

S.B. NO. 1025

JAN 24 2013

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 10,000 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 to read as follows:

13 "[+]§201H-91[+] **Definitions.** The following words or terms
14 as used in this subpart shall have the following meanings unless
15 a different meaning clearly appears from the context:

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

- 18 (1) Is a citizen of the United States or a resident alien;
19 (2) Is a bona fide resident of the State;
20 (3) Is at least eighteen years of age;
21 (4) Does not personally, or whose spouse does not if the
22 person is married, own any interest in a principal

1 residence within or without the State and who has not
2 owned a principal residence within the three years
3 immediately prior to the application for an eligible
4 loan under this subpart, except this requirement shall
5 not apply to any eligible loan for a targeted area
6 residence as defined in the Mortgage Subsidy Bond Tax
7 Act of 1980, Public Law 96-499 [~~which residence is to~~
8 ~~replace a housing unit that has been declared~~
9 ~~structurally unsalvageable by a governmental board or~~
10 ~~agency having the power to make the declaration; and~~
11 ~~provided further that this requirement shall not apply~~
12 ~~to up to ten per cent of eligible loans of a bond~~
13 ~~issue made to single parent household borrowers. No~~
14 ~~loans, however, shall be made if they adversely affect~~
15 ~~the tax exempt status of the bonds issued. For the~~
16 ~~purpose of this section, "single parent household"~~
17 ~~means a household headed by a single person who has~~
18 ~~legal custody of one or more dependent children];~~
19 (5) [~~Has never before obtained a loan under this part;~~
20 ~~and] Is financing a property that will be the eligible
21 borrower's principal residence; and~~

1 (6) Meets other qualifications as established by rules
2 adopted by the corporation.

3 "Eligible improvement" means alterations, repairs, or
4 improvements to an existing dwelling unit that substantially
5 protect or improve the basic livability of the unit.

6 "Eligible improvement loan" means a loan to finance an
7 eligible improvement to the owner of the dwelling unit, which
8 may be a condominium unit, where the eligible improvement is to
9 be made; provided that the owner meets the requirements of an
10 eligible borrower, except that the requirements of paragraph (4)
11 of the definition of "eligible borrower" shall not apply, the
12 unit to be financed is located in the State, the unit will be
13 occupied as the principal place of residence of the borrower,
14 and meets other requirements as established by rules adopted by
15 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 "Eligible project loan" means an interim or permanent loan,
5 which may be federally insured or guaranteed, made to a
6 qualified sponsor for the financing of a rental housing project,
7 and which meets other requirements as established by rules
8 adopted by the corporation.

9 "Homebuyer assistance" means assistance provided to
10 eligible borrowers in conjunction with an eligible loan to
11 provide downpayment assistance or fund closing costs; provided
12 that such assistance is repaid through consideration to the
13 corporation, including borrower repayments.

14 "Housing loan programs" includes all or any part of [~~the~~
15 ~~loans to lenders program, the purchase of existing loans~~
16 ~~program,~~] the advance commitments program, and the loan funding
17 programs authorized under this subpart.

18 "Mortgage-backed security" means any investment security
19 (not including bonds of the corporation) that represents an
20 interest in, or is secured by, one or more pools of mortgage
21 loans, including any such security representing a direct
22 obligation or guarantee of a federally sponsored or private

1 entity such as the Government National Mortgage Association,
2 Federal National Mortgage Association or Federal Home Loan
3 Mortgage Corporation.

4 "Qualified sponsor" means any person or entity determined
5 by the corporation:

- 6 (1) To be qualified by experience, financial
7 responsibility, and support to construct a housing
8 project of the type and magnitude described;
- 9 (2) To have submitted plans for a housing project
10 adequately meeting the objectives of this chapter, the
11 maintenance of aesthetic values in the locale of the
12 project, and the requirements of all applicable
13 environmental statutes and rules; and
- 14 (3) To meet other qualifications as established by rules
15 adopted by the corporation pursuant to chapter 91."

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

18 "[+]§201H-94[+] **Eligible loans.** (a) The corporation
19 shall establish requirements for property financed by an
20 eligible loan, and may consider the location, age, condition,
21 and other characteristics of the property.

1 (b) The corporation shall establish restrictions on the
2 terms, maturities, interest rates, collateral, and other
3 requirements for eligible loans.

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

6 (d) Notwithstanding any other provision of law, the
7 corporation may provide homebuyer assistance in conjunction with
8 eligible loans through loans or other means; provided that such
9 assistance meets restrictions and requirements as established in
10 rules adopted by the corporation."

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

13 "(a) The corporation shall establish procedures for:

14 [~~(1) The submission of requests or the invitation of~~
15 ~~proposals for loans to mortgage lenders;~~

16 ~~(2) The purchase of existing loans by auction, invitation~~
17 ~~of tenders, or negotiation;~~

18 ~~(3)]~~ (1) The making of advance commitments to purchase and
19 the purchasing of eligible loans, eligible improvement
20 loans, or eligible project loans to be made by
21 mortgage lenders by auction, invitation of [~~tenders,~~]
22 lenders, or negotiation; and

1 ~~[(4)]~~ (2) Loan applications made through mortgage lenders
2 to eligible borrowers or qualified sponsors."

3 SECTION 5. Section 201H-102, Hawaii Revised Statutes, is
4 repealed.

5 ~~["§201H-102] Loans to lenders program. (a) The~~
6 ~~corporation may make loans to mortgage lenders under terms and~~
7 ~~conditions requiring that the loan proceeds be used within a~~
8 ~~time period prescribed by the corporation to make eligible~~
9 ~~loans, eligible improvement loans, and eligible project loans in~~
10 ~~an aggregate principal amount substantially equal to the amount~~
11 ~~of the loan.~~

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

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

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

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

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

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

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

21 ~~(d) Subject to any agreement with the holders of its~~
22 ~~bonds, the corporation may consent to any modification to the~~

1 ~~rate of interest, time and payment of any installment of~~
2 ~~principal or interest, security, or any other term of any loan~~
3 ~~to a mortgage lender or any bond, note, contract, or agreement~~
4 ~~of any kind to which the corporation is a party."]~~

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

7 ~~["~~§201H-103~~ Loans to lenders program, collateral~~
8 ~~security.~~ (a) ~~Loans made to mortgage lenders shall be~~
9 ~~additionally secured by a pledge of a lien upon collateral~~
10 ~~security in an amount as the corporation deems necessary to~~
11 ~~assure the payment of the principal of and interest on the loans~~
12 ~~as they become due.~~

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

15 ~~(c) A statement designating the collateral security~~
16 ~~pledged, the mortgage lender pledging the collateral, and the~~
17 ~~corporation's interest in the pledged collateral may be filed~~
18 ~~with the bureau of conveyances. Where a statement has been~~
19 ~~filed, no possession, further filing, or other action under any~~
20 ~~state law shall be required to perfect any security interest~~
21 ~~which may be deemed to have been created in favor of the~~
22 ~~corporation. The mortgage lender shall be deemed the trustee of~~

1 ~~an express trust for the benefit of the corporation in all~~
2 ~~matters relating to the pledged collateral.~~

3 ~~(d) Subject to any agreement with the holders of its~~
4 ~~bonds, the corporation may collect, enforce the collection of,~~
5 ~~and foreclose on any collateral securing its loans to mortgage~~
6 ~~lenders. The corporation may acquire, take possession of, sell~~
7 ~~at public or private sale with or without bidding, or otherwise~~
8 ~~deal with the collateral to protect its interests."]~~

9 SECTION 7. Section 201H-104, Hawaii Revised Statutes, is
10 repealed.

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

- 19 ~~(1) Repurchase of the loans, in whole or in part, by~~
20 ~~mortgage lenders at the option of the corporation;~~
21 ~~(2) Payments of premiums, fees, charges, or other amounts~~
22 ~~by mortgage lenders to provide a reserve or escrow~~

S.B. NO. 1025

Report Title:

Housing Loan and Mortgage Program

Description:

Updates the Hula Mae Single Family mortgage loan program to allow for broader program participation by potential homeowners, add downpayment assistance as a program feature, and make housekeeping and conforming amendments.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

JUSTIFICATION SHEET

DEPARTMENT: Business, Economic Development, and Tourism

TITLE: A BILL FOR AN ACT RELATING TO THE HOUSING LOAN AND MORTGAGE PROGRAM.

PURPOSE: To update the Hula Mae Single Family mortgage loan program to allow broader participation among potential homeowners, and to make necessary housekeeping and conforming amendments.

MEANS: Amend sections 201H-91, 201H-92, 201H-94, 201H-97, Hawaii Revised Statutes, and repeal sections 201H-102, 201H-103, and 201H-104, Hawaii Revised Statutes.

JUSTIFICATION: Hawaii Housing Finance and Development Corporation's Hula Mae Single Family program is an innovative mortgage loan program for families of low and moderate income. The below-market interest rate mortgage loans are funded by the issuance of tax-exempt revenue bonds. The Legislature has authorized the issuance of up to \$2,275,000,000 in revenue bonds for this purpose. As of June 30, 2012, over \$1,821,000,000 in revenue bonds has been issued.

Borrowers interested in the program apply directly with participating lending institutions. The lending institutions review the borrowers' eligibility and qualifications and are responsible for verifying the qualifications of the borrowers, assuring that the borrowers have the financial ability to repay the Hula Mae loan, and servicing the loans they originate. Loans currently made under the program are securitized by the Federal National Mortgage Association. As of June 30, 2012, the Hula Mae Single Family program has helped over 10,000 families purchase their first homes.

The proposed amendments seek to accomplish the following things: (1) allow more households to qualify for the loan program by eliminating superfluous statutory eligibility criteria that are not mandated by the Internal Revenue Code for loans financed by tax-exempt revenue bonds; (2) offer downpayment assistance as an optional feature of Hula Mae Single Family program loans; and (3) delete statutory provisions within this subpart relating to two inactive programs, the Loans to Lenders and Purchase of Existing Loans Programs.

This bill also includes minor housekeeping and technical amendments to correct typographical errors.

Impact on the public: Will promote homeownership by allowing more households to obtain Hula Mae Single Family loans.

Impact on the department and other agencies: Will require HHFDC to amend Hula Mae Single Family rules to conform to the proposed amendments.

GENERAL FUND:	None.
OTHER FUNDS:	None.
PPBS PROGRAM DESIGNATION:	BED 160.
OTHER AFFECTED AGENCIES:	None.
EFFECTIVE DATE:	July 1, 2013.