

JAN 17 2014

A BILL FOR AN ACT

RELATING TO HOME LOANS.

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

1 SECTION 1. The Hawaii Revised Statutes is amended by
2 adding a new chapter to be appropriately designated and to read
3 as follows:

4 "CHAPTER

5 HAWAII HOME LOAN GUARANTEE PROGRAM

6 -1 **Definitions.** As used in this chapter:

7 "Corporation" means the Hawaii housing finance and
8 development corporation.

9 "Director" means the executive director of the Hawaii
10 housing finance and development corporation.

11 "Lender" means a private savings and loan institution,
12 bank, or mortgage company that makes, holds, and services the
13 loan which is guaranteed under this chapter. The lender is the
14 party requesting the guarantee and includes an entity purchasing
15 a guaranteed home loan. A purchasing lender acquires all of the
16 privileges, duties, and responsibilities of the originating
17 lender. The lender is primarily responsible for originating,
18 underwriting, servicing, and where necessary, liquidating the



1 loan and disposing of the property in a manner consistent with
2 maximizing the government's interest.

3 "Qualified applicant" means an individual or family who:

4 (1) Has an adjusted annual income of up to one hundred
5 fifteen per cent of the adjusted area median income;

6 (2) Has adequate and dependable income;

7 (3) Can afford the mortgage payments, requiring proof
8 that:

9 (A) The burden of principal, interest, taxes, and
10 insurance is twenty-nine per cent or less of
11 gross monthly income; and

12 (B) The total of monthly debts is forty-one per cent
13 or less of gross monthly income;

14 (4) Is unable to qualify for conventional mortgage credit;
15 and

16 (5) Has a credit history that indicates a reasonable
17 ability and willingness to meet obligations as they
18 become due.

19 **§ -2 Hawaii home loan guarantee program.** There is
20 created a Hawaii home loan guarantee program which shall be
21 administered by the director in accordance with the spirit and
22 intent of this chapter. The program objective is to assist



1 eligible households in obtaining adequate but modest, decent,
2 safe, and sanitary single family dwellings and related
3 facilities for their own use by guaranteeing sound loans that
4 would not be made without a guarantee.

5 **§ -3 Home loan guarantee revolving fund.** (a) There is
6 established the Hawaii home loan guarantee revolving fund into
7 which shall be deposited:

- 8 (1) Moneys appropriated to the fund by the legislature;
9 (2) Gifts, donations, and grants from public agencies and
10 private persons;
11 (3) Interest earned or accrued on moneys deposited into
12 the fund; and
13 (4) All moneys received pursuant to this chapter.

14 (b) The corporation shall use funds for the purposes of
15 this chapter.

16 **§ -4 Home loans guaranteed by the corporation; aggregate**
17 **limit.** (a) The corporation shall guarantee ninety per cent of
18 the principal balance of a loan made to a qualified applicant by
19 a private lender who is unable to otherwise lend the applicant
20 sufficient funds at reasonable rates; provided that at no time
21 shall the aggregate amount of the State's liability, contingent
22 or otherwise, on loans guaranteed under this section exceed



1 \$ based on a reserve level established at one per cent
2 of the loan guarantee amount. The reserve amount to be funded
3 shall be calculated by determining the difference between the
4 home loan guarantee revolving fund balance at the beginning of
5 each fiscal year and its annual authorization ceiling.

6 (b) The maximum loss payment under the guarantee of the
7 home loan shall be the lesser of:

8 (1) Any loss of an amount equal to ninety per cent of the
9 principal amount advanced to the borrower; or

10 (2) Any loss sustained by the lender up to thirty-five per
11 cent of the principal amount actually advanced to the
12 borrower, plus eighty-five per cent of any additional
13 loss sustained by the lender of an amount up to the
14 remaining sixty-five per cent of the principal amount.

15 (c) Loans guaranteed under this section shall be subject
16 to section -7. Loan guarantees shall be limited to qualified
17 applicants for the purpose of acquiring a completed dwelling and
18 related facilities or to purchase a new or existing dwelling to
19 be used by the qualified applicant as a primary residence. The
20 guaranteed loan may be for "take out" financing for a loan to
21 construct a new dwelling or improve an existing dwelling when
22 the construction financing is arranged in connection with the



1 loan package. The loan may also include funds for the following
2 purposes:

- 3 (1) The purchase and installation of necessary appliances
4 and energy saving measures;
- 5 (2) The payment of incidental expenses for tax monitoring
6 services, architectural, appraisal, survey,
7 environmental, and other technical services;
- 8 (3) Necessary related facilities such as a garage, storage
9 shed, walks, driveway, and water or sewage facilities
10 including reasonable connection fees for utilities
11 that the buyer is required to pay;
- 12 (4) Special design features or equipment necessary to
13 accommodate a physically disabled member of the
14 household;
- 15 (5) The cost of establishing an escrow or reserve account
16 for payment of real estate taxes, insurance premiums,
17 or annual fees when they come due;
- 18 (6) Title clearance, title insurance, and loan closing;
19 stock in a cooperative lending agency necessary to
20 obtain the loan; and, for low-income applicants only,
21 loan discount points to reduce the note interest rate



1 from the rate authorized in subsection (d) not
2 exceeding the amount typical for the area; and

3 (7) Provide funds for seller equity or essential repairs
4 when an existing guaranteed loan is to be assumed
5 simultaneously.

6 (d) Interest charged on a guaranteed loan made under this
7 section shall be determined by the corporation based on the
8 market rate of interest charged by the private lender for a
9 similar type of loan, unless waived by the director. Loans
10 guaranteed under this chapter shall bear a fixed interest rate
11 over the life of the loan. The lender shall document the rate
12 and the date it was determined.

13 (e) When the application for a guaranteed loan has been
14 approved by the corporation, the corporation shall issue to the
15 lender a guaranty for that percentage of the loan on which it
16 guarantees payment of principal and interest. The lender shall
17 collect all payments from the borrower and otherwise service the
18 loan.

19 (f) The lender shall pay an up-front guarantee fee and an
20 annual fee to be determined by the corporation. The non-
21 refundable up-front guarantee fee and the annual fee may be
22 passed on to the borrower.



1 (g) Principal and interest shall be due and payable
2 monthly. The term for final maturity shall not be less than
3 thirty years from the date of the note and not more than thirty
4 years from the date of the first scheduled payment.

5 (h) When any installment of principal and interest has
6 been due for one hundred twenty days and has not been paid by
7 the borrower, the corporation shall issue, on request of the
8 lender, a check for the percentage of the overdue payment
9 guaranteed, and shall acquire a division of interest in the
10 collateral pledged by the borrower in proportion to the amount
11 of the payment. The corporation shall be reimbursed for any
12 amounts so paid plus the applicable interest rate, where payment
13 is collected from the borrower.

14 (i) The lender may reduce the percentage of the principal
15 balance guaranteed under this section at any time.

16 **§ -5 Functions, powers, and duties of director.** In the
17 performance of, and with respect to, the functions, powers, and
18 duties vested in the director by this chapter, the director may:

- 19 (1) Adopt rules pursuant to chapter 91 to carry out this
20 chapter; and
21 (2) Perform all functions necessary to effectuate the
22 purposes of this chapter.



1 **§ -6 Rules and regulations.** The rules adopted pursuant
2 to section -5 shall:

- 3 (1) Establish preferences and priorities in determining
4 eligibility for loans guaranteed under this chapter;
- 5 (2) Establish the conditions, consistent with the purposes
6 of this chapter, for the granting or for the
7 continuance of a grant of a loan guaranteed by this
8 chapter;
- 9 (3) Prescribe the qualifications for eligibility of
10 lenders for the home loan guarantee program and
11 establish lender responsibilities;
- 12 (4) Establish the up-front guarantee fee and the annual
13 fee owed by the lender;
- 14 (5) Provide for inspection, at reasonable hours, of the
15 books and records of a private lender that has issued
16 a loan guarantee under this chapter, and to require
17 the submission of reports relating to loans guaranteed
18 under this chapter, if necessary; and
- 19 (6) Provide for reasonable inspections of existing
20 dwellings and construction sites.

21 **§ -7 Hawaii home loans, terms, and restrictions.** (a)
22 Payments required under loans guaranteed under this section may



1 be deferred, but no loans guaranteed under this subsection shall
2 be forgiven.

3 (b) Prohibited loan purposes shall include:

4 (1) Payment of construction draws;

5 (2) Purchase of furniture or other personal property
6 except for essential equipment and materials
7 authorized in accordance with -4;

8 (3) Refinancing guaranteed debts, debts owed to the lender
9 (other than construction or development financing
10 incurred in conjunction with the proposed loan), or
11 debts on a manufactured home;

12 (4) Purchase or improvement of income-producing land, or
13 buildings to be used principally for income-producing
14 purposes, or to buy or build buildings that are
15 largely or in part specifically designed to
16 accommodate a business or income-producing enterprise;

17 (5) Payment of fees, charges, or commissions, such as
18 finder's fees for packaging the applications or
19 placement fees for the referral of a prospective
20 qualified applicant;

21 (6) Improving the entry of a homestead entryman or desert
22 entryman prior to receipt of patent; and



1 (7) Purchase of a dwelling with an in-ground swimming
2 pool.

3 (c) Housing units may be financed in existing subdivisions
4 approved by local, regional, state, or federal government
5 agencies. An existing subdivision is one in which the local
6 government has accepted the subdivision plan, its principal
7 development and rights-of-way, the construction of streets,
8 water and water or waste disposal systems, and utilities; is at
9 a point which precludes any major changes; and is one in which
10 provisions are in place for continuous maintenance.

11 (d) The corporation may contract with any financial
12 institution for administrative services related to loan
13 guarantees provided under this chapter.

14 **§ -8 Fair housing law to apply.** Notwithstanding any law
15 to the contrary, chapter 515 and any applicable federal law
16 shall apply in administering this chapter.

17 **§ -9 Reports.** The corporation shall make a report as of
18 December 31 of each year of operations under this chapter to the
19 governor, the president of the senate, and the speaker of the
20 house of representatives on the progress made under this
21 chapter. These reports shall be submitted no later than



1 February 1 immediately following the period covered by the
2 report."

3 SECTION 2. 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 2014-2015 for
6 deposit into the Hawaii home loan guarantee revolving fund
7 established by this Act.

8 SECTION 3. There is appropriated out of the Hawaii home
9 loan guarantee revolving fund the sum of \$ or so much
10 thereof as may be necessary for fiscal year 2014-2015 for the
11 Hawaii home loan guarantee program.

12 The sum appropriated shall be expended by the Hawaii
13 housing finance and development corporation for the purposes of
14 this Act.

15 SECTION 4. This Act shall take effect on July 1, 2014.

16

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S.B. NO. 2538

Report Title:

Hawaii Home Loan Guarantee Program; Revolving Fund; Program Requirements; Appropriation

Description:

Establishes the Hawaii home loan guarantee program to assist residents who have a steady, low or modest income, and yet are unable to obtain conventional financing with obtaining a home loan from a commercial lender that is guaranteed by the Hawaii housing finance and development corporation. Appropriates funds for the Hawaii home loan guarantee revolving fund.

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