

CHAPTER 207
MORTGAGE LOANS

Part I. Home Loans for Low Income Home Buyers on State
Land

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**"PART I. HOME LOANS FOR LOW INCOME
HOME BUYERS ON STATE LAND**

Note

Part heading amended by L 1971, c 192, §2.

§207-1 Authorization for loans. The director of finance may grant loans as provided for in this part to persons leasing or purchasing state lands for their personal residential needs. Loans may be granted only to eligible persons as provided for in this part who occupy state land by virtue of leases or agreements of sale executed after July 13, 1961. [L 1961, c 194, §2; am L 1963, c 114, §1; Supp, §98L-2; HRS §207-1]

Cross References

Disaster relief commercial loans, see chapter 209, pt III.
Public lands for natural disaster victims, see chapter 171, pt IIIC.

Residential development by State, see chapter 206.

" **§207-2 Qualifications for loans.** To qualify for a loan under this part an applicant must:

- (1) Be of legal age and have at least one person who will occupy the premises with the applicant and who is related to the applicant by blood or marriage and solely dependent upon the applicant for support. A husband and wife, who are both employed, shall jointly qualify for a loan;
- (2) Be a resident of the State for not less than one year immediately preceding the application for the loan;
- (3) Have a gross annual income not in excess of \$7,000 including the gross income of the applicant's spouse; and
- (4) Have such other qualifications as may be established by the director of finance. [L 1961, c 194, §3; am L 1963, c 114, §1; Supp, §98L-3; HRS §207-2; gen ch 1985]

" **§207-3 Purpose for and terms of loans.** Loans of state funds made pursuant to this part may be granted only for construction of residences upon the premises. Loans shall be secured by a mortgage which may be subordinate only to another mortgage given to a lending institution as security for a loan for the purpose provided above. Loans shall be made to relieve the burden of the required down payment or to extend the period

over which monthly payments would be required upon a finding that the applicant's income would not otherwise reasonably support such payments.

Loans shall not exceed twenty-five per cent of the cost of the improvements, and in no case shall any loan exceed \$5,000. The director of finance shall by appropriate regulation establish the interest rate on the state loan and may authorize repayment upon such terms as the director of finance deems appropriate but in no case shall the payments extend beyond forty years. [L 1961, c 194, §4; am L 1963, c 114, §1; Supp, §98L-4; HRS §207-3; gen ch 1985]

" **§207-4 Contract with lending institution.** The director of finance may, and as far as practicable shall, contract with lending institutions for the processing of applications for loans of state funds and the servicing of these loans. The servicing shall be performed only by the lending institution which makes the loan for the principal cost of construction. In furtherance of the purposes of this part the contract may provide for the loan of state funds to be repaid after the funds of the lending institution are repaid in full and for payment to lending institutions for servicing the State's portion of the total loan and may include other terms deemed appropriate by the director of finance. [L 1961, c 194, §5; am L 1963, c 114, §1; Supp, §98L-5; HRS §207-4]

" **§207-5 Rules and regulations.** The director of finance may adopt, amend, or repeal such rules and regulations governing the granting of loans and other related functions as the director of finance considers necessary or suitable. The rules and regulations when approved by the governor and made in accordance with chapter 91 shall have the force and effect of law. [L 1961, c 194, §6; am L 1965, c 96, §82; Supp, §98L-6; HRS §207-5; gen ch 1985]

" **§207-6 Bond authorization.** The director of finance may with the approval of the governor, issue from time to time general obligation bonds pursuant to chapter 39, part I not exceeding \$500,000 for the granting of loans pursuant to the purposes of this part. [L 1961, c 194, §7; am L 1963, c 114, §1; Supp, §98L-7; HRS §207-6]

**"PART II. LOANS MADE BY FOREIGN LENDERS
AND CERTAIN OTHER ACTIVITIES OF SUCH LENDERS**

§207-11 Definitions. As used in this part:

"Employee benefit plan" means any plan, fund, or program which was heretofore or is hereafter established in and under the laws of a state other than Hawaii by an employer or by an employee organization, or both, for the purpose of providing for its participants or their beneficiaries, through the purchase of insurance or annuity contracts or otherwise, medical, surgical, or hospital care or benefits, or benefits in the event of sickness, accident, disability, death, or unemployment, or retirement benefits, and includes any profit-sharing plan which provides benefits at or after retirement. As used in the preceding sentence, the term "employee organization" means any labor union or any organization of any kind, or any agency or employee representation committee, association, group, or plan in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning an employee benefit plan or other matters incidental to employment relationships or any employees' beneficiary association organized for the purpose, in whole or in part, of establishing such a plan.

"Foreign lender" means (A) "a depository institution" as defined in section 501(a)(2) of the federal Depository Institutions Deregulation and Monetary Control Act of 1980, a "real estate investment trust" as defined in the Internal Revenue Code, an insurance company, the principal office of which is in another state, whether incorporated or unincorporated and whether acting in its individual capacity or in a fiduciary capacity, (B) the trustee or trustees from time to time in office of any employee benefit plan, (C) a lender approved by the Secretary of the United States Department of Housing and Urban Development for participation in any mortgage insurance program under the National Housing Act, (D) any corporation of which all of the capital stock (except the directors' qualifying shares) is owned by one or more foreign lenders specified in (A), (B), and (C), and (E) any corporation of which all of the capital stock (except for the directors' qualifying shares) is owned by one or more foreign lenders specified in (D), but the term "foreign lender" does not include any financial services loan company licensed under article 9 of chapter 412.

"Loans" means obligations secured by liens upon real property, or any interest in real property, situated in this State, which liens may also cover such personal property as is or may from time to time be affixed or attached to or located on or in or about the real property or any improvements thereon or thereto, and include obligations secured by liens upon real property or interests therein situated both within and without this State.

"State" means any of the United States, the District of Columbia, Guam, the Commonwealth of Puerto Rico, and Virgin Islands. [L 1961, c 194, §8; Supp, §98L-8; HRS §207-11; am L 1970, c 4, §1; am L 1983, c 61, §1; am L 1989, c 266, §3; am L 1993, c 350, §8]

" **§207-12 Exemptions and immunities.** A foreign lender which (1) does not maintain a place of business in this State, (2) conducts its principal activities outside this State, and (3) complies with this part, does not by engaging in this State in any or all of the activities specified in section 207-13, violate the laws of this State relating to doing business or doing a banking, trust, or insurance business, or become subject to chapter 412, 414, or 431, or become subject to any taxation which would otherwise be imposed for doing business in or doing a banking, trust, or insurance business in, or having gross income or receipts from sources in, property in, or the conduct of any activity in, this State, or become subject to any taxation under chapter 235, 237, or 241, and no income or receipts of any foreign lender arising out of any of the activities specified in the following section shall constitute income from sources in, property in, or activities conducted in this State for the purposes of any tax imposed by this State; provided that nothing in this part shall be construed to exempt the real property of a foreign lender from taxation to the same extent, according to its value, as other real property is taxed, or to preclude the inclusion of the dividends or other income from foreign lenders in the income of individuals taxable under chapter 235 to the same extent as is included dividends and other income from domestic lenders; and provided further that if any such foreign lender shall acquire any property in this State in enforcement of the rights of the foreign lender in the event of a default by any borrower, as permitted by section 207-13(4), then commencing one year after title to such property has vested in the foreign lender, the rents or other receipts received by the foreign lender from, and the proceeds of sale by the foreign lender of, such property shall be subject to taxation under chapters 235 and 237 in the same manner and to the same extent as if the rents, other receipts, or proceeds were received by a resident of this State; and provided further that if any such foreign lender shall otherwise acquire any property in this State or engage in any business or activities in this State not specified in section 207-13, then the rents and other receipts received by the foreign lender from such property and the proceeds of sale by the foreign lender of such property and all income and receipts from the foreign lender's business or activities in this State not specified in section 207-13 shall

be subject to taxation under chapters 235 and 237 in the same manner and to the same extent as if such rents, other receipts, proceeds, and income were received by a resident of this State, but such other activities and business shall not deprive the foreign lender of the immunities and exemptions from taxation hereinabove stated with respect to the activities specified in section 207-13. [L 1961, c 194, §9; Supp, §98L-9; HRS §207-12; am L 1977, c 39, §1; am L 1983, c 167, §3; am L 1985, c 270, §4; am L 1993, c 350, §9; am L 2002, c 40, §5]

" **§207-13 Permitted activities.** The activities referred to in the preceding section are:

- (1) Making loans;
- (2) Receiving security for loans;
- (3) Acquiring by assignment or otherwise partial or entire interests in loans or in security for loans;
- (4) Servicing (but servicing only by or through individuals who are residents of, or corporations doing business in, this State), collecting, enforcing, or otherwise realizing upon loans or upon security for loans or upon interests therein; and taking, holding, and disposing of any property acquired (whether by purchase at any sale pursuant to foreclosure by suit or foreclosure under power of sale, or by foreclosure by entry, or by conveyance in lieu of foreclosure) in enforcement of the rights of the foreign lender in the event of default by any borrower; and
- (5) Empowering agents and servants or in connection with, and entering into and performing contracts, and doing other acts and things necessary or appropriate for or preliminary or incident to, any of the foregoing activities, but not maintaining any office in this State for the conduct of any such activities. [L 1961, c 194, §10; Supp, §98L-10; HRS §207-13]

" **§§207-14 REPEALED.** L 1999, c 43, §4.

Note

L 1999, c 129, §5 purports to amend §207-14.

" **§§207-15 REPEALED.** L 1999, c 43, §5.

Note

L 1999, c 129, §5 purports to amend §207-14.

" **§207-16 Construction.** Nothing in this part shall require any corporation to qualify to do business in this State, or subject any person, firm, corporation, or trust to taxation under any law of this State if, but for the enactment of this chapter, the person, firm, corporation, or trust would not have been required so to qualify or be subject to such taxation. [L 1961, c 194, §13; Supp, §98L-13; HRS §207-16]