



EXECUTIVE CHAMBERS  
HONOLULU

NEIL ABERCROMBIE  
GOVERNOR

June 21, 2013

**GOV. MSG. NO. 1238**

The Honorable Donna Mercado Kim,  
President  
and Members of the Senate  
Twenty-Seventh State Legislature  
State Capitol, Room 409  
Honolulu, Hawaii 96813

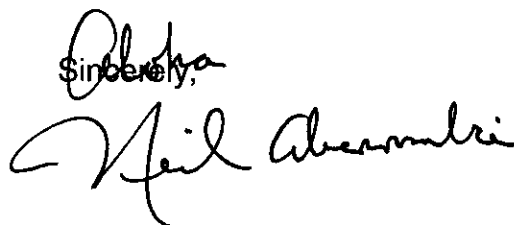
The Honorable Joseph M. Souki,  
Speaker and Members of the  
House of Representatives  
Twenty-Seventh State Legislature  
State Capitol, Room 431  
Honolulu, Hawaii 96813

Dear President Kim, Speaker Souki, and Members of the Legislature:

This is to inform you that on June 21, 2013, the following bill was signed into law:

SB1025 HD3 CD1

RELATING TO THE HOUSING LOAN AND  
MORTGAGE PROGRAM  
**ACT 135 (13)**

Sincerely,  


NEIL ABERCROMBIE  
Governor, State of Hawaii

# A BILL FOR AN ACT

RELATING TO THE HOUSING LOAN AND MORTGAGE PROGRAM.

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

1           SECTION 1. The legislature finds that in 1979, it  
2 authorized the Hawaii housing authority to fund an innovative  
3 mortgage loan program for low- and moderate-income homebuyers,  
4 popularly known as the hula mae single family program.  
5 Responsibility for administering the hula mae single family  
6 program now rests with the Hawaii housing finance and  
7 development corporation.

8           Since that time, the legislature has authorized the  
9 issuance of revenue bonds in an aggregate principal amount of  
10 \$2,275,000,000 to fund this program. As of June 30, 2012,  
11 \$1,821,000,000 in single family mortgage purchase revenue bonds  
12 has been issued, providing eligible first-time homebuyers with  
13 mortgage loans at below market interest rates.

14           Homebuyers apply directly with participating lending  
15 institutions, which review eligibility and qualifications for a  
16 hula mae loan. Loans currently made under the program are  
17 securitized by the Federal National Mortgage Association, the  
18 Government National Mortgage Association, or the Federal Home



1 Loan Mortgage Corporation. As of June 30, 2012, the hula mae  
2 single family program has helped over ten thousand families to  
3 purchase their first homes.

4 The legislature also finds that even more Hawaii families  
5 could become homeowners by broadening the hula mae program  
6 eligibility criteria to the extent not precluded by the Internal  
7 Revenue Code of 1986, as amended.

8 The purpose of this Act is to make homeownership accessible  
9 to more Hawaii households by updating the hula mae single family  
10 program, consistent with applicable federal law.

11 SECTION 2. Section 201H-91, Hawaii Revised Statutes, is  
12 amended as follows:

13 1. By adding two new definitions to be appropriately  
14 inserted and to read:

15 "Homebuyer assistance" means assistance provided to  
16 eligible borrowers in conjunction with an eligible loan to  
17 provide downpayment assistance or fund closing costs; provided  
18 that such assistance is repaid through consideration to the  
19 corporation, including borrower repayments.

20 "Mortgage-backed security" means any investment security,  
21 not including bonds of the corporation, that represents an  
22 interest in, or is secured by, one or more pools of mortgage



1 loans, including any such security representing a direct  
2 obligation or guarantee of a federally-sponsored or private  
3 entity such as the Government National Mortgage Association,  
4 Federal National Mortgage Association, or Federal Home Loan  
5 Mortgage Corporation."

6 2. By amending the definitions of "eligible borrower";  
7 "eligible loans"; and "housing loan program" to read:

8 "Eligible borrower" means a person or family, without  
9 regard to race, creed, national origin, or sex, who:

- 10 (1) Is a citizen of the United States or a resident alien;  
11 (2) Is a bona fide resident of the State;  
12 (3) Is at least eighteen years of age;  
13 (4) Does not personally, or whose spouse does not if the  
14 person is married, own any interest in a principal  
15 residence within or without the State and who has not  
16 owned a principal residence within the three years  
17 immediately prior to the application for an eligible  
18 loan under this subpart, except this requirement shall  
19 not apply to any eligible loan for a targeted area  
20 residence as defined in the Mortgage Subsidy Bond Tax  
21 Act of 1980, Public Law 96-499 [~~which residence is to~~  
22 ~~replace a housing unit that has been declared~~



1 ~~structurally unsalvageable by a governmental board or~~  
2 ~~agency having the power to make the declaration, and~~  
3 ~~provided further that this requirement shall not apply~~  
4 ~~to up to ten per cent of eligible loans of a bond~~  
5 ~~issue made to single parent household borrowers. No~~  
6 ~~loans, however, shall be made if they adversely affect~~  
7 ~~the tax exempt status of the bonds issued. For the~~  
8 ~~purpose of this section, "single parent household"~~  
9 ~~means a household headed by a single person who has~~  
10 ~~legal custody of one or more dependent children];~~

11 (5) ~~[Has never before obtained a loan under this part,~~  
12 ~~and] Is financing a property that will be the eligible~~  
13 ~~borrower's principal residence; and~~

14 (6) Meets other qualifications as established by rules  
15 adopted by the corporation.

16 "Eligible loan" means a loan under this subpart, including  
17 mortgage-backed securities backed by such a loan, to an eligible  
18 borrower for the permanent financing of a dwelling unit,  
19 including a condominium unit[+], including eligible improvement  
20 loans, loans to finance homebuyer assistance, and loans that  
21 provide the security or interest in a mortgage-backed security;  
22 provided that the property financed is located in the State,



1 will be occupied as the principal place of residence by the  
2 eligible borrower, and meets other requirements as established  
3 by rules adopted by the corporation.

4 "Housing loan programs" includes all or any part of [~~the~~  
5 ~~loans to lenders program, the purchase of existing loans~~  
6 ~~program,~~] the advance commitments program, and the loan funding  
7 programs authorized under this subpart."

8 SECTION 3. Section 201H-94, Hawaii Revised Statutes, is  
9 amended to read as follows:

10 "[~~f~~]§201H-94[~~t~~] **Eligible loans.** (a) The corporation  
11 shall establish requirements for property financed by an  
12 eligible loan, and may consider the location, age, condition,  
13 and other characteristics of the property.

14 (b) The corporation shall establish restrictions on the  
15 terms, maturities, interest rates, collateral, and other  
16 requirements for eligible loans.

17 (c) All eligible loans made shall comply with applicable  
18 state and federal laws.

19 (d) Notwithstanding any other provision of law, the  
20 corporation may provide homebuyer assistance in conjunction with  
21 eligible loans through loans or other means; provided that the  
22 homebuyer assistance:



- 1        (1) Is repaid through consideration to the corporation,
- 2                including borrower repayments; and
- 3        (2) Meets restrictions and requirements as established in
- 4                rules adopted by the corporation."

5        SECTION 4. Section 201H-97, Hawaii Revised Statutes, is  
6 amended by amending subsection (a) to read as follows:

- 7        "(a) The corporation shall establish procedures for:
- 8        [~~(1)~~] ~~The submission of requests or the invitation of~~
  - 9                ~~proposals for loans to mortgage lenders,~~
  - 10        [~~(2)~~] ~~The purchase of existing loans by auction, invitation~~
  - 11                ~~of tenders, or negotiation,~~
  - 12        [~~(3)~~] (1) The making of advance commitments to purchase and
  - 13                the purchasing of eligible loans, eligible improvement
  - 14                loans, or eligible project loans to be made by
  - 15                mortgage lenders by auction, invitation of [~~tenders,~~]
  - 16                lenders, or negotiation; and
  - 17        [~~(4)~~] (2) Loan applications made through mortgage lenders
  - 18                to eligible borrowers or qualified sponsors."

19        SECTION 5. Section 201H-102, Hawaii Revised Statutes, is  
20 repealed.

21        [~~§201H-102~~] ~~Loans to lenders program.~~ (a) ~~The~~  
22 ~~corporation may make loans to mortgage lenders under terms and~~



1 ~~conditions requiring that the loan proceeds be used within a~~  
2 ~~time period prescribed by the corporation to make eligible~~  
3 ~~loans, eligible improvement loans, and eligible project loans in~~  
4 ~~an aggregate principal amount substantially equal to the amount~~  
5 ~~of the loan.~~

6 ~~(b) The loan made to a mortgage lender shall be a general~~  
7 ~~obligation of the respective mortgage lender.~~

8 ~~(c) The loan as determined by the corporation shall:~~

9 ~~(1) Bear a date or dates;~~

10 ~~(2) Mature at a time or times;~~

11 ~~(3) Be evidenced by a note, bond, or other certificate of~~  
12 ~~indebtedness;~~

13 ~~(4) Be subject to prepayment; and~~

14 ~~(5) Contain other provisions consistent with this part.~~

15 ~~(d) Subject to any agreement with the holders of its~~  
16 ~~bonds, the corporation may consent to any modification to the~~  
17 ~~rate of interest, time and payment of any installment of~~  
18 ~~principal or interest, security, or any other term of any loan~~  
19 ~~to a mortgage lender or any bond, note, contract, or agreement~~  
20 ~~of any kind to which the corporation is a party." ]~~

21 SECTION 6. Section 201H-103, Hawaii Revised Statutes, is  
22 repealed.





1           ~~["§201H-103] Loans to lenders program; collateral~~  
2 ~~security. (a) Loans made to mortgage lenders shall be~~  
3 ~~additionally secured by a pledge of a lien upon collateral~~  
4 ~~security in an amount as the corporation deems necessary to~~  
5 ~~assure the payment of the principal of and interest on the loans~~  
6 ~~as they become due.~~

7           ~~(b) The corporation shall determine the nature and type of~~  
8 ~~collateral security required.~~

9           ~~(c) A statement designating the collateral security~~  
10 ~~pledged, the mortgage lender pledging the collateral, and the~~  
11 ~~corporation's interest in the pledged collateral may be filed~~  
12 ~~with the bureau of conveyances. Where a statement has been~~  
13 ~~filed, no possession, further filing, or other action under any~~  
14 ~~state law shall be required to perfect any security interest~~  
15 ~~which may be deemed to have been created in favor of the~~  
16 ~~corporation. The mortgage lender shall be deemed the trustee of~~  
17 ~~an express trust for the benefit of the corporation in all~~  
18 ~~matters relating to the pledged collateral.~~

19           ~~(d) Subject to any agreement with the holders of its~~  
20 ~~bonds, the corporation may collect, enforce the collection of,~~  
21 ~~and foreclose on any collateral securing its loans to mortgage~~  
22 ~~lenders. The corporation may acquire, take possession of, sell~~



1 ~~at public or private sale with or without bidding, or otherwise~~  
2 ~~deal with the collateral to protect its interests."]~~

3 SECTION 7. Section 201H-104, Hawaii Revised Statutes, is  
4 repealed.

5 ~~["§201H-104] Purchase of existing loans program. (a)~~  
6 ~~The corporation may contract with a mortgage lender to purchase,~~  
7 ~~in whole or in part, existing loans, whether or not eligible~~  
8 ~~loans, eligible improvement loans, or eligible project loans.~~  
9 ~~The contract may contain provisions as determined by the~~  
10 ~~corporation to be necessary or appropriate to provide security~~  
11 ~~for its bonds, including but not limited to provisions requiring~~  
12 ~~the:~~

- 13 ~~(1) Repurchase of the loans, in whole or in part, by~~  
14 ~~mortgage lenders at the option of the corporation,~~  
15 ~~(2) Payments of premiums, fees, charges, or other amounts~~  
16 ~~by mortgage lenders to provide a reserve or escrow~~  
17 ~~fund for the purposes of protecting against loan~~  
18 ~~defaults; and~~  
19 ~~(3) Guarantee by, or for recourse against, mortgage~~  
20 ~~lenders, with respect to defaults on these loans of~~  
21 ~~the corporation.~~

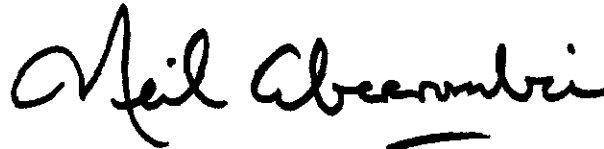


1       ~~(b) The corporation shall require, as a condition of each~~  
2 ~~purchase of existing loans from a mortgage lender, that the~~  
3 ~~mortgage lender proceed to make and disburse eligible loans,~~  
4 ~~eligible improvement loans, or eligible project loans in an~~  
5 ~~aggregate principal amount substantially equal to the amount of~~  
6 ~~the proceeds from the purchase by the corporation of loans~~  
7 ~~therefrom." ]~~

8       SECTION 8. Statutory material to be repealed is bracketed  
9 and stricken. New statutory material is underscored.

10       SECTION 9. This Act shall take effect on July 1, 2013.

APPROVED this 21 day of JUN, 2013



GOVERNOR OF THE STATE OF HAWAII