5. Section 201G-142, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "§201G-142 Establishment of revolving fund. (a) The
6 director of finance shall set up out of any moneys from the
7 proceeds of general obligation bonds that may be authorized and
8 any moneys heretofore or hereafter appropriated for the purposes
9 of teacher housing, a revolving fund to be known as the
10 teachers' housing revolving fund. All unexpended balances of
11 appropriations, allocations, allotments, special revolving funds
12 or other funds heretofore created and made available for the
13 purposes of developing or administering teachers' housing
14 projects shall be transferred to the teachers' housing revolving
15 fund. Notwithstanding any law to the contrary, all moneys,
16 including refunds, reimbursements, [~~and rentals~~] rental payments
17 for housing from teacher tenants, and repayment of downpayment
18 loans to teachers under part III, subpart H of this chapter,
19 shall be deposited in the revolving fund.

20 (b) The revolving fund may be used by the administration
21 for any and all of the purposes of teachers' housing including,
22 without prejudice to the generality of the foregoing, the



1 planning, construction, financing, repair, maintenance, and
2 operation of teachers' housing, as well as for the salaries of
3 the necessary personnel in charge thereof.

4 (c) Whenever the governor determines that the amount in
5 the teachers' housing revolving fund is in excess of the
6 requirements of the teacher housing program, the administration
7 shall transfer such excess to the state general fund."

8 SECTION 6. Section 201G-143, Hawaii Revised Statutes, is
9 amended to read as follows:

10 **"§201G-143 Annual statements.** The administration shall
11 annually forward to the director of human services and the
12 director of finance a full, detailed description and financial
13 statement of the planning, construction, financing, repair,
14 maintenance, and operation of teacher housing."

15 SECTION 7. Section 201G-321, Hawaii Revised Statutes, is
16 amended to read as follows:

17 **"§201G-321 Downpayment loans.** (a) The administration may
18 make direct downpayment loans to eligible borrowers. The
19 downpayment loan to any borrower except a teacher shall not
20 exceed thirty per cent of the purchase price of the residential
21 property or \$15,000, whichever is less. The interest rate on



1 the loans may range from zero per cent to eight per cent,
2 depending on the buyer's incomes.

3 (b) The repayment of every downpayment loan shall be
4 secured by a duly recorded second mortgage executed by the
5 borrower to the State on the residential property purchased with
6 the downpayment loan.

7 (c) The principal of the downpayment loan, together with
8 accrued interest, shall be due and payable upon the sale,
9 transfer, or refinancing of the home, or shall be repaid by the
10 borrower in such installments as determined by the
11 administration; provided that the administration may provide a
12 period in which the payment could be waived. The period over
13 which the principal and interest shall be paid need not coincide
14 with the period over which the loan from the mortgage lender for
15 the balance of the purchase price must be repaid. The borrower
16 may repay the whole or any part of the unpaid balance of the
17 downpayment loan, plus accrued interest at any time without
18 penalty[-]; provided, that a teacher shall repay the whole or
19 any part of the unpaid balance of the downpayment loan upon
20 termination of employment with the department of education.

21 (d) The administration may secure the services of the
22 mortgage lender who loans to the borrower the balance of the



1 purchase price of the residential property or the services of
2 any other mortgage lender doing business in the State to
3 collect, on behalf of the State, the principal and interest of
4 the downpayment loan and otherwise to service the downpayment
5 loan, for a servicing fee not in excess of the prevailing loan
6 servicing fees.

7 (e) The administration shall adopt rules pursuant to
8 chapter 91 to carry out the purposes of this subpart."

9 SECTION 8. Section 201G-322, Hawaii Revised Statutes, is
10 amended by amending subsection (a) to read as follows:

11 "(a) No person shall be qualified for a downpayment loan
12 unless the person:

- 13 (1) Is a citizen of the United States or a resident alien;
- 14 (2) Is at least eighteen years of age;
- 15 (3) Is a bona fide resident of the State;
- 16 (4) Will physically reside in the residential property to
17 be purchased for the term of the loan;
- 18 (5) Is accepted by a mortgage lender as a person to whom
19 it is willing to lend money for the purchase of the
20 residential property provided the required downpayment
21 is made; and



1 (6) Provides a portion of the downpayment which shall be
2 equal to at least three per cent of the sales
3 price[-]; provided that this paragraph shall not apply
4 to a teacher."

5 SECTION 9. Section 201G-323, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§201G-323 Restrictions on borrower.** Every loan made
8 under this subpart shall be subject to the following conditions:

- 9 (1) The borrower shall expend no portion of the borrower's
10 downpayment loan for purposes other than to make a
11 downpayment for the purchase of a residential
12 property; provided that a teacher may expend a portion
13 of the downpayment loan for closing costs;
- 14 (2) The residential property purchased with the
15 downpayment loan and mortgaged to the State to secure
16 the repayment of the loan shall not be sold or
17 assigned without the prior approval in writing of the
18 administration and the first mortgage lender;
- 19 (3) The borrower shall pay when due all taxes, liens,
20 judgments, or assessments which may be lawfully levied
21 against the residential property and all costs and



1 expenses of any foreclosure of the mortgage made to
2 the State;

3 (4) The borrower shall maintain fire and casualty
4 insurance in amounts equal to the replacement value of
5 all improvements and insurable portions of the
6 residential property with an insurance company
7 authorized to do business in the State. All proceeds
8 of that insurance shall be made payable to the first
9 mortgage lender and the administration as their
10 respective interests may appear at the time of any
11 loss or damage. Subject to the rules of the
12 administration, in the event of any loss or damage to
13 the improvements or property covered by the insurance,
14 the proceeds receivable by the State shall be applied
15 toward the reconstruction of the improvements or
16 property destroyed or damaged, unless otherwise
17 determined by the administration on behalf of the
18 State; and

19 (5) The borrower shall maintain the improvements in good
20 repair.

21 All of the above conditions shall be a part of any
22 downpayment mortgage executed under this part, regardless of



1 whether or not they are expressly incorporated in the mortgage
2 document."

3 SECTION 10. There is appropriated out of the general
4 revenues of the State of Hawaii the sum of \$, or so
5 much thereof as may be necessary, for fiscal year 2006-2007 to
6 be deposited in the teachers' housing revolving fund for
7 downpayment loans to teachers under this subpart.

8 SECTION 11. The sum appropriated shall be expended by the
9 department of human services for the purposes of this Act.

10 PART II

11 SECTION 12. Act 204, Session Laws of Hawaii 2005, is
12 amended by amending section 1 to read as follows:

13 "SECTION 1. Chapter 302A, Hawaii Revised Statutes, part
14 III, is amended by adding a new subpart to be appropriately
15 designated and to read as follows:

16 " . Teachers' Housing

17 **§302A-A Purpose.** The purpose of this subpart is to
18 transfer the administration of the teachers' housing program
19 from the housing and community development corporation of Hawaii
20 to the department of education. This subpart [~~also~~] establishes
21 a revolving fund for the accounting and control of receipts and
22 disbursements in connection with the department of education's



1 functions of planning, constructing, financing, repairing,
2 maintaining, and operating housing programs for teachers
3 employed and assigned by the department of education.

4 **§302A-B Definitions.** The following terms, wherever used
5 in this subpart, shall have the following meanings unless a
6 different meaning clearly appears from the context:

7 "Downpayment loan" means a loan for the downpayment or
8 closing costs for the purchase of residential property.

9 "Teacher" means a teacher assigned and employed by the
10 department of education.

11 **~~§302A-B~~ §302A-C Teachers' housing program;**

12 **administration.** (a) The department shall administer the
13 teachers' housing program under this subpart. The department
14 shall:

15 (1) Administer the teachers' housing revolving fund under
16 section ~~[302A-C]~~ 302A-D;

17 (2) Provide annual statements under section ~~[302A-D]~~
18 302A-E;

19 (3) Conduct annual reviews of units under section ~~[302A-~~
20 ~~E]~~ 302A-F; and

21 (4) Perform any other duty necessary to effectuate this
22 subpart.



1 (b) The department may adopt rules pursuant to chapter 91
2 to effectuate this subpart.

3 ~~§302A-C~~ §302A-D **Teachers' housing revolving fund.** (a)
4 There is established in the state treasury a revolving fund to
5 be known as the teachers' housing revolving fund to be
6 administered by the department of education. The director of
7 finance shall transfer any moneys appropriated for the purposes
8 of teacher housing to the teachers' housing revolving fund. All
9 unexpended balances of the proceeds of general obligation bonds
10 or other appropriations, allocations, allotments, special
11 revolving funds, or other funds heretofore created and made
12 available for the purposes of developing or administering
13 teachers' housing projects shall be transferred to the teachers'
14 housing revolving fund. Notwithstanding any law to the
15 contrary, all moneys, including refunds, reimbursements, ~~and~~
16 ~~rentals,~~ rental payments for housing from teacher tenants, and
17 repayment of downpayment loans to teachers under this subpart,
18 shall be deposited in the revolving fund and shall be used to
19 carry out the purposes of this subpart.

20 (b) The revolving fund may be used by the department of
21 education for any and all of the purposes of teachers' housing,
22 including the planning, construction, financing, repair,



1 maintenance, and operation of teachers' housing, as well as for
2 the salaries of the necessary personnel in charge thereof.

3 (c) Whenever the governor determines that the amount in
4 the teachers' housing revolving fund exceeds the requirements of
5 the teacher housing program, the department shall transfer the
6 excess to the state general fund.

7 ~~§302A-D~~ §302A-E **Annual statements.** The department of
8 education shall annually prepare for the director of human
9 services and the director of finance a full, detailed
10 description and financial statement of the planning,
11 construction, financing, repair, maintenance, and operation of
12 teachers' housing.

13 ~~§302A-E~~ §302A-F **Annual review; disposal of units.** The
14 department of education shall annually review the status of and
15 necessity for subsidized teachers' housing throughout the State
16 and, upon determination that any particular housing unit is no
17 longer necessary, shall dispose of that unit by sale,
18 demolition, or otherwise. Any net proceeds from the disposal of
19 a unit shall be paid to the governmental entity vested with fee
20 title to the unit at the time of disposition, and any deficit
21 incurred in the disposal shall be paid by the State. [u]



1 §302A-G Downpayment loans. (a) The department may make
2 downpayment loans for the purchase of residential property to
3 teachers who qualify under section 302A-H. The interest rate on
4 the loans may range from zero per cent to eight per cent,
5 depending on the borrowers' incomes.

6 (b) To secure the repayment loan, every borrower shall
7 execute and duly record a second mortgage to the State on the
8 property purchased with the loan proceeds.

9 (c) The principal of the downpayment loan, together with
10 accrued interest, shall be due and payable upon the sale,
11 transfer, or refinancing of the home, or upon the termination of
12 the borrower's employment with the department, or shall be
13 repaid by the borrower in such installments as determined by the
14 department; provided that the department may provide a period in
15 which the payment may be waived. The period over which the
16 principal and interest shall be paid need not coincide with the
17 period during which the loan from the mortgage lender for the
18 balance of the purchase price must be repaid. At any time, the
19 borrower may repay without penalty the whole or any part of the
20 unpaid balance of the downpayment loan plus accrued interest.

21 (d) The department may collect unpaid principal and
22 interest and otherwise service the loan itself or, for a loan



1 service fee not in excess of the market rate, through a contract
2 with any mortgage lender or real estate collection servicing
3 agent authorized to do business in the State, including the
4 holder of the first mortgage on the property.

5 **§302A-H Qualifications for downpayment loan.** (a) No
6 teacher shall be qualified for a downpayment loan under this
7 subpart unless the teacher:

8 (1) Is a citizen of the United States or a resident alien;

9 (2) Is at least eighteen years of age;

10 (3) Is a bona fide resident of the State;

11 (4) Will physically reside in the residential property to
12 be purchased for the term of the loan; and

13 (5) Is accepted by a mortgage lender as a person to whom
14 it is willing to lend money for the purchase of the
15 residential property.

16 (b) No person who owns in fee simple or in leasehold any
17 other residential property within the State shall be eligible to
18 become a borrower under this subpart. A person shall be deemed
19 to own a residential property if the person, the person's
20 spouse, or both (unless separated and living apart under a
21 decree of a court of competent jurisdiction) own a majority
22 interest in a residential property.



1 §302A-I Restrictions on borrower. Every downpayment loan
2 made under this subpart shall be subject to the following
3 conditions:

4 (1) The borrower shall spend no portion of the loan for
5 purposes other than to make a downpayment or pay
6 closing costs for the purchase of a residential
7 property;

8 (2) The residential property purchased with the loan shall
9 not be sold or assigned without the prior written
10 approval of the department and the first mortgage
11 lender;

12 (3) The borrower shall pay when due all taxes, liens,
13 judgments, or assessments which may be lawfully levied
14 against the property and all costs and expenses of any
15 foreclosure of the mortgage to the State;

16 (4) The borrower shall maintain fire and casualty
17 insurance with an insurance company authorized to do
18 business in the State in amounts equal to the
19 replacement value of all improvements and insurable
20 portions of the property. All proceeds of that
21 insurance shall be made payable to the first mortgage
22 lender and the department as their respective



1 interests may appear at the time of any loss or
2 damage. Subject to the rules of the department, in
3 the event of any loss or damage to the improvements or
4 property covered by the insurance, the proceeds
5 receivable by the State shall be applied toward the
6 reconstruction of the improvements or property
7 destroyed or damaged; and

8 (5) The borrower shall maintain the improvements in good
9 repair.

10 All of the above conditions shall be a part of the
11 downpayment mortgage executed under this part, whether or not
12 they are expressly incorporated in the mortgage document.

13 **§302A-J Default.** If the borrower fails to pay the
14 principal or interest on the downpayment loan when due, the
15 department shall take all necessary action to collect the
16 delinquent amounts. Upon the borrower's material breach of the
17 loan agreement, the State may exercise all the State's remedies
18 as a mortgagee, including its right to foreclose. Upon
19 foreclosure, the State may purchase the borrower's interest in
20 the property, assume the borrower's obligations under the first
21 mortgage, discharge other liens, improve the property, and with



1 or without discharging the first mortgage or other liens, use,
2 sell, lease, or rent the property as authorized by law."

3 PART III

4 SECTION 13. Statutory material to be repealed is
5 bracketed. New statutory material is underscored.

6 SECTION 14. This Act shall take effect on July 2, 2006;
7 provided that:

8 (1) Section 12 shall take effect on July 1, 2008; and

9 (2) Sections 2, 3, 4, 5, 6, 7, 8, and 9 shall be repealed
10 on June 30, 2008, and sections 201G-1, 201G-141, 201G-142,
11 201G-143, 201G-321, 201G-322, and 201G-323 shall be reenacted in
12 the form in which they read on the day prior to the effective
13 date of this Act.

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Report Title:

Housing; Downpayment Loan; Teachers

Description:

Authorizes second mortgage loans for downpayment and closing costs of teachers employed and assigned by the department of education. Makes an appropriation to the teachers' housing revolving fund for the purposes of the bill.

