

1 "Program" means the individual housing accounts savings
2 program.

3 § -2 Individual housing accounts savings board. (a)

4 There is established within the department of budget and finance
5 for administrative purposes the individual housing accounts
6 savings board.

7 (b) The board shall consist of eight members as follows:

- 8 (1) The director of finance or the director's designee,
9 who shall serve as chairperson of the board;
- 10 (2) The director of human services or the director's
11 designee;
- 12 (3) The director of commerce and consumer affairs or the
13 director's designee;
- 14 (4) A representative of employers, to be appointed by the
15 governor;
- 16 (5) A representative with experience in the field of
17 investments, to be appointed by the governor;
- 18 (6) A representative of an association representing
19 employees, to be appointed by the governor;



1 (7) A member of the senate, to be appointed by the
2 president of the senate as a nonvoting advisory member
3 of the board; and

4 (8) A member of the house of representatives, to be
5 appointed by the speaker of the house of
6 representatives as a nonvoting advisory member of the
7 board.

8 (c) Members of the board appointed by the governor shall
9 be subject to the advice and consent of the senate.

10 (d) The term of office of each member of the board
11 appointed by the governor shall be four years, but the members
12 shall serve at the pleasure of the governor. A member shall be
13 eligible for reappointment. If there is a vacancy for any
14 cause, the governor shall make an appointment to become
15 immediately effective for the unexpired term. The senate member
16 shall serve at the pleasure of the president of the senate. The
17 member of the house of representatives shall serve at the
18 pleasure of the speaker of the house of representatives. All
19 other members shall serve in an ex officio capacity.

20 (e) A majority of the voting members of the board shall
21 constitute a quorum for the transaction of business.



1 (f) The members of the board shall serve without
2 compensation but shall be reimbursed for travel and other
3 necessary expenses in the performance of their official duties.

4 (g) The board may employ, without regard to chapter 76,
5 staff necessary for the performance of its functions and fix
6 their compensation.

7 § -3 Duties of the board. (a) The board shall:

8 (1) Establish, implement, and maintain the individual
9 housing accounts savings program pursuant to section

10 -4;

11 (2) Adopt rules pursuant to chapter 91 for the general
12 administration of the program as provided in section

13 -5;

14 (3) Direct the investment of the funds contributed to
15 accounts in the plan consistent with the investment
16 restrictions established by the board. The investment
17 restrictions shall be consistent with the objectives
18 of the plan, and the board shall exercise the judgment
19 and care then prevailing that persons of prudence,
20 discretion, and intelligence exercise in the
21 management of their own affairs with due regard to the



- 1 probable income and level of risk from certain types
2 of investments of money, in accordance with the
3 policies established by the board;
- 4 (4) Collect application, account, or administrative fees
5 to defray the costs of administering the plan;
- 6 (5) Make and enter into contracts, agreements, or
7 arrangements, and retain, employ, and contract for any
8 of the following considered necessary or desirable for
9 carrying out the purposes of this chapter:
- 10 (A) Services of private and public financial
11 institutions, depositories, consultants,
12 investment advisers, investment administrators,
13 and third-party plan administrators;
- 14 (B) Research, technical, and other services; and
- 15 (C) Services of other state agencies to assist the
16 board in its duties;
- 17 (6) Evaluate the need for, and procure as needed, pooled
18 private insurance of the plan; and
- 19 (7) Develop and implement an outreach plan to gain input
20 and disseminate information regarding the plan and
21 individual housing account savings in general.



1 § -4 Establishment of the individual housing accounts

2 savings program. (a) There is established the individual

3 housing accounts savings program to be administered by the

4 board. The program shall:

5 (1) Allow employees for compensation in the State to

6 contribute to an account established under the program

7 through payroll deduction;

8 (2) Require an employer to offer its employees the

9 opportunity to contribute to an account in the program

10 through payroll deductions;

11 (3) Provide for automatic enrollment of employees and

12 allow employees to opt out of the program;

13 (4) Offer a default contribution rate set by the board;

14 (5) Offer default escalation of contribution levels that

15 can be increased or decreased within the limits

16 established by the board;

17 (6) Provide for contributions to accounts in the program

18 to be deposited directly with the investment

19 administrator for the program;



- 1 (7) Whenever possible, use existing employer and public
- 2 infrastructure to facilitate contributions to the
- 3 program, recordkeeping, and outreach;
- 4 (8) Allow no employer contributions to employee accounts;
- 5 (9) Have its records and its program accounts maintained
- 6 and accounted for separately;
- 7 (10) Provide reports on the status of program accounts to
- 8 program participants at least annually;
- 9 (11) Allow account owners to both maintain an account
- 10 regardless of their place of employment and to roll
- 11 over funds into other savings accounts;
- 12 (12) Pool accounts established under the program for
- 13 investment;
- 14 (13) Be professionally managed;
- 15 (14) Provide that the State and employers that participate
- 16 in the program have no proprietary interest in the
- 17 contributions to or earnings on amounts contributed to
- 18 accounts established under the program;
- 19 (15) Provide that the investment administrator for the
- 20 program shall be the trustee of all contributions and



- 1 earnings on amounts contributed to accounts
2 established under the program;
- 3 (16) Not impose on employers any duties that are otherwise
4 prohibited under state or federal law;
- 5 (17) Keep administration fees in the program low; and
- 6 (18) Allow the use of private sector partnerships to
7 administer and invest the contributions to the program
8 under the supervision and guidance of the board.

9 (b) The program, board, each board member, and State shall
10 not guarantee any rate of return or any interest rate on any
11 contribution; provided that the program, board, each board
12 member, and State shall not be liable for any loss incurred by
13 any person as a result of participating in the program.

14 § -5 Rules. The board shall adopt rules, pursuant to
15 chapter 91, necessary for the purposes of this chapter.

16 § -6 Confidentiality. Individual housing account
17 information for accounts under this program, including but not
18 limited to names, addresses, telephone numbers, personal
19 identification information, amounts contributed, and earnings on
20 amounts contributed, shall be confidential and shall be
21 maintained as confidential:



1 (1) Except to the extent necessary to administer the
2 program in a manner consistent with this chapter, the
3 tax laws of the State, and the Internal Revenue Code
4 of 1986, as amended; or

5 (2) Unless the person who provides the information or is
6 the subject of the information expressly agrees in
7 writing that the information may be disclosed.

8 **§ -7 Individual housing accounts savings program**

9 **administrative fund.** (a) There is established in the state
10 treasury a special fund to be known as the individual housing
11 accounts savings program administrative fund, into which shall
12 be deposited:

13 (1) All interest collected under this chapter on and after
14 the establishment of the program;

15 (2) Appropriations made by the legislature to the fund;

16 (3) All fees collected as provided in section -3; and

17 (4) Moneys transferred to the fund from the federal
18 government, other state agencies, or local
19 governments.

20 (b) The director of finance shall be the treasurer and
21 custodian of the administrative fund.



1 (c) Moneys in the individual housing accounts savings
2 program administrative fund shall be used to pay the
3 administrative costs and expenses of the board and program and
4 for any other purpose described in this chapter.

5 § -8 Annual report. The board shall prepare an annual
6 report detailing the board's activities for the previous fiscal
7 year. The annual report shall be submitted to the governor and
8 legislature no later than twenty days prior to the convening of
9 each regular session."

10 SECTION 2. Chapter 235, Hawaii Revised Statutes, is
11 amended by adding a new section to be appropriately designated
12 and to read as follows:

13 "§235- Individual housing accounts; open at birth. (a)
14 A taxpayer may establish an individual housing account pursuant
15 to section 235-5.5 in the name of a dependent of the taxpayer
16 upon providing the dependent's birth certificate and social
17 security number to the director of taxation. The individual
18 housing account established pursuant to this section may be
19 opened upon the birth of the dependent.

20 (b) The director of taxation shall prepare any forms that
21 may be necessary to establish an individual housing account in



1 the name of a dependent of the taxpayer and may require proof of
2 claim of the dependent. The director of taxation may adopt
3 rules pursuant to chapter 91 necessary to effectuate the
4 purposes of this section."

5 SECTION 3. Section 235-5.5, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "§235-5.5 Individual housing accounts. (a) There shall
8 be allowed as a deduction from gross income the amount, not to
9 exceed \$5,000, paid in cash during the taxable year by an
10 individual taxpayer to an individual housing account established
11 for the individual's benefit to provide funding for the purchase
12 of the individual's first principal residence[-], or to provide
13 assistance during economic hardships, for capital improvements
14 for homeownership, cemetery and mortuary services, or senior
15 housing. A deduction not to exceed \$10,000 shall be allowed for
16 a married couple filing a joint return. No deduction shall be
17 allowed on any amounts distributed less than three hundred
18 sixty-five days from the date on which a contribution is made to
19 the account. Any deduction claimed for a previous taxable year
20 for amounts distributed less than three hundred sixty-five days
21 from the date on which a contribution was made shall be



1 disallowed, and the amount deducted shall be included in the
2 previous taxable year's gross income and the tax reassessed. In
3 addition, the taxpayer shall pay a ten per cent penalty on any
4 amounts distributed less than three hundred sixty-five days from
5 the date on which the amounts were made as a contribution. The
6 interest paid or accrued within the taxable year on the account
7 shall not be included in the individual's gross income. For
8 purposes of this section, the term "first principal residence"
9 means a residential property purchased with the payment or
10 distribution from the individual housing account which shall be
11 owned and occupied as the only home by an individual who did not
12 have any interest in, individually, or whose spouse did not have
13 any interest in, if the individual is married, a residential
14 property within the last five years of opening the individual
15 housing account.

16 In the case of a married couple filing separate returns,
17 the sum of the deductions allowable to each of them for the
18 taxable year shall not exceed \$5,000, or \$10,000 for a joint
19 return, for amounts paid in cash, excluding interest paid or
20 accrued thereon.



1 The amounts paid in cash allowable as a deduction under
2 this section to an individual for all taxable years shall not
3 exceed \$25,000, excluding interest paid or accrued. In the case
4 of married individuals having separate individual housing
5 accounts, the sum of the separate accounts and the deduction
6 under this section shall not exceed \$25,000, excluding interest
7 paid or accrued thereon.

8 (b) There shall be allowed as a deduction from gross
9 income the amount, not to exceed \$ _____, paid in cash
10 during the taxable year by an individual taxpayer to an
11 individual housing account established for the individual's
12 benefit to provide funding for the first month's rent or a
13 rental deposit on a dwelling place that is to be used by the
14 individual or the individual's immediate family as the principal
15 residence, or to provide funding for downpayment assistance or
16 closing costs on a principal residence. No deduction shall be
17 allowed on any amounts distributed within twenty-four months
18 from the date on which the first contribution is made to the
19 account. The interest paid or accrued within the taxable year
20 on the account shall not be included in the individual's gross
21 income.



1 If the individual for whose benefit the individual housing
2 account was established uses the account as provided by this
3 subsection with the distribution from the individual housing
4 account, the individual shall report of the total
5 distribution from the individual housing account used to obtain
6 the rental housing or provide downpayment assistance or closing
7 costs as gross income in the taxable year in which the
8 distribution is completed and in each taxable year thereafter
9 until all of the distribution has been included in the
10 individual's gross income.

11 [~~(b)~~] (c) For purposes of this section, the term
12 "individual housing account" means a trust created or organized
13 in Hawaii for the exclusive benefit of an individual, or, in the
14 case of a married individual, for the exclusive benefit of the
15 individual and spouse jointly, but only if the written governing
16 instrument creating the trust meets the following requirements:

17 (1) Contributions shall not be accepted for the taxable
18 year in excess of \$5,000 (or \$10,000 in the case of a
19 joint return) or in excess of \$25,000 for all taxable
20 years, exclusive of interest paid or accrued;



- 1 (2) The trustee is a bank, a savings and loan association,
2 a credit union, [~~or~~] a depository financial services
3 loan company, or a community development financial
4 institution, chartered, certified, licensed, or
5 supervised under federal or state law, whose accounts
6 are insured by the Federal Deposit Insurance
7 Corporation, the National Credit Union Administration,
8 or any agency of this State or any federal agency
9 established for the purpose of insuring accounts in
10 these financial institutions. The financial
11 institution must actively make residential real estate
12 mortgage loans in Hawaii;
- 13 (3) The assets of the trust shall be invested only in
14 fully insured savings or time deposits. Funds held in
15 the trust may be commingled for purposes of
16 investment, but individual records shall be maintained
17 by the trustee for each individual housing account
18 holder that show all transactions in detail;
- 19 (4) The entire interest of an individual or married couple
20 for whose benefit the trust is maintained shall be
21 distributed to the individual or couple [~~not~~] no later



1 than one hundred twenty months after the date on which
2 the first contribution is made to the trust;

3 (5) Except as provided in subsection [~~(g)~~], (h), the
4 trustee shall not distribute the funds in the account
5 unless the trustee:

6 (A) Verifies that the money is to be used for the
7 purchase of a first principal residence located
8 in Hawaii, to provide assistance during economic
9 hardships, for capital improvement for
10 homeownership, cemetery and mortuary services, or
11 senior housing, or for the uses authorized under
12 subsection (b), and provides that the instrument
13 of payment is payable to the [~~mortgagor~~]:

14 (i) Mortgagor, construction contractor, or other
15 vendor of the property purchased; or

16 (ii) Landlord or landlord's assignee or owner or
17 owner's assignee; or

18 (B) Withholds an amount equal to ten per cent of the
19 amount withdrawn from the account and remits this
20 amount to the director within ten days after the
21 date of the withdrawal. The amount withheld



1 shall be applied to the liability of the taxpayer
2 under subsections [~~(e)~~] (d) and [~~(e)~~], (f); and

3 (6) If any amounts are distributed before the expiration
4 of three hundred sixty-five days from the date on
5 which a contribution is made to the account, the
6 trustee shall so notify in writing the taxpayer and
7 the director. If the trustee makes the verification
8 required in paragraph (5) (A), then the department
9 shall disallow the deduction under subsection (a) and
10 subsections [~~(e)~~, ~~(e)~~, and ~~(f)~~] (d), (f), and (g)
11 shall not apply to that amount. If the trustee
12 withholds an amount under paragraph (5) (B), then the
13 department shall disallow the deduction under
14 subsection (a) and subsection [~~(e)~~] (f) shall apply,
15 but subsection [~~(e)~~] (d) shall not apply.

16 [~~(e)~~] (d) Any contributions paid or distributed out of an
17 individual housing account shall be included in gross income by
18 the individual for whose benefit the account was established for
19 the taxable year in which the payment or distribution is
20 received, unless the amount is used exclusively in connection
21 with the purchase of the first principal residence in Hawaii, to



1 provide assistance during economic hardships, for capital
2 improvement for homeownership, cemetery and mortuary services,
3 or senior housing, or for the uses authorized under subsection
4 (b) for the individual for whose benefit the account was
5 established.

6 [~~(d)~~] (e) The transfer of an individual's interest in an
7 individual housing account to a spouse under a dissolution of
8 marriage decree or under a written instrument incident to a
9 dissolution of marriage shall not be considered a taxable
10 transfer made by the individual, and the interest, at the time
11 of the transfer, shall be treated as part of an individual
12 housing account of the transferee, and not of the transferor.
13 After the transfer, the account shall be treated, for purposes
14 of this section, as maintained for the benefit of the
15 transferee.

16 [~~(e)~~] (f) If a distribution from an individual housing
17 account to an individual for whose benefit the account was
18 established is made and not used in connection with the purchase
19 of the first principal residence in Hawaii, to provide
20 assistance during economic hardships, for capital improvement
21 for homeownership, cemetery and mortuary services, or senior



1 housing, or for the uses authorized under subsection (b) for the
2 individual, the tax liability of the individual under this
3 chapter for the taxable year in which the distribution is
4 received shall be increased by an amount equal to ten per cent
5 of the amount of the distribution which is includable in the
6 individual's gross income for the taxable year.

7 If, during any taxable year, the individual uses the
8 account or any portion thereof as security for a loan, the
9 portion so used shall be treated as if it had been distributed
10 to that individual.

11 [~~(f)~~] (g) If the individual for whose benefit the
12 individual housing account was established purchases a
13 residential property in Hawaii with the distribution from the
14 individual housing account:

15 (1) Before January 1, 1990, and if the individual sells in
16 any manner or method or by use of any instrument
17 conveying or transferring the residential property,
18 the gross income of the individual under this chapter
19 for the taxable year in which the residential property
20 is sold, conveyed, or transferred, whichever is
21 applicable, shall include an amount equal to the



1 amount of the distribution from the individual housing
2 account, and in addition, the gross income of the
3 individual shall be increased by an amount equal to
4 ten per cent of the total distribution from the
5 individual housing account; or
6 (2) After December 31, 1989, the individual shall report
7 one-tenth of the total distribution from the
8 individual housing account used to purchase the
9 residential property as gross income in the taxable
10 year in which the distribution is completed and in
11 each taxable year thereafter until all of the
12 distribution has been included in the individual's
13 gross income at the end of the tenth taxable year
14 after the purchase of the residential property. If
15 the individual sells in any manner or method or by use
16 of any instrument conveying or transferring the
17 residential property, the gross income of the
18 individual under this chapter for the taxable year in
19 which the residential property is sold, conveyed, or
20 transferred, whichever is applicable, shall include an
21 amount equal to the amount of the distribution from



1 the individual housing account not previously reported
2 as gross income, and in addition, the tax liability of
3 the individual shall be increased by an amount equal
4 to ten per cent of the total distribution from the
5 individual housing account. If the individual sells
6 the residential property in any manner as provided in
7 this paragraph after all of the distribution has been
8 included in the individual's gross income at the end
9 of the tenth taxable year after the purchase of the
10 residential property, the tax liability of the
11 individual shall not be increased by an amount equal
12 to ten per cent of the total distribution from the
13 individual housing account.

14 An individual who purchased a residential property in Hawaii
15 with the distribution from an individual housing account before
16 January 1, 1990, who is subject to paragraph (1) may elect to
17 report as provided in paragraph (2). The election shall be made
18 before January 1, 1991. If the individual makes the election,
19 the individual shall report one-tenth of the total distribution
20 from the individual housing account as gross income in the
21 taxable year in which the election occurs and in each taxable



1 year thereafter until all of the distribution has been included
2 in gross income as provided by paragraph (2). If the individual
3 making the election sells the residential property in any manner
4 as provided in paragraph (2), then the individual shall include
5 as income the amount of the distribution not previously reported
6 as income and increase the individual's tax liability as
7 provided in the second sentence of paragraph (2), except when
8 the third sentence of paragraph (2) applies.

9 In the alternative, any individual subject to paragraph (2)
10 who established the individual housing account before January 1,
11 1990, may elect within one year after the date of purchase, to
12 be subject to paragraph (1).

13 [~~g~~] (h) No tax liability shall be imposed under this
14 section if:

15 (1) The payment or distribution is attributable to the
16 individual dying or becoming totally disabled; or

17 (2) Residential property subject to subsection [~~f~~] (g)
18 is transferred by will or by operation of law or sold
19 due to the death or total disability of an individual
20 or individual's spouse,

21 subject to the following:



1 An individual shall not be considered to be totally
2 disabled unless proof is furnished of the total disability in
3 the form and manner as the director may require.

4 Upon the death of an individual for whose benefit an
5 individual housing account has been established, the funds in
6 the account shall be payable to the estate of the individual;
7 provided that if the account was held jointly by the decedent
8 and a spouse of the decedent, the account shall terminate and be
9 paid to the surviving spouse; or, if the surviving spouse so
10 elects, the spouse may continue the account as an individual
11 housing account. Upon the total disability of an individual for
12 whose benefit an individual housing account has been
13 established, the individual or the individual's authorized
14 representative may elect to continue the account or terminate
15 the account and be paid the assets; provided that if the account
16 was held jointly by a totally disabled person and a spouse of
17 that person, then the spouse or an authorized representative may
18 elect to continue the account or terminate the account and be
19 paid the assets.

20 [~~(h)~~] (i) If the individual for whose benefit the
21 individual housing account was established subsequently marries



1 a person who has or has had any interest in residential
2 property, the individual's housing account shall be terminated,
3 the funds therein shall be distributed to the individual, and
4 the amount of the funds shall be includable in the individual's
5 gross income for the taxable year in which [~~such~~] the marriage
6 took place; provided that the tax liability defined under
7 subsection [~~(f)~~] (g) shall not be imposed.

8 [~~(i)~~] (j) The trustee of an individual housing account
9 shall make reports regarding the account to the director and to
10 the individual for whom the account is maintained with respect
11 to contributions, distributions, and other matters as the
12 director may require under rules. The reports shall be filed at
13 a time and in a manner as [~~may be~~] required by rules adopted
14 under chapter 91. A person who fails to file a required report
15 shall be subject to a penalty of \$10 to be paid to the director
16 for each instance of failure to file."

17 SECTION 4. There is appropriated out of the general
18 revenues of the State of Hawaii the sum of \$ or so
19 much thereof as may be necessary for fiscal year 2019-2020 and
20 the same sum or so much thereof as may be necessary for fiscal



1 year 2020-2021 to be deposited into the individual housing
2 accounts savings program administrative fund.

3 SECTION 5. There is appropriated out of the individual
4 housing accounts savings program administrative fund the sum of
5 \$ or so much thereof as may be necessary for fiscal
6 year 2019-2020 and the same sum or so much thereof as may be
7 necessary for fiscal year 2020-2021 for administrative and
8 operating expenses of the individual housing accounts savings
9 board.

10 The sums appropriated shall be expended by the department
11 of budget and finance for the purposes of this Act.

12 SECTION 6. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 7. This Act shall take effect on July 1, 2019.

15



Report Title:

Individual Housing Accounts Savings Program; Individual Housing Accounts Savings Board; Appropriation

Description:

Establishes the individual housing accounts savings board to administer the individual housing accounts savings program and individual housing accounts savings program administrative fund. Requires the board to annually report to the governor and legislature. Requires a taxpayer to pay a penalty of ten per cent of any amounts distributed before three hundred sixty-five days from the date the amounts were made as a contribution. Allows taxpayers to open an individual housing account in the name of the taxpayer's dependent upon birth. Authorizes the use of an individual housing account to provide assistance during economic hardships or for capital improvement for homeownership, cemetery and mortuary services, and senior housing. Authorizes the establishment an individual housing account to make payments for first month's rent or a rental deposit or to provide funding for downpayment assistance or closing costs on a principal residence. Includes community development financial institutions as authorized trustees of individual housing accounts. Makes an appropriation. (SD1)

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