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# 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 in purchasing a  
12 residence and remaining 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.

17           SECTION 2. Act 204, Session Laws of Hawaii 2005, is  
18 amended by amending section 1 to read as follows:



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

4 " . Teachers' Housing

5 **§302A-A Purpose.** The purpose of this subpart is to  
6 transfer the administration of the teachers' housing program  
7 from the housing and community development corporation of Hawaii  
8 to the department of education. This subpart [~~also~~] establishes  
9 a revolving fund for the accounting and control of receipts and  
10 disbursements in connection with the department of education's  
11 functions of planning, constructing, financing, repairing,  
12 maintaining, and operating housing programs for teachers  
13 employed and assigned by the department of education.

14 **§302A-B Definitions.** The following terms, wherever used  
15 in this subpart, shall have the following meanings unless a  
16 different meaning clearly appears from the context:

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

19 "Teacher" means a teacher assigned and employed by the  
20 department of education.

21 [~~§302A-B~~] **§302A-C Teachers' housing program;**  
22 **administration.** (a) The department shall administer the



1 teachers' housing program under this subpart. The department  
2 shall:

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

5 (2) Provide annual statements under section [~~302A-D,~~]  
6 302A-E;

7 (3) Conduct annual reviews of units under section  
8 [~~302A-E,~~] 302A-F; and

9 (4) Perform any other duty necessary to effectuate this  
10 subpart.

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

13 ~~§302A-C~~ §302A-D **Teachers' housing revolving fund.** (a)  
14 There is established in the state treasury a revolving fund to  
15 be known as the teachers' housing revolving fund to be  
16 administered by the department of education. The director of  
17 finance shall transfer any moneys appropriated for the purposes  
18 of teacher housing to the teachers' housing revolving fund. All  
19 unexpended balances of the proceeds of general obligation bonds  
20 or other appropriations, allocations, allotments, special  
21 revolving funds, or other funds heretofore created and made  
22 available for the purposes of developing or administering

1 teachers' housing projects shall be transferred to the teachers'  
2 housing revolving fund. Notwithstanding any law to the  
3 contrary, all moneys, including refunds, reimbursements, [~~and~~  
4 ~~rentals,~~] rental payments for housing from teacher tenants, and  
5 repayment of downpayment loans to teachers under this subpart,  
6 shall be deposited in the revolving fund and shall be used to  
7 carry out the purposes of this subpart.

8 (b) The revolving fund may be used by the department of  
9 education for any and all of the purposes of teachers' housing,  
10 including the planning, construction, financing, repair,  
11 maintenance, and operation of teachers' housing, as well as for  
12 the salaries of the necessary personnel in charge thereof.

13 (c) Whenever the governor determines that the amount in  
14 the teachers' housing revolving fund exceeds the requirements of  
15 the teacher housing program, the department shall transfer the  
16 excess to the state general fund.

17 ~~§302A-D~~ §302A-E **Annual statements.** The department of  
18 education shall annually prepare for the director of human  
19 services and the director of finance a full, detailed  
20 description and financial statement of the planning,  
21 construction, financing, repair, maintenance, and operation of  
22 teachers' housing.



1           ~~§302A-E~~ §302A-F **Annual review; disposal of units.** The  
2 department of education shall annually review the status of and  
3 necessity for subsidized teachers' housing throughout the State  
4 and, upon determination that any particular housing unit is no  
5 longer necessary, shall dispose of that unit by sale,  
6 demolition, or otherwise. Any net proceeds from the disposal of  
7 a unit shall be paid to the governmental entity vested with fee  
8 title to the unit at the time of disposition, and any deficit  
9 incurred in the disposal shall be paid by the State. [4]

10           §302A-G **Downpayment loans.** (a) The department may make  
11 downpayment loans for the purchase of residential property to  
12 teachers who qualify under section 302A-H. The interest rate on  
13 the loans may range from zero per cent to eight per cent,  
14 depending on the borrowers' incomes.

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

18           (c) The principal of the downpayment loan, together with  
19 accrued interest, shall be due and payable upon the sale,  
20 transfer, or refinancing of the home, or upon the termination of  
21 the borrower's employment with the department, or shall be  
22 repaid by the borrower in such installments as determined by the



1 department; provided that the department may provide a period in  
2 which the payment may be waived. The period over which the  
3 principal and interest shall be paid need not coincide with the  
4 period during which the loan from the mortgage lender for the  
5 balance of the purchase price must be repaid. At any time, the  
6 borrower may repay without penalty the whole or any part of the  
7 unpaid balance of the downpayment loan plus accrued interest.

8 (d) The department may collect unpaid principal and  
9 interest and otherwise service the loan itself or, for a loan  
10 service fee not in excess of the market rate, through a contract  
11 with any mortgage lender or real estate collection servicing  
12 agent authorized to do business in the State, including the  
13 holder of the first mortgage on the property.

14 **§302A-H Qualifications for downpayment loan.** (a) No  
15 teacher shall be qualified for a downpayment loan under this  
16 subpart unless the teacher:

- 17 (1) Is a citizen of the United States or a resident alien;  
18 (2) Is at least eighteen years of age;  
19 (3) Is a bona fide resident of the State;  
20 (4) Will physically reside in the residential property to  
21 be purchased for the term of the loan; and



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

4       (b) No person who owns in fee simple or in leasehold any  
5       other residential property within the State shall be eligible to  
6       become a borrower under this subpart. A person shall be deemed  
7       to own a residential property if the person, the person's  
8       spouse, or both (unless separated and living apart under a  
9       decree of a court of competent jurisdiction) own a majority  
10      interest in a residential property.

11       §302A-I Restrictions on borrower. Every downpayment loan  
12      made under this subpart shall be subject to the following  
13      conditions:

14       (1) The borrower shall spend no portion of the loan for  
15       purposes other than to make a downpayment or pay the  
16       actual closing costs associated with the purchase of a  
17       residential property;

18       (2) The residential property purchased with the loan shall  
19       not be sold or assigned without the prior written  
20       approval of the department and the first mortgage  
21       lender;

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

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

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



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

4       §302A-J Default. If the borrower fails to pay the  
5 principal or interest on the downpayment loan when due, the  
6 department shall take all necessary action permitted under state  
7 law to collect the delinquent amounts. Upon the borrower's  
8 material breach of the loan agreement, the State may exercise  
9 all the State's remedies as a mortgagee, including its right to  
10 foreclose. Upon foreclosure, the State may purchase the  
11 borrower's interest in the property, assume the borrower's  
12 obligations under the first mortgage, discharge other liens,  
13 improve the property, and with or without discharging the first  
14 mortgage or other liens, use, sell, lease, or rent the property  
15 as authorized by law."

16       SECTION 3. Statutory material to be repealed is bracketed.  
17 New statutory material is underscored.

18       SECTION 4. This Act shall take effect on July 1, 2008.



SB2229, SD1

**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. (SD1)

