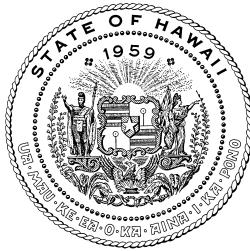


Small Business Regulatory Review Board Meeting

January 15, 2026

10:00 a.m.



SMALL BUSINESS REGULATORY REVIEW BOARD

Department of Business, Economic Development & Tourism (DBEDT)
No. 1 Capitol District Building, 250 S. Hotel Street, Fifth Floor, Honolulu, HI 96813
Mailing Address: P.O. Box 2359, Honolulu, HI 96804
Email: dbedt.sbrb.info@hawaii.gov
Website: sbrb.hawaii.gov

Tel: 808 798-0737

Josh Green, M.D.
Governor

Sylvia Luke
Lt. Governor

James Kunane
Tokioka
DBEDT Director

Dane K. Wicker
DBEDT Deputy Director

Members

Jonathan Shick
Chairperson
O'ahu

Sanford Morioka
Vice Chairperson
O'ahu

Mary Albitz
2nd Vice Chairperson
Maui

James (Kimo) Lee
Hawai'i

Leelen Park
Hawai'i

Tessa Gomes
O'ahu

Cynthia Hobson
O'ahu

Nikki Ige
Kaua'i

Dr. Jennifer
Salisbury
Maui

Director, DBEDT
Voting Ex Officio

AGENDA

Thursday, January 15, 2026 ★ 10:00 a.m.

No. 1 Capitol District Building
250 South Hotel Street, Conference Room 436
Honolulu, HI 96813

As authorized under Act 220, Session Laws of Hawaii 2021, and Section 92-3.7 Hawaii Revised Statutes (HRS), the public can participate in the meeting either:

A. By attending the in-person meeting at:

No. 1 Capitol District Building – 250 South Hotel Street, Conference Room 436,
Honolulu, HI 96813; or

B. Via Video-audio livestream or via Telephone - to join the Video-audio livestream meeting, go to:

<https://us06web.zoom.us/j/88400776199?pwd=4wAvlu4jf7kz65ioBZWDXgpG4KIKJ8.1>

C. To Join via Telephone: Dial 1-669-900-6833 with
Meeting ID 883 5814 0200 Passcode 066739

When the Chairperson asks for public testimony during the meeting, you may indicate that you want to provide oral testimony by using the raise hand function or, if calling in by telephone, entering * and 9 on your phone keypad. When recognized by the Chairperson, you will be unmuted. If you call in by phone, you can unmute and mute yourself by pressing * and 6 on your keypad.

Members of the public may also submit written testimony via e-mail to:

DBEDT.sbrb.info@hawaii.gov or mailed to SBRRB, No. 1 Capitol District Building, 250 S. Hotel Street, Room 506, Honolulu, HI 96813, or P.O. Box 2359, Honolulu, HI 96804. The Board requests that written testimony be received by Wednesday, January 14, 2026, so it may be distributed to Board members prior to the meeting. Testimony received after that time will be distributed to the Board members at the meeting.

Copies of the Board Packet will be available on-line for review at: [Agendas & Minutes – Small Business Regulatory Review Board \(hawaii.gov\)](#) and in-person at 250 South Hotel Street, Room 506, Honolulu, HI 96813 during regular business hours. An electronic draft of the minutes for this meeting will also be made available at the same location when completed.

The Board may go into Executive Session under Section 92-5 (a)(4), HRS to Consult with the Board's Attorney on Questions and Issues Concerning the Board's Powers, Duties, Immunities, Privileges and Liabilities.

I. Call to Order

II. Approval of December 11, 2025 Meeting Minutes

III. Old Business

A. Discussion and Action on the Small Business Statement After Public Hearing and Proposed Amendments to HAR Title 15 Chapter 156 and Adopt Chapter 156.1, **Communicable Diseases**, promulgated by Department of Health – *Discussion Leader – Sanford Morioka*

IV. New Business

A. Discussion and Action on the Small Business Impact Statement to Proposed New Temporary Hawaii Administrative Rules (HAR) Title 18 Chapter 237, **General Excise Tax** and Chapter 237D, **Transient Accommodation Tax Law**, promulgated by Department of Taxation – *Discussion Leader – David Sikkink*

B. Discussion and Action on the Small Business Impact Statement to HAR Title 15 Chapter 307, **State Assisted Land and Housing Development Program**, promulgated by Hawaii Housing Finance and Development Corporation / Department of Business, Economic Development and Tourism – *Discussion Leader – David Sikkink*

V. Administrative Matters

A. Update on the Board's Upcoming Advocacy Activities and Programs in accordance with the Board's Powers under Section 201M-5, Hawaii Revised Statutes (HRS)

1. Simplifying Permitting for Enhanced Economic Development (SPEED) Task Force's most recent meeting pursuant to Act 133 to identify actions taken challenges encountered, and legislative measures necessary to facilitate, expedite, and coordinate state and intergovernmental permit processes; and appropriates funds
2. Discussion and Update of the Board's Maui Island meeting scheduled for March 19, 2026 – including Mayor's Proclamation and Presentation
3. Becker Communications Inc., regarding the Board's Small Business Outreach
4. Presentations to Industry Associations
5. Staff's Small Business Outreach

VI. Next Meeting: Thursday, February 19, 2026 at 10:00 a.m., held via Zoom and at 250 South Hotel Street – No. 1 Capitol District Building, Conference Rm 436, Honolulu, HI 96813

VII. Adjournment

If you need an auxiliary aid/service or other accommodation due to a disability, contact Jet'aime Ariola at 808 798-0737 and jetaime.k.ariola@hawaii.gov as soon as possible, preferably at least three (3) working days prior to the meeting. Requests made as early as possible have a greater likelihood of being fulfilled. Upon request, this notice is available in alternate/accessible formats.

II. Approval of December 11, 2025 Meeting Minutes

Small Business Regulatory Review Board

MEETING MINUTES - DRAFT

December 11, 2025

I. **CALL TO ORDER:** Chair Shick called the meeting to order at 10:01 a.m., with a quorum present.

MEMBERS PRESENT:

- Jonathan Shick, Chair
- Sanford Morioka, Vice Chair
- Mary Albitz, Second Vice Chair
- Nikki Ige
- Dr. Jennifer Salisbury
- Tessa Gomes
- Leelen Park
- Cynthia Hobson
- David Sikkink

ABSENT MEMBERS:

- James (Kimo) Lee

STAFF: DBEDT

Dori Palcovich
Jet'aime Ariola

Office of the Attorney General

Alison Kato

II. **APPROVAL of NOVEMBER 20, 2025 MINUTES**

Dr. Salisbury motioned to approve the November 20, 2025 meeting minutes, as presented. Mr. Sikkink seconded the motion and the Board members unanimously agreed.

III. **NEW BUSINESS**

A. Discussion and Action on the Small Business Impact Statement and Proposed Amendments to Special Management Area (SMA) Rules and Regulations, (Amendment and Replacement of Various Chapters), promulgated by Planning Department, County of Kauai

Ms. Jodi Higuchi Sayegusa, Deputy Director of Planning at the County of Kauai Planning Department, explained that the Special Management Area (SMA) rules are being amended, which are overdue for an update due to, among other reasons, several Acts having been instituted since the rules were first adopted. Overall, the purpose of the rules is to preserve, protect and restore the natural resources of the coastal zone of Hawaii.

This proposal pertains mainly to the governing of permitting of the various SMA activities, such as snorkel tours; the proposal also updates definitions and processing procedures. The changes could potentially impact small businesses where the businesses are located by proposing activities, uses, or development that will trigger an SMA permit.

Filing fees pertaining to any SMA assessment, minor permit application, use permit application, modification and emergency permit fees have been clarified and new fees imposed and/or increased. Specifically, there is a new assessment fee of \$50 as there hadn't previously been an assessment process. The use permit application will be increased from \$300 to \$500, minor modifications fees for SMA permits are proposed to be \$300, and major modifications fees for SMA permits are \$300 plus cost of the publication of \$1,776.46.

Dr. Salisbury thanked Ms. Higuchi Sayegusa for the hard work that went into these rules and completely supports this proposal. Discussion leader Ms. Ige concurs with Dr. Salisbury's sentiments.

Ms. Ige motioned to send the proposed amended rules to public hearing. Ms. Hobson seconded the motion, and the Board members unanimously agreed.

IV. ADMINISTRATIVE MATTERS

A. Update on the Board's Upcoming Advocacy Activities and Programs in accordance with the Board's Powers under Section 201M-5, Hawaii Revised Statutes (HRS)

1. Business Revitalization Taskforce's most recent meeting pursuant to Act 142 (Sessions Law Hawaii 2024, Senate Bill 2974 Relating to Economic Development) – Mandates that the Department of Business, Economic Development, and Tourism establish a task force in order to identify methods to improve Hawaii's general economic Competitiveness and business climate, including the mitigations of regulatory and tax burdens

Taskforce member Ms. Gomes stated that a final proposal was signed and sent out earlier this month. She will provide the final report to this Board.

2. Simplifying Permitting for Enhanced Economic Development (SPEED) Task Force's most recent meeting pursuant to Act 133 to identify actions taken, challenges encountered, and legislative measures necessary to facilitate, expedite, and coordinate state and intergovernmental permit processes; and appropriates funds

Taskforce member Dr. Salisbury stated that the three PIGS (permitted interaction groups) concluded last week; their reports were sent to the taskforce. On December 15th the PIGS' findings will be presented in a public Zoom meeting to the whole taskforce.

The next taskforce meeting will be held on January 6, 2026 at the State Capitol, which will be public; the taskforce will be taking testimony at this meeting. The taskforce is sending Dr. Salisbury to attend the meeting in person.

There will be another group of PIGS next summer that will be meeting from May to August 2026 and then a third group from September to December. The taskforce will then conclude in June 2027 prior to the expectation that it will be creating legislation for the State's permitting processes.

3. Discussion and Action on the adoption of reasonable time limits on oral testimony by members of the public

Second Vice Chair Albitz motioned to adopt a three-minute time limit per person, per agenda item on testimonies during the monthly Board meetings. Ms. Ige seconded the motion and the Board members unanimously agreed.

4. Discussion and Action of the Board's neighbor island meeting tentative for March 19, 2026

The Maui County's Office has confirmed that this Board's meeting will be held on March 19, 2026 at 1:00 p.m., on the 9th floor of the County of Maui Building. The Mayor is scheduled to speak for 10 minutes; as such, this Board will need to provide the Mayor with talking points for his staff to craft a speech and a Proclamation for this Board.

The initial plan is for members and staff to fly in the morning to Maui, drive to Lahaina, pick up a box-lunch, head to Wailuku to attend the 1:00 Board meeting, and then drive back to the airport to head back to the airport around 4:00–4:30 p.m.

Dr. Salisbury motioned to hold this Board's March 19th, 2026 monthly meeting on Maui Island. Second Vice Chair Albitz seconded the motion, and the Board members unanimously agreed.

5. Becker Communications Inc., regarding the Board's Small Business Outreach

Ms. Ariola met with Becker Communications recently to go over the 2026 calendar year for outreach purposes. Some of the outreach will include attending the Small Business Fair, which is tentatively expected to be held in February 2026, as well as an Entrepreneur's Conference held on Oahu, no date has been set.

6. Presentation to Industry Associations

Chair Shick attended the Hawaii Chamber of Commerce's "Business After Hours" event and will try to attend some of the events to be held in 2026. Ms. Ige will be attending the Kauai Chamber of Commerce meeting tonight.

7. Staff's Small Business Outreach

See Section 5. Becker Communications, Inc., regarding the Board's Small Business Outreach.

Ms. Keari Shibuya from the Hawaii State Procurement Office (SPO) introduced herself to the members, indicating that she is in the process of developing a program for small businesses in Hawaii Administrative Rules to obtain and succeed in State contracts. These rules will be especially for businesses that are Native Hawaiian, women-owned, and veteran-owned.

Further, this year SPO will be introducing a bill to the Hawaii legislature to make the small business procurement program permanent to assist small businesses in procurement.

- V. **NEXT MEETING** – Thursday, January 15, 2026 at 10:00 a.m., via Zoom and in Conference Room 436 at No. 1 Capitol District Building, 250 S. Hotel Street, Honolulu, HI 96813.
- VI. **ADJOURNMENT** – Second Vice Chair Albitz motioned to adjourn the meeting and Ms. Ige seconded the motion; the meeting adjourned at 10:51 a.m.

DRAFT

III. Old Business

A. Discussion and Action on the Small Business Statement After Public Hearing and Proposed Amendments to HAR Title 15 Chapter 156 and Adopt Chapter 156.1, Communicable Diseases, promulgated by Department of Health - Exhibit 1

**SMALL BUSINESS STATEMENT
“AFTER” PUBLIC HEARING TO THE
SMALL BUSINESS REGULATORY REVIEW BOARD**

(Hawaii Revised Statutes (HRS), §201M-3)

Department of Health
Department or Agency: _____

Administrative Rule Title and Chapter: _____ Repeal of Ch. 11-156 & Adoption of Ch. 11-156.1
Communicable Diseases

Chapter Name: _____

Contact Person/Title: _____ Dede Mamiya, Policy Analyst

Phone Number: _____ 808-551-3229

E-mail Address: _____ dierdre.mamiya@doh.hawaii.gov

Date: _____ 1/5/2026

- A. To assist the SBRRB in complying with the meeting notice requirement in HRS §92-7, please attach a statement of the topic of the proposed rules or a general description of the subjects involved.
- B. Are the draft rules available for viewing in person and on the Lieutenant Governor’s Website pursuant to HRS §92-7?

Yes No

(If “Yes,” please provide webpage address and when and where rules may be viewed in person. Please keep the proposed rules on this webpage until after the SBRRB meeting.)

I. Rule Description: New Repeal Amendment Compilation

II. Will the proposed rule(s) affect small business?

Yes No (If “No,” no need to submit this form.)

- * “Affect small business” is defined as “any potential or actual requirement imposed upon a small business . . . that will cause a direct and significant economic burden upon a small business, or is directly related to the formation, operation, or expansion of a small business.” HRS §201M-1
- * “Small business” is defined as a “for-profit corporation, limited liability company, partnership, limited partnership, sole proprietorship, or other legal entity that: (1) Is domiciled and authorized to do business in Hawaii; (2) Is independently owned and operated; and (3) Employs fewer than one hundred full-time or part-time employees in Hawaii.” HRS §201M-1

III. Is the proposed rule being adopted to implement a statute or ordinance that does not require the agency to interpret or describe the requirements of the statute or ordinance?

Yes No

(If “Yes” no need to submit this form. E.g., a federally-mandated regulation that does not afford the agency the discretion to consider less restrictive alternatives. HRS §201M-2(d))

IV. Is the proposed rule being adopted pursuant to emergency rulemaking? (HRS §201M-2(a))

Yes No

(If “Yes” no need to submit this form.)

*

*

*

V. Please explain how the agency involved small business in the development of the proposed rules.

Please see attachment.

**a. Were there any recommendations incorporated into the proposed rules?
If yes, explain. If not, why not?**

Please see attachment.

VI. If the proposed rule(s) affect small business, and are not exempt as noted above, please provide the following information:

1. A description of how opinions or comments from affected small businesses were solicited.

Please see attachment.

2. A summary of the public's and small businesses' comments.

Please see attachment.

3. A summary of the agency's response to those comments.

Please see attachment.

4. The number of persons who:

(i) Attended the public hearing: 4

(ii) Testified at the hearing: 0

(iii) Submitted written comments: 1

5. Was a request made at the hearing to change the proposed rule in a way that affected small business?

Yes No

(i) If "Yes," was the change adopted? Yes No

(ii) If No, please explain the reason the change was not adopted and the problems or negative result of the change.

Small Business Regulatory Review Board / DBEDT
Phone: (808) 586-2594 / Email: DBEDT.sbrrb.info@hawaii.gov

This statement may be found on the SBRRB Website at:

<http://dbedt.hawaii.gov/sbrrb-impact-statements-pre-and-post-public-hearing>

ATTACHMENT TO
SMALL BUSINESS STATEMENT
AFTER PUBLIC HEARING

Department of Health's Proposed Repeal of Ch. 11-156, HAR, and Adoption of Ch. 11-156.1, Communicable Diseases

V. Please explain how the agency involved small business in the development of the proposed rules.

During the drafting process and prior to the public hearing, the Department of Health ("DOH") reached out to affected stakeholder groups to obtain feedback on the reporting process, in general, and on the proposed rule revisions. These stakeholder groups included the Healthcare Association of Hawaii, Hawaii Primary Care Association, Hawaii State Rural Healthcare Association, Pacific Medical Administrative Group (representing over 750 independent physicians), Hawaii Independent Physicians Association (representing 1,275 independent physicians), Hawaii Academy of Family Physicians, Hawaii Dental Association, Hawaii Pharmacists Association, Native Hawaiian Health Care Systems, harm reduction service providers, and others (collectively "Stakeholders"). Several of these associations represent small businesses, such as independent physicians, dentists, pharmacists, and smaller health clinics.

DOH partnered with The Pew Charitable Trust to conduct a series of meetings with certain Stakeholder groups. At these meetings, the Pew Charitable Trust asked about the Stakeholders' experiences with the communicable disease reporting process and gathered information on the impact of the main changes DOH were considering in the rules as well as operationally.

Following these meetings, DOH sent an initial draft of the rules to obtain feedback from the Healthcare Association of Hawaii, Hawaii Pacific Health, Tripler Army Medical Center, Hawaii Primary Care Association, Papa Ola Lokahi, Hawaii State Rural Health Association, Hawaii State Office of Rural Health, Pacific Medical Association Group, Hawaii Independent Physicians Association, American College of Physicians – Hawaii Chapter, American Academy of Pediatrics – Hawaii Chapter, Hawaii Academy of Family Physicians, Association for Professionals in Infection Control and Epidemiology, Diagnostic Laboratory Services, Clinical Labs of Hawaii, Kaiser Labs, Castle Labs, Hawaii Dental Association, Hawaii Pharmacists Association, Hawaii Association of Independent Schools, and Hawaii Department of Education.

Seven of the Stakeholders provided comments on this initial draft of the proposed rules. In general, these respondents appreciated that DOH reached out to them for feedback. Respondents provided a few comments related to changing the reporting timeframe categories for specific diseases or adding

certain diseases. The most common comment received pertained to the ability of health care providers to report Category 1 diseases within the four hour timeframe required in the rules. DOH staff met with the infection preventionist staff of the Queen's Medical Center and Hawaii Pacific Health, which had provided the majority of the feedback, and had a productive exchange of thoughts, including answering any questions they had on the rules and discussing the Category 1 diseases.

DOH then obtained Governor's approval for the revised draft rules and scheduled a public hearing for October 22, 2025. The public hearing notice and draft proposed rules were emailed to all of the Stakeholders.

No verbal or written testimony on the proposed rules was received from the Stakeholders or the general public at the public hearing and up to the deadline for submitting written testimony. One written testimony, in support of the proposed rules, was received from The Pew Charitable Trust which has been DOH's partner on this rules revision project.

a. Were there any recommendations incorporated into the proposed rules? If yes, explain. If not, why not?

Based on the Stakeholders' comments prior to the public hearing, DOH staff revisited each of the Category 1 diseases in both exhibits and changed several to a lower category which has a longer reporting timeframe. Minor, technical changes were also made based on Stakeholder feedback. As the rules are processed and finalized, the DOH will continue to reach out to its partners and Stakeholders to work with them on the reporting process as well as other efforts to prevent and control communicable diseases.

VI. If the proposed rule(s) affect small business, and are not exempt as noted above, please provide the following information:

1. A description of how opinions or comments from affected small businesses were solicited.

See response to V. above.

2. A summary of the public's and small businesses' comments.

Please see response to V. above.

3. A summary of the agency's response to those comments.

Please see response to V.a. above.

DEPARTMENT OF HEALTH

Adoption of Chapter 11-156.1
Hawaii Administrative Rules

December 15, 2025

1. Chapter 11-156.1, Hawaii Administrative Rules, entitled "Communicable Diseases", is adopted to read as follows:

"HAWAII ADMINISTRATIVE RULES

TITLE 11

DEPARTMENT OF HEALTH

CHAPTER 156.1

COMMUNICABLE DISEASES

Subchapter 1 General Provisions

- §11-156.1-1 Purpose
- §11-156.1-2 Definitions
- §11-156.1-3 Severability
- §11-156.1-4 (Reserved)

Subchapter 2 Reportable Diseases

- §11-156.1-5 Diseases or conditions declared communicable or dangerous to public health
- §§11-156.1-6 to 11-156.1-9 (Reserved)

Subchapter 3 Reporting by Health Care Providers and Health Care Facilities

§11-156.1-10 Reporting by health care providers and health care facilities; reportable diseases
§11-156.1-11 Reporting by health care providers and health care facilities; information to be reported
§11-156.1-12 Reporting by health care providers and health care facilities; timeframe for reporting
§11-156.1-13 Reporting by health care providers and health care facilities; manner of reporting
§11-156.1-14 Prenatal hepatitis B screening and reporting
§§11-156.1-15 to 11-156.1-19 (Reserved)

Subchapter 4 Reporting by Laboratories

§11-156.1-20 Reporting by laboratories; reportable diseases
§11-156.1-21 Reporting by laboratories; information to be reported
§11-156.1-22 Reporting by laboratories; timeframe for reporting
§11-156.1-23 Reporting by laboratories; manner of reporting
§11-156.1-24 Submission of clinical materials
§11-156.1-25 Reporting of negative test results
§§11-156.1-26 to 11-156.1-29 (Reserved)

Subchapter 5 Other Reporting

§11-156.1-30 Reporting of outbreaks and unusual occurrences of diseases or conditions
§11-156.1-31 Outbreak reporting
§11-156.1-32 Reporting by schools
§§11-156.1-33 to 11-156.1-34 (Reserved)

Subchapter 6 Prevention and Control of Communicable Diseases

- §11-156.1-35 Investigation of diseases
- §11-156.1-36 Cooperation with department
- §11-156.1-37 Access to medical records and other information
- §11-156.1-38 Disease control measures
- §11-156.1-39 Interventions to control the spread of disease
- §11-156.1-40 Noncompliant behavior and public health threats
- §11-156.1-41 Exclusion from school
- §11-156.1-42 Rabies
- §§11-156.1-43 to 11-156.1-49 (Reserved)

Subchapter 7 Confidentiality of Information

- §11-156.1-50 Confidential information; exceptions
- §11-156.1-51 Relationship to federal and state confidentiality laws
- §§11-156.1-52 to 11-156.1-54 (Reserved)

Subchapter 8 Penalties

- §11-156.1-55 Fines
- §11-156.1-56 Penalties
- §11-156.1-57 to 11-156.1-59 (Reserved)

Subchapter 9 Administrative Remedies

- §11-156.1-60 Administrative remedies for damaged or seized property

Historical Note: This chapter is based substantially upon chapter 11-156. [Eff 11/5/81; comp 5/24/90; am and comp 10/23/97; comp 8/27/01; comp 3/13/08; R]

SUBCHAPTER 1

GENERAL PROVISIONS

§11-156.1-1 Purpose. The purpose of this chapter is to declare diseases or conditions to be communicable or dangerous to the public health, to set forth reporting requirements, and to set forth measures for the prevention, control, and treatment of, and advancement of knowledge about, diseases or conditions that are communicable or dangerous to the public health. [Eff] (Auth: HRS §§321-9, 325-13) (Imp: HRS §§321-1, 325-1.5, 325-13)

§11-156.1-2 Definitions. As used in this chapter:

"Case" means a person or deceased person infected with a particular infectious agent or having a communicable disease diagnosed by a health care provider.

"CLIA-waived test" means a test system approved by the U.S. Food and Drug Administration for waiver under the Clinical Laboratory Improvement Amendments of 1988.

"Clinical materials" means material associated or suspected to be associated with a reportable condition including, but not limited to, isolates, blood, serum, stool, urine, tissue, respiratory secretions, swab, or other body fluid.

"Communicable disease" means an illness which arises through transmission of a specific infectious agent or its toxic products from an infected person, animal, or inanimate reservoir to a susceptible host.

"Contact" means a person who may have been exposed to a case, suspected case, or the same environmental or other source of exposure as a case or suspected case in a manner that could place the person at risk of acquiring the infection based on known or suspected modes of transmission.

"Dangerous disease" has the same meaning as defined in section 325-20, HRS.

"Department" means the department of health.

"Director" means the director of health or the director's authorized agent.

"Disease control measure" means an action to prevent or reduce the threat of disease transmission from a person or animal known or suspected to be infected or a contaminated environment, including but not limited to:

- (1) Counseling or education;
- (2) Immunization;
- (3) Preventative therapy;
- (4) Prophylaxis;
- (5) Environmental sanitation;
- (6) Closure of establishment;
- (7) Exclusion from school, work, or other congregate setting;
- (8) Restriction of activities;
- (9) Isolation or barrier precautions;
- (10) Quarantine; or
- (11) Other measure to prevent infection.

"Health care facility" means any program, institution, place, building, or agency, or portion thereof, private or public, whether organized for profit or not, used, operated, or designed to provide medical diagnosis, treatment, nursing, rehabilitative, or preventive care to any person or persons. The term includes, but is not limited to, health care facilities and health care services commonly referred to as hospitals, facilities that provide inpatient medical care and other related services for surgery or acute medical conditions or injuries (usually for a short-term illness or condition), extended care and rehabilitation centers, nursing homes, skilled nursing facilities, intermediate care facilities, hospices for the terminally ill that require licensure or certification by the department, kidney disease treatment centers including freestanding hemodialysis units, outpatient clinics, organized ambulatory health care facilities, emergency care facilities and centers, home health agencies, and others providing similarly organized services regardless of nomenclature.

"Health care professional" or "health care provider" means an individual who is a direct provider of health care (including but not limited to a physician, osteopathic physician, naturopathic physician, dentist, nurse, podiatrist, optometrist, physician assistant, chiropractor, midwife, or pharmacist) in that the individual's primary current activity is the provision of health care to individuals or the administration of a health care facility and is licensed or certified in accordance with state law.

"Intervention" means a public health action taken to reduce risk to public health or safety after receipt and evaluation of information of a reported case or suspected case.

"Isolation" means the physical separation during the period of communicability of infected persons or animals from others to prevent or limit the direct or indirect transmission of the infectious agent from those who are infected and who may spread the agent to others.

"Laboratory" has the same meaning as "clinical laboratory" as defined in section 11-110.1-2, provided that a health care provider who administers a CLIA-waived test shall not be considered a laboratory for the purposes of this chapter.

"Laboratory director" means a person who is responsible for the administrative, technical, and scientific operation of a laboratory including the supervision of procedures for testing and the reporting of the test results.

"Noncompliant behavior" means failure or refusal by a case or suspected case to comply with prescribed care or public health recommendations and such behavior places others at risk for infection.

"Outbreak" means the occurrence of a condition in a community or population over a given time period at a rate in excess of that which is usually expected in that community or population.

"Quarantine" has the same meaning as defined in section 325-8, HRS.

"Reportable disease" means a disease or condition declared to be communicable or dangerous to public health and required to be reported to the department under this chapter.

"School" means a day care center, child care facility, head start program, preschool, kindergarten, elementary or secondary school, public or private, university or college, or vocational school, including any special school for children in the State.

"Suspected case" means a person, living or deceased, with clinical, laboratory, or epidemiological evidence suggestive of the existence of a communicable or dangerous disease, but prior to the confirmation of such a diagnosis. [Eff

] (Auth: HRS §§321-9, 325-13) (Imp: HRS §§325-1, 325-1.5, 325-2, 325-3, 325-8)

§11-156.1-3 Severability. If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable. [Eff

] (Auth: HRS §§321-9, 325-13) (Imp: HRS §§321-9, 325-13)

§11-156.1-4 (Reserved).

SUBCHAPTER 2

REPORTABLE DISEASES

§11-156.1-5 Diseases or conditions declared communicable or dangerous to public health. (a) The diseases and conditions listed in the exhibit entitled "Exhibit A Health Care Provider Reportable Diseases and Conditions (12/30/25)", which is located at the end of this chapter and made a part of this section,

are declared to be communicable or dangerous to public health and shall be reported by a health care provider in accordance with this chapter.

(b) The diseases and conditions listed in the exhibit entitled "Exhibit B Laboratory Reportable Diseases and Conditions" (12/30/25), which is located at the end of this chapter and made a part of this section, are declared to be communicable or dangerous to public health and shall be reported by a laboratory director in accordance with this chapter.

(c) The department may require the temporary reporting of a disease or condition by health care providers or laboratories to study or control an apparent outbreak, condition, or unusual occurrence of a communicable disease where the department determines that the disease or condition may cause serious morbidity or mortality and the report of the disease or condition is necessary to enable the department to monitor, prevent, or control the disease or condition to protect public health; provided the temporary reporting for a disease or condition shall be for a time period no longer than thirty-six months. The department shall issue notice of a disease or condition to be temporarily reported in accordance with subsection (d).

(d) The department shall publish lists of diseases and conditions declared, pursuant to this subchapter, to be communicable or dangerous to the public. The lists shall state, for each disease or condition, the required reporting timeframe and specific reporting instructions for health care providers and laboratories. The department shall post the current lists on the department website. [Eff] (Auth: HRS §§321-9, 325-13) (Imp: HRS §§325-1, 325-1.5, 325-2, 325-3)

§§11-156.1-6 to 11-156.1-9 (Reserved).

SUBCHAPTER 3

REPORTING BY HEALTH CARE PROVIDERS AND
HEALTH CARE FACILITIES

§11-156.1-10 Reporting by health care providers and health care facilities; reportable diseases. (a) A health care provider attending a case or suspected case shall report to the department the reportable diseases listed in Exhibit A regardless of laboratory reporting of the same case.

(b) When a health care provider forwards a specimen of a reportable disease listed in Exhibit A directly to an out-of-state laboratory for testing, the health care provider shall report to the department a case or suspected case and instruct the out-of-state laboratory to directly report to the department a case or suspected case.

(c) A health care facility staffed by health care providers that are required to report a reportable disease may designate a single person or group of persons to report; provided that the institution, facility, or clinic shall develop policies and procedures to ensure reporting to the department in accordance with this chapter, including but not limited to, addressing the situation in which more than one health care provider may know of a case or suspected case. A health care facility shall not assume the notification requirements established in this chapter for a laboratory that is a component of the health care facility. [Eff] (Auth: HRS §§321-9, 325-13) (Imp: HRS §§325-1.5, 325-2, 325-3)

§11-156.1-11 Reporting by health care providers and health care facilities; information to be reported. A health care provider required to report a reportable disease listed in Exhibit A shall submit the following information to the department in the form and manner as prescribed by the department:

(1) Patient name;

- (2) Patient date of birth;
- (3) Patient sex;
- (4) Patient physical address, city, and zip code;
- (5) Patient telephone number and email address;
- (6) Patient occupation;
- (7) Patient place of work, school, or child care;
- (8) Patient race and ethnicity;
- (9) Patient Hawaii residence status;
- (10) Date of report;
- (11) Diagnosis or suspected diagnosis of reportable disease;
- (12) Date of onset;
- (13) Hospitalization information, including hospital name, admission date, and number of days hospitalized;
- (14) Name, address, and telephone number of attending health care provider;
- (15) Name, address, and telephone number of person reporting if not attending health care provider;
- (16) Diagnostic laboratory findings and dates of tests relevant to the reportable disease, regardless of clinical significance, including test results from a clinical isolate or specimen that are indicative of the presence of a reportable disease;
- (17) Possible source of reportable disease;
- (18) Date of exposure to reportable disease;
- (19) Type of diagnosis;
- (20) Pregnancy status and expected delivery date; and
- (21) Any other information deemed by the department to be necessary to conduct a public health investigation or to protect the public health and safety. [Eff] (Auth: HRS §§321-9, 325-13) (Imp: HRS §§321-29, 325-1.5, 325-2, 325-3)

§11-156.1-12 Reporting by health care providers and health care facilities; timeframe for reporting.

(a) Unless otherwise provided in this chapter, a health care provider attending a case or suspected case shall report a reportable disease within the timeframe categories set forth in Exhibit A as follows:

- (1) Category 1 diseases and conditions shall be reported immediately without delay and within four hours upon initial clinical suspicion of the disease or identification of a case or suspected case, whichever is earlier;
- (2) Category 2 diseases and conditions shall be reported as soon as possible but no later than twenty-four hours from identification of a case or suspected case;
- (3) Category 3 diseases and conditions shall be reported no later than three working days from identification of a case or suspected case; and
- (4) Category 4 diseases and conditions shall be reported upon request by the department.

[Eff] (Auth: HRS §§321-9, 325-13) (Imp: HRS §§321-29, 325-1.5, 325-2)

§11-156.1-13 Reporting by health care providers and health care facilities; manner of reporting. A health care provider shall report a reportable disease listed in Exhibit A to the department in the form and manner as prescribed by the department, which may include but is not limited to, telephone and - electronic submission; provided that Category 1 diseases listed in Exhibit A shall be reported by telephone. For the purposes of this section, "electronic submission" means the automated generation and transmission of case reports from an electronic health record or other form of secure data transfer using the internet as approved by the department.

[Eff] (Auth: HRS §§321-9, 325-13) (Imp: HRS §§321-29, 325-1.5, 325-2)

§11-156.1-14 Prenatal hepatitis B screening and reporting. (a) A health care provider attending to a woman for prenatal care shall cause the woman to be tested for hepatitis B at initial examination of each pregnancy regardless of vaccination status, chronic infection, and testing history.

(b) For a newly confirmed hepatitis B infection in a pregnant woman, the health care provider attending to the woman shall report the case to the department in accordance with subchapter 3.

(c) For a pregnant woman who is already a known carrier of the hepatitis B virus, the health care provider attending to the woman shall report to the department the name, address, telephone numbers, birth date of the woman, and other locating information in the manner as prescribed by the department.

(d) A health care provider attending the birth of an infant to a hepatitis B carrier shall report to the department the following information within three working days of the infant's birth and in the form and manner as prescribed by the department:

- (1) Birthing parent name and date of birth;
- (2) Infant name, date of birth, birth weight, and sex;
- (3) Birthing parent physical address, city, zip code;
- (4) Birthing parent telephone number and email address;
- (5) Name, address, and telephone number of infant's attending health care provider;
- (6) Infant vaccination information, including vaccine type and manufacturer, vaccine administration date, site, and route, lot number, vaccine expiration date, and dosage;
- (7) Infant treatments administered, including hepatitis B immune globulin; and
- (8) Any other information deemed by the department to be necessary to conduct a public health investigation or to protect the public health and safety.

(e) A health care facility staffed by health care providers that are required to report under

subsections (b), (c), or (d) may designate a single person or group of persons to report. [Eff
] (Auth: HRS §§321-9, 325-13) (Imp:
HRS §§321-29, 325-1.5, 325-2, 325-92)

§§11-156.1-15 to 11-156.1-19 (Reserved).

SUBCHAPTER 4

REPORTING BY LABORATORIES

§11-156.1-20 Reporting by laboratories; reportable diseases. (a) A laboratory director shall report to the department the reportable diseases listed in Exhibit B when a laboratory test yields evidence of the presence or possible presence of an agent or condition listed in Exhibit B. The department may require a laboratory director to report negative or indeterminate results for a reportable disease as indicated in Exhibit B.

(b) When a laboratory forwards a specimen of a reportable disease to an out-of-state laboratory for testing, the laboratory director who forwarded the specimen shall report to the department when a laboratory test yields evidence of the presence or possible presence of an agent or condition, including negative or indeterminate results, as listed in Exhibit B.

(c) An out-of-state laboratory shall report a reportable disease listed in Exhibit B, in accordance with this subchapter, where a specimen was collected on an individual within the State. [Eff
] (Auth: HRS §§321-9, 325-13) (Imp:
HRS §§325-1.5, 325-2, 325-3)

§11-156.1-21 Reporting by laboratories; information to be reported. (a) A laboratory director required to report a reportable disease

listed in Exhibit B shall submit the following information to the department in the form and manner as prescribed by the department:

- (1) Patient name;
- (2) Patient date of birth;
- (3) Patient sex;
- (4) Patient physical address, city, and zip code;
- (5) Patient telephone number and email address;
- (6) Patient race and ethnicity;
- (7) Reportable disease;
- (8) Name, address, and telephone number of ordering health care provider;
- (9) Name, address, and telephone number of ordering health care facility;
- (10) Name, address, and telephone number of laboratory;
- (11) Laboratory information, including specimen collection date, accession number, specimen source, test name, test result date, test result, and specimen type;
- (12) Hospitalization information, including hospital name, admission date, and number of days hospitalized;
- (13) Pregnancy status and expected delivery date; and
- (14) Any other information deemed by the department to be necessary to conduct a public health investigation or to protect the public health and safety. [Eff] (Auth: HRS §§321-9, 325-13) (Imp: HRS §§321-29, 325-1.5, 325-2, 325-3)

§11-156.1-22 Reporting by laboratories; timeframe for reporting. Unless otherwise provided in this chapter, a laboratory director shall report a reportable disease within the timeframe categories set forth in Exhibit B as follows:

- (1) Category 1a agents shall be reported immediately upon a laboratory receiving a

request, prior to processing of the specimen;

- (2) Category 1b agents shall be reported immediately upon a positive test result;
- (3) Category 2 agents shall be reported within twenty-four hours from a test result; and
- (4) Category 3 agents shall be reported upon request by the department. [Eff] (Auth: HRS §§321-9, 325-13) (Imp: HRS §§321-29, 325-1.5, 325-2)

§11-156.1-23 Reporting by laboratories; manner of reporting. (a) A laboratory director shall report a reportable disease listed in Exhibit B to the department in the manner as prescribed by the department which may include but is not limited to electronic laboratory reporting or other form of secure data transfer using the internet as approved by the department; provided that Category 1a and 1b diseases listed in Exhibit B shall be reported by telephone.

(b) For the purposes of this section, "electronic laboratory reporting" means the automated transmission of data from a laboratory to the department in a structured, computer-readable format that complies with the department's data standards. [Eff] (Auth: HRS §§321-9, 325-13) (Imp: HRS §§321-29, 325-1.5, 325-2)

§11-156.1-24 Submission of clinical materials. (a) For the agents indicated as "Required" in the column entitled "Clinical Material" of Exhibit B, a laboratory director shall submit clinical materials to the department no later than two working days from a positive laboratory finding and in the manner as prescribed by the department.

(b) For the agents indicated as "Upon Request" in the column entitled "Clinical Material" of Exhibit B, the department may request submission of clinical materials, and a laboratory shall retain the clinical

materials for a positive laboratory finding for a period of not less than seven calendar days.

(c) In addition to the information required under sections 11-156.1-11(a) and 11-156.1-21, the department may require a health care provider or laboratory director to submit clinical materials with the following information:

- (1) Specimen information, including but not limited to the specimen source, specimen type, date of collection, transport medium, and suspected identification;
- (2) Clinical history of patient, including but not limited to, clinical signs and symptoms, immunizations, antibiotic therapy, travel history, and previous diagnostic laboratory findings; and
- (3) Any other information deemed by the department to be necessary to conduct a public health investigation or to protect the public health and safety. [Eff] (Auth: HRS §§321-9, 325-13) (Imp: HRS §§321-29, 325-1.5, 325-2)

§11-156.1-25 Reporting of negative test results.

(a) Negative laboratory test results of a reportable disease as indicated in Exhibit B may be used by the department for the following purposes:

- (1) To determine when a previously reported case becomes non-infectious;
- (2) To identify newly acquired infections through identification of a seroconversion or test-positive conversion window;
- (3) To provide information critical for assignment of case status;
- (4) To assess testing uptake, potential gaps in access to testing, or disease activity trends for surveillance purposes; or
- (5) Any other purpose determined by the department to be necessary for the prevention, control, and treatment of, and advancement of knowledge about, diseases or

conditions that are communicable or dangerous to the public health.

(b) Information associated with a negative laboratory test result may be kept by the department for thirty-six months provided:

- (1) At the end of the thirty-six-month period, if the result has not been appended to an existing case, personal identifiers shall be stripped and expunged from the result by the department;
- (2) The de-identified result may be added to a de-identified, aggregate data set; and
- (3) The data set may be kept for use by the department to analyze trends associated with testing patterns and case distribution and to identify and establish prevention and intervention efforts for at-risk populations. [Eff] (Auth: HRS §§321-9, 325-13) (Imp: HRS §§325-1.5, 325-2)

§§11-156.1-26 to 11-156.1-29 (Reserved).

SUBCHAPTER 5

OTHER REPORTING

§11-156.1-30 Reporting of outbreaks and unusual occurrences of diseases or conditions. (a) A health care provider, health care facility, or laboratory director shall report to the department within twenty-four hours an outbreak or suspected outbreak of a communicable disease in the manner as prescribed by the department.

(b) A health care provider, health care facility, or laboratory director shall report to the department immediately in the manner as prescribed by the department a communicable disease or dangerous disease of unusual or uncertain etiology. [Eff

] (Auth: HRS §§321-9, 325-13) (Imp: HRS §§321-29, 325-1.5, 325-2, 325-3)

§11-156.1-31 Outbreak reporting. For a suspected or confirmed outbreak, the department may require a health care facility or school to provide the following information:

- (1) The nature of the confirmed or suspected disease, infection, or condition;
- (2) The approximate number of cases;
- (3) The approximate illness onset dates;
- (4) The location of the outbreak;
- (5) Patient, resident, or student information, including but not limited to, age, vaccination status, clinical symptoms, hospitalization, school absenteeism, as applicable;
- (6) Staff information related to the outbreak;
- (7) Diagnostic testing information related to the outbreak; and
- (8) Treatment information related to the outbreak. [Eff] (Auth: HRS §§321-9, 325-13) (Imp: HRS §§321-29, 325-1.5, 325-2, 325-3)

§11-156.1-32 Reporting by schools. (a) The person in charge of a school shall report to the department in the manner as prescribed by the department:

- (1) The presence or suspected presence of a Category 1 or 2 reportable disease listed in Exhibit A within the timeframe listed in Exhibit A; or
- (2) A suspected or confirmed outbreak of a communicable disease or an unusual occurrence of any disease within twenty-four hours.

(b) The person in charge of a school reporting pursuant to subsection (a) shall provide the following information:

- (1) The reportable disease if known;
- (2) The name and telephone number of the person making the report;
- (3) The school name; and
- (4) Other relevant information allowable under applicable law as requested by the department. [Eff] (Auth: HRS §§321-9, 325-13) (Imp: HRS §§321-29, 325-1.5, 325-2, 325-3)

§§11-156.1-33 to 11-156.1-34 (Reserved).

SUBCHAPTER 6

PREVENTION AND CONTROL OF COMMUNICABLE DISEASES

§11-156.1-35 Investigation of diseases. The department may conduct an investigation of a communicable or dangerous disease, unusual disease or condition, or outbreak to verify the existence of a disease or condition, ascertain the source or cause of infection or illness, identify unreported cases, locate and evaluate contacts of cases or suspected cases, identify those at risk of the disease or condition, develop and implement necessary disease control measures to minimize the risk of disease spread, and inform the public if necessary. An investigation may include but is not limited to:

- (1) Reviewing relevant medical records to confirm a diagnosis, to investigate causes, to identify other cases related to an outbreak or a reported case, to determine if a patient with a reportable disease has received adequate treatment to render the patient non-infectious or a contact has received prophylaxis, if appropriate; review of these records may occur without patient consent;
- (2) Conducting interviews or surveys with the case, suspected case, or persons

knowledgeable about the case to conduct contact tracing, to collect information relevant to the cause of or risk factors for the reportable disease, or to monitor adherence to disease control measures;

- (3) Medical examination and testing of a person with the explicit consent of the person;
- (4) Obtaining, from public or private businesses or institutions, the identities, locations, and locating information of contacts to the case or persons with a similar or common potential exposure to the infectious agent as a reported case;
- (5) Interviewing or administering questionnaire surveys confidentially to a resident of a community or an agent, owner, operator, employer, employee, or client of a public or private business or institution, who is either epidemiologically associated with a reported case or has had a similar exposure as a reported case;
- (6) Collecting and analyzing plant, animal, food, or environmental samples or measurements of items, from public or private premises, that may be related to the cause of an outbreak or reportable disease, including the collection of clinical material from a laboratory for testing by the department;
- (7) Taking photographs or videos related to the purpose of the investigation. If the photographs or videos are taken in a business, the employer shall have the opportunity to review the photographs or videos taken or obtained for the purpose of identifying those which contain or might reveal a trade secret;
- (8) Entering a public or private entity, such as a business or school, for the purpose of conducting an investigation of those processes, conditions, structures, machines, apparatus, devices, equipment, records

(including but not limited to current and former employee or student rosters and locating information, schedules, health and medical information, job duties and descriptions, and patron or client locating information), and materials and supplies within the place of employment which are relevant, pertinent, and necessary to the investigation; provided the investigation shall be conducted during regular working hours or at other reasonable times and with such notice as is reasonable under the circumstances;

(9) Review of previously conducted environmental or product sampling data that may be related to the cause of the outbreak or reportable disease; and

(10) Any other investigative action that may be required to protect the public health and safety as determined by the department.

[Eff] (Auth: HRS §§321-9, 325-13) (Imp: HRS §§321-29, 325-1.5)

§11-156.1-36 Cooperation with department. A case, suspected case, contact, health care provider, health care facility, laboratory director, school, business, organization, or any person the department deems relevant to an investigation shall cooperate with the department in the investigation of a case, suspected case, outbreak, or suspected outbreak, and the implementation of measures for the prevention, suppression, and control of a communicable disease.

[Eff] (Auth: HRS §§321-9, 325-13)
(Imp: HRS §§321-29, 325-1.5)

§11-156.1-37 Access to medical records and other information. (a) When requested by the department for the purpose of conducting an investigation, a health care facility or health care provider shall timely provide or make available for inspection by the

department and its authorized representatives all medical records relating to a case or suspected case from a communicable or dangerous disease and shall provide the patient's name, name of a minor patient's parent or guardian, address, telephone number, age, sex, gender identity, race or ethnicity, clinical signs and symptoms, travel history, immunizations, laboratory test results, diagnostic interview data, treatment provided, the disposition of the patient, and other information deemed necessary by the department to investigate, monitor, prevent, or control the communicable or dangerous disease.

(b) When requested by the department for the purpose of conducting an investigation, a business, organization, school, health care provider, health care facility, or any person with information relevant to the investigation shall provide the names, addresses, telephone numbers, and locating information regarding individuals suspected of having been exposed to a disease or disease-causing substance that is the subject of the investigation and shall provide any other information the department deems relevant to the investigation. [Eff] (Auth: HRS §§321-9, 325-13) (Imp: HRS §§321-29, 325-1.5)

§11-156.1-38 Disease control measures. (a) The department shall establish and use appropriate disease control measures to manage communicable diseases based on best available evidence and consistent with currently accepted standards, as determined by the department.

(b) The department shall publish disease control measures for communicable diseases on the department website.

(c) A health care provider attending a case or suspected case of a reportable disease shall provide adequate and understandable instruction in the disease control measures established pursuant to subsection (a) to the case, suspected case, contacts, or the case's or suspected case's family members or caregivers to prevent the spread of the disease.

(d) A health care provider attending a case, suspected case, or contact of a case or suspected case shall notify the department of known barriers that might impede or prevent compliance with disease control measures or the name, address, and other pertinent information for a person exhibiting noncompliant behavior. [Eff] (Auth: HRS §§321-9, 325-13) (Imp: HRS §§321-1, 321-31, 325-1.5, 325-8)

§11-156.1-39 Interventions to control the spread of disease. The department may implement interventions the department deems necessary to prevent the spread of a communicable or dangerous disease, including but not limited to:

- (1) Monitoring the medical condition of a case or suspected case;
- (2) Counseling a case or suspected case regarding the reportable disease, required treatment, and the need for disease control measures;
- (3) Contacting and interviewing a case, suspected case, case's or suspected case's family, employer, school, or other related person or entity to ascertain compliance with disease control measures;
- (4) Requesting the assistance of the Centers for Disease Control to prevent a case or suspected case from boarding a commercial airplane if the department determines that the person is known or suspected to have a communicable disease that poses a threat to the public's health;
- (5) Ordering the testing of particular populations or groups of persons or animals to identify carriers of a communicable disease for the purpose of determining possible restrictions on activity, including but not limited to, food handlers, immigrants, travelers, students, and others who are at risk of transmission or exposure;

- (6) Providing for the administration of vaccines, medications, or other treatments to persons as necessary in order to prevent the probable spread of a dangerously contagious or infectious disease; and
- (7) Any other intervention action the department deems necessary to prevent the spread of a communicable or dangerous disease. [Eff] (Auth: HRS §§321-9, 325-13) (Imp: HRS §§321-1, 321-31, 325-1.5, 325-8)

§11-156.1-40 Noncompliant behavior and public health threats. (a) Before using mandatory measures, the department shall counsel a case, suspected case, or contact on disease control measures and the reasons therefor and shall attempt to secure voluntary compliance.

(b) The department shall investigate a report of a case or suspected case exhibiting noncompliant behavior and ascertain whether there is credible evidence to substantiate the allegation of noncompliant behavior, including making a reasonable attempt to conduct a personal interview to assess the person's understanding of the exposure to infection with the reportable disease, its treatment, and the behaviors that place others at risk of infection.

(c) If the department's investigation confirms a case or suspected case has received appropriate counseling on the methods to prevent transmission of the infection and has engaged in noncompliant behavior that exposes others to infection of the disease and the department determines quarantine is the least restrictive means by which the public health, safety, and welfare can be protected, the department may seek to quarantine the noncompliant person in accordance with sections 325-8 and 325-9, HRS, or seek other injunctive relief under any applicable section of the Hawaii Revised Statutes. [Eff] (Auth: HRS §§321-9, 325-13) (Imp: HRS §§321-1, 321-31, 325-1.5, 325-8, 325-9)

§11-156.1-41 Exclusion from school. (a) When a student has a reportable disease for which isolation or restriction from group settings is required to prevent transmission of the disease, the person in charge of a school shall prohibit the student from attending school until the expiration of the prescribed period of isolation. If the attending health care provider, school health care professional, or the department finds, upon examination, that the student is free of the disease in the communicable state in accordance with the department's disease control measures established pursuant to section 11-156.1-39(a) and (b), the health care provider or official may issue a signed certificate to this effect to the school upon which the principal or director in charge of the school shall readmit the student.

(b) A student infected with the human immunodeficiency virus does not pose a transmission risk to others in the school setting and shall not be excluded from school based on human immunodeficiency virus status.

(c) A parent, guardian, custodian, or other person in loco parentis to any child who has a communicable disease for which isolation is required shall not permit the child to attend school or to be present in any group settings, as determined by the department, until the expiration of the prescribed period of isolation or restriction for the particular disease. [Eff] (Auth: HRS §§321-9, 325-13) (Imp: HRS §§321-1, 321-31, 325-1.5, 325-8)

§11-156.1-42 Rabies. Upon report to the department that a person has been bitten by an animal under circumstances in which the possibility of transmission of rabies cannot be excluded, the director may order seizure of the animal to be held for observation and sacrificed for the purpose of examining its brain for evidence of the presence of rabies virus. [Eff] (Auth: HRS §§321-9, 325-13) (Imp: HRS §§321-1, 325-1, 325-1.5)

§§11-156.1-43 to 11-156.1-49 (Reserved).

SUBCHAPTER 7

CONFIDENTIALITY OF INFORMATION

§11-156.1-50 Confidential information; exceptions. (a) Reports and related information provided to the department under this chapter shall be held confidential and shall not be made public so as to disclose the identity of the person to whom a report relates, except in the following circumstances:

- (1) Disclosure may be made to a blood bank in the case of a person who had or has a disease or condition transmittable by blood or blood products to enable the blood bank to reject the person as a donor; provided the department may disclose to a blood bank information on a person suspected of physical symptoms, clinical examination, or laboratory evidence of having a disease or condition transmittable by blood or blood products, any law to the contrary notwithstanding;
- (2) Disclosure of medical and epidemiological information may be made to the extent necessary for the treatment, investigation, prevention, or control of a communicable or dangerous disease as provided in this chapter; provided that disclosure of personal identifying information shall be made to the minimal amount necessary to accomplish the public health purpose;
- (3) Disclosure may be made as authorized in writing by the person to whom the information applies;
- (4) Disclosure of the records of a person who has a human immunodeficiency virus infection, acquired immune deficiency syndrome, or acquired immune deficiency

syndrome related complex may be made as permitted under section 325-101, HRS;

(5) Medical and epidemiological information may be disclosed to the public for informational purposes in a manner in which the identity of no individual person is disclosed;

(6) Researchers authorized by the department may conduct public health studies utilizing reportable disease data, provided the researcher maintains the confidentiality of the data and does not disclose personally identifiable information in accordance with applicable state and federal confidentiality requirements and to the satisfaction of the department; and

(7) Disclosure may be made pursuant to an order or subpoena from a court or agency of competent jurisdiction.

(b) Only department employees who have a specific need to review personally identifiable information provided under this chapter may access the information for the purposes authorized under this chapter or as otherwise required by law. [Eff] (Auth: HRS §§321-9, 325-13) (Imp: HRS §§92F-13, 92F-14, 321-29, 325-4, 325-54, 325-101)

§11-156.1-51 Relationship to federal and state confidentiality laws. In compliance with the Health Information Portability and Accountability Act of 1996, its implementing regulations, and state law, a person or entity who is required to preserve the confidentiality of protected health information nonetheless shall disclose this information to public health authorities including the department for the purpose of preventing or controlling communicable or dangerous diseases. [Eff] (Auth: HRS §§321-9, 325-13) (Imp: HRS §§92F-13, 321-1, 321-31, 325-1.5, 325-2, 325-3)

§§11-156.1-52 to 11-156.1-54 (Reserved).

SUBCHAPTER 8

PENALTIES

§11-156.1-55 Fines. (a) The director may impose a fine, in an amount not to exceed \$1,000 per violation, on a person who violates the reporting requirements of subchapter 2; provided a person assessed a fine pursuant to section 325-3, HRS, shall not be subject to other sanctions as provided by chapter 325, HRS.

(b) The director may impose a fine, in an amount not to exceed \$1,000 per violation, on a person who does not comply with departmental requests for information pursuant to an investigation under sections 11-156.1-35, 11-156.1-36, and 11-156.1-37.
[Eff] (Auth: HRS §§321-9, 325-13)
(Imp: §§321-29, 325-2, 325-3)

§11-156.1-56 Penalties. A person violating chapter 325, HRS, or this chapter shall be guilty of a misdemeanor. [Eff] (Auth: HRS §§321-9, 325-13) (Imp: §§321-18, 325-14)

§§11-156.1-57 to 11-156.1-59 (Reserved).

SUBCHAPTER 9

ADMINISTRATIVE REMEDIES

§11-156.1-60 Administrative remedies for damaged or seized property. (a) An owner, owner's agent, or person in lawful control of property that was damaged or seized pursuant to section 321-29(d), HRS, may pursue administrative remedies by filing a claim with the department within ninety calendar days from the date of alleged property damage or seizure and in a form and manner as prescribed by the department.

(b) A claim shall contain the following information:

- (1) The claimant's name and contact information;
- (2) A statement of the facts constituting the alleged damage or seizure, including the physical address where the property was damaged or seized, the date the property was damaged or seized, a description of the damaged or seized property and how the property was damaged or seized;
- (3) The dollar amount requested for the damage or seizure with supporting documentation justifying the dollar amount;
- (4) The claimant's interest in the property with documentation evidencing claimant's lawful control of the damaged or seized property; and
- (5) The signature of the claimant with an attestation that the information provided in the claim is true and correct to the best of claimant's knowledge.

(c) The department shall determine compensation, if any, based on the cost of repairing the property or replacing the property, whichever is less; provided that only the property's useful value at the time of damage or seizure, as determined by the department, shall be considered for compensation. No administrative remedy shall be made for the seizure of de minimus samples or for incidental damages that may be claimed to arise from the property being damaged or seized, including but not limited to, lost income, reputational harm, or emotional distress.

(d) A claimant aggrieved by the department's decision pursuant to this section may file a petition for a contested case hearing in accordance with chapter 91, HRS, and chapter 11-1.

(e) For the purposes of this section, "claimant" means the person filing a claim for property that was allegedly damaged or seized pursuant to section 321-29(d), HRS. [Eff] (Auth: HRS §§321-9, 325-13) (Imp: §321-29)

2. The adoption of chapter 11-156.1, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

I certify that the foregoing are copies of the rules drafted in the Ramseyer format, pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on December 15, 2025 and filed with the Office of the Lieutenant Governor.

Kenneth S. Fink, Director
Department of Health

APPROVED AS TO FORM:

Deputy Attorney General

EXHIBIT A

HEALTH CARE PROVIDER REPORTABLE DISEASES AND CONDITIONS CHAPTER 11-156.1, HAR 12/15/25

Note: Pursuant to §11-156.1-5, HAR, the official list of reportable diseases and conditions shall be the version published on the Department's website.

| DISEASE OR CONDITION | TIMEFRAME CATEGORY |
|---|--------------------|
| Amebiasis | Category 3 |
| Angiostrongyliasis | Category 2 |
| Anthrax | Category 1 |
| Arboviral encephalitis and/or meningitis | Category 2 |
| Botulism (foodborne or infant) | Category 1 |
| Brucellosis (suspected bioterrorism) | Category 1 |
| Brucellosis (other than suspected bioterrorism) | Category 2 |
| Campylobacteriosis (suspected outbreaks) | Category 2 |
| Candida auris | Category 2 |
| Chancroid | Category 3 |
| Chickenpox (varicella) | Category 3 |
| Chikungunya | Category 2 |
| Chlamydia (<i>Chlamydia trachomatis</i>) | Category 3 |
| Cholera | Category 2 |
| Congenital rubella syndrome | Category 3 |
| COVID-19 (suspected outbreaks and pediatric deaths) | Category 2 |
| Cronobacter species (invasive disease in infants less than twelve months old) | Category 2 |
| Cryptosporidiosis | Category 3 |
| Cyclosporiasis | Category 3 |
| Dengue | Category 2 |
| Diphtheria (respiratory) | Category 1 |
| Shiga toxin-producing <i>Escherichia coli</i> (STEC) | Category 3 |
| Filariasis | Category 3 |
| Fish poisoning (ciguatera, scombroid, or hallucinogenic; suspected food establishment-associated) | Category 1 |
| Fish poisoning (ciguatera, scombroid, or hallucinogenic; not food establishment-associated) | Category 3 |
| Foodborne illness (suspected outbreaks: two or more ill persons having eaten a common food or at a place in common) | Category 2 |
| Glanders | Category 1 |
| Gonococcal disease (<i>Neisseria gonorrhoeae</i>) | Category 3 |

| DISEASE OR CONDITION | TIMEFRAME CATEGORY |
|--|--------------------|
| <i>Haemophilus influenzae</i> (meningitis, bacteremia, epiglottitis, pneumonia, or isolation from a normally sterile site) | Category 2 |
| Hansen's disease - Refer to Chapter 11-168, HAR, for reporting requirements | |
| Hantavirus disease | Category 2 |
| Harmful algal bloom (human disease) | Category 3 |
| Hepatitis A | Category 2 |
| Hepatitis B (acute) | Category 3 |
| Hepatitis B (chronic) | Category 4 |
| Hepatitis C (acute) | Category 3 |
| Hepatitis C (chronic) | Category 4 |
| Hepatitis E | Category 3 |
| Hemolytic uremic syndrome (HUS) | Category 3 |
| HIV (Human Immunodeficiency Virus) (Stages 0, 1, 2, 3, or stage unknown; Stage 3 shall be reported regardless of previous case report of an earlier stage) | Category 3 |
| Influenza (suspected outbreaks and pediatric deaths) | Category 2 |
| Influenza-like illness | Category 4 |
| Legionellosis | Category 2 |
| Leptospirosis | Category 3 |
| Listeriosis | Category 3 |
| Malaria | Category 2 |
| Measles (rubeola) | Category 1 |
| Melioidosis | Category 1 |
| Meningococcal disease (meningitis, meningococcemia, or isolation from a normally sterile site) | Category 1 |
| Middle East Respiratory Syndrome (MERS) | Category 1 |
| Mpox | Category 2 |
| Mumps | Category 2 |
| Nontuberculous mycobacteria (NTM) infection (pulmonary and non-pulmonary) | Category 3 |
| Norovirus (NoV) (suspected outbreaks) | Category 2 |
| Oropouche virus (congenital and non-congenital) | Category 2 |
| Pelvic Inflammatory Disease (PID) | Category 3 |
| Pertussis | Category 2 |
| Plague | Category 1 |
| Poliomyelitis | Category 1 |
| Psittacosis | Category 2 |
| Q fever | Category 1 |
| Rabies | Category 1 |
| Respiratory Syncytial Virus (RSV) (suspected outbreaks and pediatric deaths) | Category 2 |
| Rubella (German measles) | Category 2 |
| <i>Salmonella</i> Typhi and Paratyphi | Category 2 |

| DISEASE OR CONDITION | TIMEFRAME CATEGORY |
|---|--------------------|
| Salmonellosis (other than typhoid) | Category 3 |
| Severe Acute Respiratory Syndrome (SARS) | Category 1 |
| Shigellosis | Category 3 |
| Smallpox | Category 1 |
| Streptococcal disease, Group A (beta hemolytic, invasive disease including Streptococcal Toxic Shock Syndrome, necrotizing fasciitis, or isolation from a normally sterile site, but not including pharyngitis) | Category 3 |
| Syphilis | Category 3 |
| Tetanus | Category 2 |
| Toxoplasmosis | Category 3 |
| Trichinosis | Category 3 |
| Tuberculosis - Refer to Chapter 11-164.2, HAR, for reporting requirements | |
| Tularemia | Category 1 |
| Typhus (louse, flea, mite-borne) | Category 3 |
| Vibriosis (other than cholera) | Category 3 |
| Viral hemorrhagic fevers (filoviruses, e.g. Ebola, Marburg, and arenaviruses, e.g., Lassa, Machupo) | Category 1 |
| Yellow fever | Category 2 |
| Yersiniosis (other than plague) | Category 3 |
| Zika virus (congenital, non-congenital) | Category 2 |

EXHIBIT B

LABORATORY REPORTABLE DISEASES AND CONDITIONS CHAPTER 11-156.1, HAR 12/15/25

Note: Pursuant to §11-156.1-5, HAR, the official list of reportable diseases and conditions shall be the version published on the Department's website.

| DISEASE/AGENT/TEST | TIMEFRAME CATEGORY | CLINICAL MATERIAL |
|---|--------------------|-------------------|
| <i>Angiostrongylus cantonensis</i> | Category 2 | Upon request |
| Arboviral encephalitis and meningitis (Venezuelan equine, Eastern equine, Western equine, California serogroup St. Louis, Powassan, West Nile, Japanese encephalitis virus) | Category 2 | Upon request |
| Arenaviruses (Lassa, Marburg) | Category 1a | Required |
| <i>Bacillus anthracis</i> | Category 1b | Required |
| <i>Bordetella pertussis</i> | Category 2 | |
| <i>Burkholderia mallei</i> | Category 1b | Required |
| <i>Burkholderia pseudomallei</i> | Category 1b | Required |
| <i>Brucella</i> spp. | Category 2 | Required |
| <i>Brugia malayi</i> | Category 2 | |
| <i>Brugia timori</i> | Category 2 | |
| <i>Campylobacter</i> spp. | Category 2 | |
| <i>Candida auris</i> | Category 2 | Required |
| Carbapenem-resistant <i>Pseudomonas aeruginosa</i> (CRPA) | Category 2 | Upon request |
| Carbapenem-resistant <i>Acinetobacter baumannii</i> (CRAB) | Category 2 | Required |
| Carbapenem-resistant Enterobacteriales (CRE) | Category 2 | Required |
| CD4 T-lymphocyte count and percent | Category 2 | |
| Chikungunya virus | Category 2 | Required |
| <i>Chlamydia psittaci</i> | Category 2 | |
| <i>Chlamydia trachomatis</i> (report positive and negative results) | Category 2 | |
| <i>Clostridium botulinum</i> | Category 1a | Upon request |
| <i>Clostridium tetani</i> | Category 2 | |
| <i>Corynebacterium diphtheriae</i> | Category 2 | Upon request |
| <i>Cryptosporidium</i> spp. | Category 2 | |
| Cyclosporiasis | Category 2 | |
| <i>Coxiella burnetii</i> | Category 2 | |
| <i>Cronobacter</i> species (in infants less than twelve months old) | Category 1b | Upon request |

| DISEASE/AGENT/TEST | TIMEFRAME CATEGORY | CLINICAL MATERIAL |
|--|--------------------|--------------------------|
| Dengue virus | Category 2 | Upon request |
| <i>Entamoeba histolytica</i> | Category 2 | |
| <i>Ehrlichia</i> , other spp. or unspecified | Category 2 | Upon request |
| Escherichia coli – shiga toxin producing, including type O157 | Category 2 | Required |
| Filoviruses (Ebola, Marburg) | Category 1a | Required |
| <i>Francisella tularensis</i> | Category 1b | Upon request |
| <i>Giardia lamblia</i> | Category 2 | |
| <i>Haemophilus ducreyi</i> | Category 3 | Upon request |
| <i>Haemophilus influenzae</i> (from spinal fluid, blood, lung, or other normally sterile site) Report serotype and antimicrobial resistance if available. | Category 2 | Required |
| Hantavirus | Category 2 | Upon request |
| Hepatitis A virus (IgM positive) - Also report ALT (SGPT) and total bilirubin conducted at the same time. | Category 2 | Required |
| Hepatitis B virus (surface antigen positive and negative results and/or anti-core IgM antibody positive and negative results) - Also report ALT (SGPT) and total bilirubin conducted at the same time for all patients who are HBsAg positive. | Category 2 | |
| Hepatitis C virus (report positive and negative results) - Also report ALT (SGPT) and total bilirubin conducted at the same time for all patients who are anti-HCV positive. | Category 2 | |
| Hepatitis E virus - Also report ALT (SGPT) and total bilirubin conducted at the same time for all patients who are anti-HCE positive. | Category 2 | |
| HIV (Human Immunodeficiency Virus) and all HIV viral load tests (report positive and negative results) | Category 2 | |
| Influenza virus (report positive, negative and indeterminate results, and other viral isolates obtained through respiratory culture) | Category 2 | |
| <i>Legionella pneumophila</i> | Category 2 | Required (isolates only) |
| <i>Leptospira interrogans</i> | Category 2 | |
| <i>Listeria monocytogenes</i> | Category 2 | Required |
| Liver function tests (ALT {SGPT} and total bilirubin) conducted at the same time on a patient who is HAV IgM positive, HbsAg positive, anti-HCV positive, or anti-HCE positive. | Category 2 | |
| <i>Lyssavirus</i> spp. (Rabies) | Category 1a | Required |
| Measles/Rubeola | Category 2 | Upon request |
| Middle East Respiratory Syndrome (MERS) | Category 1a | Required |

| DISEASE/AGENT/TEST | TIMEFRAME CATEGORY | CLINICAL MATERIAL |
|---|--------------------------------|-------------------|
| Mumps | Category 2 | Upon request |
| <i>Mycobacterium tuberculosis</i> | Refer to Chapter 11-164.2, HAR | |
| <i>Mycobacterium leprae</i> (AFB) | Refer to Chapter 11-168, HAR | |
| <i>Neisseria gonorrhoeae</i> (report positive and negative results, including identification of resistant strains) | Category 2 | Required |
| <i>Neisseria meningitidis</i> (from spinal fluid, blood, lung, or other normally sterile site), inclusive of gram stain suggestive of <i>N. meningitidis</i> . Also report antimicrobial susceptibility when available. | Category 1b | Required |
| Nontuberculous mycobacteria (NTM) infection | Category 2 | |
| <i>Non-variola Orthopoxvirus</i> | Category 2 | Upon request |
| Norovirus (NoV) PCR positive | Category 2 | Upon request |
| Oropouche virus | Category 2 | Required |
| <i>Plasmodium</i> spp. | Category 2 | |
| Poliovirus | Category 2 | Required |
| Respiratory Syncytial Virus (RSV) (report positive, negative, and indeterminate results from viral transport media or universal transport media) | Category 2 | |
| <i>Rickettsia typhi</i> | Category 2 | |
| Rubella (IgM) | Category 2 | Required |
| <i>Salmonella</i> spp. (including <i>typhi</i>) | Category 2 | Required |
| SARS-Associated Coronavirus (SARS-CoV) | Category 1a | Required |
| SARS-Associated Coronavirus (SARS-CoV-2) (report positive and negative results) | Category 2 | Upon request |
| <i>Shigella</i> spp. | Category 2 | Required |
| Vancomycin-intermediate <i>Staphylococcus aureus</i> (VISA) | Category 2 | Upon request |
| Vancomycin-resistant <i>Staphylococcus aureus</i> (VRSA) | Category 2 | Required |
| <i>Streptococcus pyogenes</i> , Group A (beta hemolytic, invasive disease including Streptococcal Toxic Shock Syndrome or other normally sterile site, but not including pharyngitis) | Category 2 | |
| <i>Streptococcus pneumoniae</i> isolated from a normally sterile site, report antimicrobial susceptibility and serotype | Category 2 | Required |
| <i>Toxoplasma gondii</i> (report positive and negative results) | Category 2 | |
| <i>Treponema pallidum</i> (report positive and negative results) | Category 2 | Required |
| <i>Trichinella spiralis</i> | Category 2 | |
| West Nile Virus | Category 2 | Upon request |
| <i>Wuchereria bancrofti</i> | Category 2 | |
| Varicella | Category 2 | Upon request |
| Variola virus | Category 1a | Required |

| DISEASE/AGENT/TEST | TIMEFRAME CATEGORY | CLINICAL MATERIAL |
|--|--------------------|-------------------|
| <i>Vibrio</i> spp. (<i>cholerae</i> and non- <i>cholera</i>) | Category 2 | Required |
| Yellow fever virus | Category 2 | Required |
| <i>Yersinia pestis</i> | Category 1b | Required |
| <i>Yersinia</i> spp. (other than <i>pestis</i>) | Category 2 | Required |
| Zika virus | Category 2 | Required |

IV. New Business

A. Discussion and Action on the Small Business Impact Statement to Proposed New Temporary Hawaii Administrative Rules (HAR) Title 18 Chapter 237, General Excise Tax and Chapter 237D, Transient Accommodation Tax Law, promulgated by Department of Taxation – Exhibit 2

**PRE-PUBLIC HEARING SMALL BUSINESS IMPACT STATEMENT
TO THE
SMALL BUSINESS REGULATORY REVIEW BOARD**
(Hawaii Revised Statutes §201M-2)

Date: _____

Department or Agency: _____

Administrative Rule Title and Chapter: _____

Chapter Name: _____

Contact Person/Title: _____

E-mail: _____ Phone: _____

- A. To assist the SBRRB in complying with the meeting notice requirement in HRS §92-7, please attach a statement of the topic of the proposed rules or a general description of the subjects involved.

- B. Are the draft rules available for viewing in person and on the Lieutenant Governor's Website pursuant to HRS §92-7?

Yes No

If "Yes," provide details: _____

I. Rule Description:

New Repeal Amendment Compilation

II. Will the proposed rule(s) affect small business?

Yes No

(If "No," no need to submit this form.)

* "Affect small business" is defined as "any potential or actual requirement imposed upon a small business . . . that will cause a direct and significant economic burden upon a small business, or is directly related to the formation, operation, or expansion of a small business." HRS §201M-1

* "Small business" is defined as a "for-profit corporation, limited liability company, partnership, limited partnership, sole proprietorship, or other legal entity that: (1) Is domiciled and authorized to do business in Hawaii; (2) Is independently owned and operated; and (3) Employs fewer than one hundred full-time or part-time employees in Hawaii." HRS §201M-1

III. Is the proposed rule being adopted to implement a statute or ordinance that does not require the agency to interpret or describe the requirements of the statute or ordinance?

Yes No

(If "Yes" no need to submit this form. E.g., a federally-mandated regulation that does not afford the agency the discretion to consider less restrictive alternatives. HRS §201M-2(d))

IV. Is the proposed rule being adopted pursuant to emergency rulemaking? (HRS §201M-2(a))

Yes No
(If "Yes" no need to submit this form.)

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If the proposed rule affects small business and are not exempt as noted above, please provide a reasonable determination of the following:

1. Description of the small businesses that will be required to comply with the proposed rules and how they may be adversely affected.
2. In dollar amounts, the increase in the level of direct costs such as fees or fines, and indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs associated with compliance.

If the proposed rule imposes a new or increased fee or fine:

- a. Amount of the current fee or fine and the last time it was increased.
- b. Amount of the proposed fee or fine and the percentage increase.
- c. Reason for the new or increased fee or fine.
- d. Criteria or methodology used to determine the amount of the fee or fine (i.e., Consumer Price Index, Inflation rate, etc.).

3. The probable monetary costs and benefits to the agency or other agencies directly affected, including the estimated total amount the agency expects to collect from any additionally imposed fees and the manner in which the moneys will be used.

4. The methods the agency considered or used to reduce the impact on small business such as consolidation, simplification, differing compliance or reporting requirements, less stringent deadlines, modification of the fines schedule, performance rather than design standards, exemption, or other mitigating techniques.
5. The availability and practicability of less restrictive alternatives that could be implemented in lieu of the proposed rules.
6. Consideration of creative, innovative, or flexible methods of compliance for small businesses. The businesses that will be directly affected by, bear the costs of, or directly benefit from the proposed rules.
7. How the agency involved small business in the development of the proposed rules.
 - a. If there were any recommendations made by small business, were the recommendations incorporated into the proposed rule? If yes, explain. If no, why not.

8. Whether the proposed rules include provisions that are more stringent than those mandated by any comparable or related federal, state, or county standards, with an explanation of the reason for imposing the more stringent standard.

If yes, please provide information comparing the costs and benefits of the proposed rules to the costs and benefits of the comparable federal, state, or county law, including the following:

- a. Description of the public purposes to be served by the proposed rule.

- b. The text of the related federal, state, or county law, including information about the purposes and applicability of the law.

- c. A comparison between the proposed rule and the related federal, state, or county law, including a comparison of their purposes, application, and administration.

- d. A comparison of the monetary costs and benefits of the proposed rule with the costs and benefits of imposing or deferring to the related federal, state, or county law, as well as a description of the manner in which any additional fees from the proposed rule will be used.

- e. A comparison of the adverse effects on small business imposed by the proposed rule with the adverse effects of the related federal, state, or county law.

* * *

Small Business Regulatory Review Board / DBEDT

Phone: (808) 586-2594 / Email: DBEDT.sbrb.info@hawaii.gov

This Statement may be found on the SBRRB Website at: <http://dbedt.hawaii.gov/sbrb/resources/small-business-impact-statements>

DEPARTMENT OF TAXATION

Amendments to Chapter 18-237D,
Hawaii Administrative Rules

Effective: _____

SUMMARY

1. §§18-237D-200-01 through 18-237D-200-25 are repealed.
2. New §18-237D-8.5-01 is added.
3. New §18-237D-8.5-02 is added.
4. New §18-237D-8.5-03 is added.
5. New §18-237D-8.5-04 is added.
6. New §18-237D-8.5-05 is added.
7. New §18-237D-8.5-06 is added.
8. New §18-237D-8.5-07 is added.
9. New §18-237D-8.5-08 is added.
10. New §18-237D-8.5-09 is added.
11. New §18-237D-8.5-10 is added.
12. New §18-237D-8.5-11 is added.
13. New §18-237D-8.5-12 is added.
14. New §18-237D-8.5-13 is added.
15. New §18-237D-8.5-14 is added.
16. New §18-237D-8.5-15 is added.

17. New §18-237D-8.5-16 is added.
18. New §18-237D-8.5-17 is added.
19. New §18-237D-8.5-18 is added.
20. New §18-237D-8.5-19 is added.
21. New §18-237D-8.5-20 is added.
22. New §18-237D-8.5-21 is added.
23. New §18-237D-8.5-22 is added.
24. New §18-237D-8.5-23 is added.
25. New §18-237D-8.5-24 is added.
26. New §18-237D-8.5-25 is added.

§18-237D-8.5-01 Definitions. As used in sections 18-237D-8.5-01 to 18-237D-8.5-25:

"Rent collection agreement" means any agreement authorizing a third party to collect rent on behalf of the owner of real property located within the State, including online and oral agreements.

"Respondent" means the person to whom the citation for violation of section 237D-8.5, HRS, is addressed.

"Third party rent collector" means any person authorized under an agreement by the owner of real property located within the State to collect rent on behalf of the owner. [Eff] (Auth: HRS §§231-3(9), 237D-16) (Imp: HRS §237D-8.5)

§18-237D-8.5-02 Third Party Rent Collectors.

(a) Third party rent collectors shall file all documents and statements required under section 237D-8.5(c), HRS, with the first taxation district office.

(b) All documents and statements required to be filed by third party rent collectors under section 237D-8.5(c), HRS, shall be submitted with forms and in the manner prescribed by the department.

(c) Third party rent collectors who do not file a copy of the first page of a rent collection agreement within thirty days after entering the agreement shall file a copy of federal Internal Revenue form 1099 with any other documents and statements required under section 237D-8.5(c), HRS, at the same time form 1099 is required to be filed with the Internal Revenue Service. [Eff] (Auth: HRS §§231-3(9), 237D-16) (Imp: HRS §237D-8.5)

§18-237D-8.5-03 Citation for failure to file third party rent collector information; requirements.

(a) A citation for failure to file third party rent collector information shall be issued on the forms prescribed by the department.

(b) A citation for failure to file third party

rent collector information shall include the following in its contents:

- (1) The name and address of the respondent;
- (2) The specific alleged violation or violations of title 14, HRS, or the administrative rules adopted thereunder which constitute cause for the issuance of the citation for failure to file third party rent collector information;
- (3) If the citation is issued pursuant to section 237D-8.5(e), HRS, the citation shall describe to the best of the department's ability the real property for which the third party rent collector is authorized to collect rent, including the address if possible;
- (4) A signature of the special enforcement section employee or other department employee authorized to issue the citation. By signing the citation for failure to file third party rent collector information, the issuer certifies that the statements contained in the citation are true and correct, to the best of their knowledge. A citation that has not been signed by a duly authorized employee of the department shall be void ab initio;
- (5) The amount of the monetary fine imposed against the respondent;
- (6) A space for the respondent, or the respondent's agent or representative, to acknowledge receipt of the citation by signature. If the respondent or respondent's agent or representative refuses to sign or if for some other reason the department employee is unable to acquire a signature to acknowledge receipt, the citation may indicate "refused to sign", "unavailable", "no signature for safety reasons", "service by mail", "service by publication", or other language explaining the lack of signature by the respondent or the respondent's agent or

representative. The lack of the signature of the respondent or the respondent's agent or representative shall not affect the validity of the citation; and

(7) Information regarding the respondent's appeal rights, including the requirement that the citation must be returned to the department within thirty days from the date the citation was served, respondent's right to a hearing before the director or the director's designee, and contact information for where the respondent may obtain further information. [Eff] (Auth: HRS §§231-3(9), 237D-16) (Imp: HRS §237D-8.5)

§18-237D-8.5-04 Issuance of a citation for failure to file third party rent collector information. (a) A citation for failure to file third party rent collector information is both a notice of violation and an offer to settle an administrative case involving any violation related to the citation, and may include a monetary fine where permitted under the applicable law and rules.

(b) Any employee of the department who is assigned to the special enforcement section or otherwise duly authorized by the department may issue a citation for failure to file third party rent collector information to a person if there is reason to believe the person has violated or is violating section 237D-8.5, HRS, or any administrative rules adopted thereunder.

(c) A citation for failure to file third party rent collector information may be served by:

- (1) Personal service on the respondent, respondent's officer or director, or respondent's registered agent for service of process as shown in the records of the department of commerce and consumer affairs;
- (2) Mail sent to the respondent's last known

business or residence address or the address of respondent's registered agent for service as shown in the records of the department of commerce and consumer affairs; or

(3) Publication at least once in each of two successive weeks in a newspaper of general circulation if service by mail is not made because the department has been unable to ascertain the address necessary for service under paragraph (2) after reasonable and diligent inquiry. Publication shall consist solely of the respondent's name and a statement that the respondent is being served a citation for failure to file third party rent collector information under section 237D-8.5, HRS, by the publication and has thirty days from the date of service to respond. No return information or other personal or confidential information shall be disclosed in the publication.

(d) If the citation is served by publication under subsection (c)(3), the date of service of the citation is the last date of publication in the second successive week. [Eff] (Auth: HRS §§231- 10.7, 237D-16) (Imp: HRS §237D-8.5)

\$18-237D-8.5-05 Response to citation for failure to file third party rent collector information. (a) A respondent must respond to a citation for failure to file third party rent collector information within thirty days from the date of service by:

(1) Paying to the department the stated amount of the monetary fine, which shall constitute acknowledgment of the violation and a waiver of further rights of review; provided that if the tendered payment is dishonored for any reason not the fault of the department, the respondent will be deemed not to have answered the citation; or

(2) Appealing the citation by making a written

request to the department for a contested case hearing in accordance with these rules and chapter 91, HRS, including but not limited to section 18-237D-8.5-08. Written requests for contested case hearings may be indicated on the citation itself.

(b) If the respondent fails to respond to the citation for failure to file third party rent collector information within thirty days from the date the citation was served:

(1) The failure is an acknowledgment that the allegations contained in the citation are true and that the relief sought in the citation, including any monetary fines, is appropriate; and

(2) The department may collect any overdue monetary fines and enforce any overdue non-monetary sanctions as set forth in section 18-237D-8.5-25.

(c) The hearing of an agency appeal shall be limited solely to the allegations contained in the citation. No other matter may be considered, including, but not limited to, any disputes relating to any tax liability. [Eff] (Auth: HRS §§231-3(9), 237D-16) (Imp: HRS §237D-8.5)

§18-237D-8.5-06 Venue. Venue of the hearing of an agency appeal is proper in the taxation district where the real property that is the subject of the violation is located, or such other location as the parties to the hearing may mutually agree. Any party may participate in the hearing by telephone; provided that the presiding officer receives written notice of intent to appear by telephone at least five days before the hearing. [Eff] (Auth: HRS §§231-3(9), 237D-16) (Imp: HRS §237D-8.5)

§18-237D-8.5-07 Docket. The director or the director's designee shall maintain a docket of all agency appeals of citations for failure to file third

party rent collector information and each such agency appeal shall be assigned a number. The docket shall be a list of appeals containing the names of those appealing, the number assigned to their appeals, and a list of records or documents filed for each appeal, including but not limited to all pleadings, motions, intermediate rulings, evidence received or considered, persons who provided oral testimony, exhibits, statements of matters officially noticed, offers of proof and rulings thereon, proposed findings and exceptions, reports of the presiding officer, and staff memoranda. [Eff] (Auth: HRS §§231-3(9), 237D-16) (Imp: HRS §237D-8.5)

§18-237D-8.5-08 Hearing; request for and scheduling. (a) Upon the respondent's filing of a completed form prescribed by the department as set forth in subsection (b), the director or the director's designee shall schedule a hearing.

(b) The department shall prepare a form for a written agency appeal request that allows the respondent to provide a concise statement of the basic facts, the issues contested, and the relief sought. The department may prepare such a form in the citation itself. The form written agency appeal request prepared by the department must be used to request an agency appeal, and written requests in any other form shall not constitute a request for agency appeal under this section.

(c) No hearing shall be held until due notice is given to all parties as provided in sections 91-9 and 91-9.5, HRS, or their successor laws.

[Eff] (Auth: HRS §§231-3(9), 237D-16) (Imp: HRS §§91-9, 237D-8.5)

§18-237D-8.5-09 Presiding officer of hearings, duties and powers; substitute presiding officers. (a) The director shall conduct the hearings on an appeal, shall render the decision, and shall issue such orders and take such actions as may be required; provided

that the director may designate a representative, who shall be the presiding officer, to conduct the hearings, and make recommendations in writing to the director, which shall include recommendations as to findings of fact and conclusions of law. If the presiding officer's recommendation is adverse to any party other than the department, the recommended decision shall be served on the person contesting the citation. The person contesting the citation shall thereafter have ten days from the date the recommendation is mailed to file exceptions to the recommendation and to present arguments to the director in writing. The director shall then personally consider the whole record or such portion thereof as may be cited by the parties, shall render the decisions as to findings of fact and conclusions of law in writing, and shall issue such orders and take such actions as may be further required.

(b) In all hearings, the presiding officer shall have the power to give notice of the hearing, arrange for the administration of oaths, examine witnesses, certify to official acts, rule on offers of proof, receive relevant evidence, regulate the course and conduct of the hearing, including regulating the manner of any examination of a witness to prevent harassment or intimidation and ordering the removal of disruptive individuals, and perform such other duties necessary for the proper conduct of the hearings.

(c) The presiding officer may subpoena witnesses and books, papers, documents, other designated objects, or any other record, however maintained, pursuant to section 231-7, HRS.

(d) Any rules of practice and procedure may be suspended or waived by stipulation of all the parties.

(e) The presiding officer may engage the services of a stenographer, or someone similarly skilled, to take a verbatim record of and transcribe the evidence presented at any hearing if requested for purposes of rehearing or court review. The party making the request shall be responsible for:

- (1) The fees and costs for the transcript;
- (2) Making the necessary arrangements to have

the stenographer, or someone similarly skilled, to notify all the parties in writing when the transcript is available; and

(3) Filing a certified copy of the transcript as part of the record. If a verbatim record is taken and transcribed, any other party may request a copy of the transcript at that party's cost.

(f) If a presiding officer is absent from a scheduled hearing or is incapacitated from performance of duty, the director may designate another representative to serve as a substitute presiding officer without abatement of the proceedings.

[Eff] (Auth: HRS §§231-3(9), 237D-16) (Imp: HRS §§91-9, 237D-8.5)

\$18-237D-8.5-10 Disqualification of presiding officers. (a) A presiding officer shall be disqualified from deciding an agency appeal if the presiding officer:

- (1) Has a financial interest, as defined by section 84-3, HRS, in a business or other undertaking that will be directly affected by the decision of the agency appeal;
- (2) Is related within the third degree by blood or marriage to any party to the proceeding or any party's representative or attorney;
- (3) Has participated in the investigation preceding the institution of the agency appeal proceedings or has participated in the development of the evidence to be introduced at the hearing; or
- (4) Has a personal bias or prejudice concerning a party that will prevent a fair and impartial decision involving that party.

(b) A presiding officer shall withdraw from further participation in the proceedings upon discovery of a disqualifying conflict of interest or bias if the factual circumstances are undisputed. If the allegation of a disqualifying conflict of interest

or bias is not clearly substantiated, the presiding officer need not voluntarily withdraw and the party seeking the disqualification may file a motion to disqualify the presiding officer. The motion shall be filed and decided before the evidentiary portion of the hearing on the agency appeal. If a presiding officer is disqualified, the director shall designate another representative to serve as the presiding officer. If the disqualified presiding officer is the director, the director shall designate a representative to serve as the presiding officer whose findings of fact, conclusions of law, and decision and order shall be final and binding.

[Eff] (Auth: HRS §§231-3(9), 237D-16)
(Imp: HRS §§91-9, 237D-8.5)

§18-237D-8.5-11 Communications with the director or presiding officers. (a) No person shall communicate with the director or presiding officer regarding matters to be decided by the director or presiding officer in any agency appeal with the intent, or the appearance of the intent, to influence the decision of the director or presiding officer, unless all of the parties to the proceedings are given notice of communication and an opportunity to also communicate with the director or presiding officer.

(b) If a communication is made privately with the presiding officer in violation of subsection (a), the presiding officer shall disclose the communication to all parties on the record of the proceedings and afford all parties an opportunity to respond to, refute, or otherwise comment on the ex parte communication. [Eff] (Auth: HRS §§231-3(9), 237D-16) (Imp: HRS §§91-9, 91-13, 237D-8.5)

§18-237D-8.5-12 Computation of time. In computing any time period under sections 18-237D-8.5-01 through 18-237D-8.5-25, the day of the act, event, or default from which the period of time begins to run

shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday, or state holiday. Intermediate Saturdays, Sundays, or state holidays shall be included. Intermediate Saturdays, Sundays, or state holidays shall be excluded in the computation when the period of time prescribed or allowed is less than seven days. Except as otherwise provided, whenever an act required to be performed under these rules may be accomplished by mail, the act shall be deemed to have been performed on the date the items are postmarked. Any reference in sections 18-237D-8.5-01 through 18-237D-8.5-25 to the United States mail shall be treated as including a reference to a designated delivery service and any reference to a postmark by the United States Postal Service shall be treated as including a reference to any date recorded or marked by the designated delivery service. As used in this section, "designated delivery service" means any delivery service designated for purposes of section 7502 of the federal Internal Revenue Code. [Eff]
(Auth: HRS §§231- 10.7; 237D-16) (Imp: HRS §§91-9, 237D-8.5)

§18-237D-8.5-13 Filing of documents; amendment; dismissal; retention. (a) All pleadings, submittals, petitions, applications, charges, reports, maps, exceptions, briefs, memorandums, and other papers required to be filed in any agency appeal shall be filed with the director or as instructed by the director or presiding officer. The papers may be sent electronically, by United States mail, postage prepaid, or by hand-delivery to the department, within the time limit, if any, as set forth in any statute or rule, for the filing. The date on which the papers are actually received by the department shall be deemed the date of filing.

(b) Filing electronically means emailing the filing in pdf format or other format as instructed by the director or presiding officer to an email address designated by the director or presiding officer. The

email shall include a subject line identifying the appeal number, the respondent, and the hearing date and a description of the papers being filed.

(c) All papers filed with the department, other than papers filed electronically, shall be written in ink, typewritten, or printed, shall be plainly legible, shall be on strong durable paper, not larger than 8-1/2 by 11 inches in size except that tables, maps, charts, and other documents may be larger, but shall be folded to the size of the documents to which they are attached. Papers filed electronically must be transmitted in a form that can be legibly and understandably printed to 8-1/2 by 11 inch paper or 8-1/2 by 17 inch paper.

(d) All papers must be signed in ink by the party or a duly authorized agent or attorney. The presentation to the director (whether by signing, filing, submitting, or later advocating) of any paper shall constitute a certification that the party in interest has read the document; that to the best of the party's knowledge, information, and belief every statement contained in the document is true and no such statements are misleading; and that the document is not interposed for delay.

(e) Unless otherwise specifically provided by a particular rule or order of the department, an original and two copies of all papers shall be filed. Papers sent electronically shall not require any copies. However, the original must be presented to the department upon request.

(f) The initial document filed by any person in any proceeding shall state on the document's first page the name and mailing address of the person or persons who may be served with any documents filed in the proceeding.

(g) All papers filed in an agency appeal shall be served on all other parties to the hearing by the filing party in accordance with any deadlines imposed by the director or presiding officer. Service may be accomplished by:

(1) Personal service on the party, party's officer or director, or party's registered

agent for service of process as shown in the records of the department of commerce and consumer affairs; or

(2) Mail to the party's last known business or residence address or the address of respondent's registered agent for service as shown in the records of the department of commerce and consumer affairs.

(h) If any document initiating or filed in an agency appeal is not in substantial conformity with the applicable rules of the department as to the document's contents, or is otherwise insufficient, the presiding officer, on his or her own motion, or on motion of any party, may strike the document, or require its amendment. The document initiating the agency appeal may not be stricken, but may be subject to required amendments. If amendments are required, the document with amendments shall be effective as of the date of the original filing.

(i) All documents filed in an agency appeal shall be retained in the files of the presiding officer, except that the presiding officer may permit the withdrawal of original documents upon submission of properly authenticated copies to replace the original documents. [Eff] (Auth: HRS §§231-3(9), 237D-16) (Imp: HRS §§91-9, 237D-8.5)

§18-237D-8.5-14 Filed documents available for public inspection. (a) Unless otherwise provided by statute, rule, or order of the presiding officer, all information contained in any document filed in any agency appeal shall be available for inspection by the public after final decision.

(b) Confidential treatment may be requested where authorized by statute. For good cause shown, the presiding officer shall grant such a request.

(c) When permitted or authorized, matters of public record may be inspected in the appropriate offices of the department during regular office hours. [Eff] (Auth: HRS §§231-3(9), 237D-16) (Imp: HRS §§91-9, 237D-8.5)

§18-237D-8.5-15 Appearances in agency appeal.

(a) An individual may appear on the individual's own behalf; a member of a partnership may represent a partnership; an officer or authorized employee of a corporation or trust or association may represent the corporation, trust, or association; and an officer or authorized employee of a corporation or trust or association may represent the corporation, trust, or association in the agency appeal.

(b) A person may be represented by an attorney qualified to practice before the supreme court of Hawaii in the agency appeal under these rules.

(c) A person shall not be represented in the agency appeal except as stated in subsections (a) and (b).

(d) Any person appearing on behalf of a respondent shall file a notice of appearance and a power of attorney immediately but no later than seven days prior to the date of the first appearance. A person may not appear on behalf of a respondent without properly filing a notice of appearance and a power of attorney. [Eff] (Auth: HRS §§231-3(9), 237D-16) (Imp: HRS §§91-9, 237D-8.5)

§18-237D-8.5-16 Substitution of parties. Upon motion and for good cause shown, the presiding officer may order substitution of parties, except that in the case of a death of a party, substitution may be ordered without the filing of a motion.

[Eff] (Auth: HRS §§231-3(9), 237D-16) (Imp: HRS §§91-9, 237D-8.5)

§18-237D-8.5-17 Consolidation; separate hearings. (a) The presiding officer, upon his or her own initiative or upon motion, may consolidate for hearing or for other purposes or may contemporaneously consider two or more proceedings involving the same parties if the presiding officer finds that the

consolidation or contemporaneous hearing will be conducive to the proper dispatch of the business of the department and to the ends of justice and will not unduly delay the proceedings.

(b) The presiding officer, upon his or her own initiative or upon motion, may separate any issue, appeal, or other matter for hearing or for other purposes if the director or presiding officer finds that the separation will be conducive to the proper dispatch of the business of the department and to the ends of justice. [Eff] (Auth: HRS §§231- 10.7; 237D-16) (Imp: HRS §§91-9, 237D-8.5)

§18-237D-8.5-18 Substitution of parties.

Applications to intervene in a proceeding shall comply with section 18-237D-8.5-13 and shall be served on all parties. Applications for intervention will be granted or denied at the discretion of the presiding officer. As a general policy, such applications shall be denied unless the petitioner shows that it has an interest in a question of law or fact involved in the contested matter and the petitioner's intervention will not result in the potential unauthorized disclosure of a return or return information.

[Eff] (Auth: HRS §§231-3(9), 237D-16) (Imp: HRS §§91-9, 237D-8.5)

§18-237D-8.5-19 Prehearing conferences; exchange of exhibits; briefs. (a) The presiding officer may hold or cause to be held prehearing conferences with the parties for the purpose of formulating or simplifying the issues, arranging for the exchange of proposed exhibits or proposed written testimony, setting of schedules, exchanging of names of witnesses, limitation of number of witnesses, and such other matters as may expedite orderly conduct and disposition of the proceeding as permitted by law.

(b) The presiding officer may request briefs setting forth the issues, facts, and legal arguments upon which the parties intend to rely and the

presiding officer may fix the conditions and time for the filing of briefs and the number of pages.

Exhibits may be reproduced in an appendix to the brief. A brief of more than twenty pages shall contain a subject index and table of authorities.

[Eff] (Auth: HRS §§231-3(9), 237D-16)
(Imp: HRS §§91-9, 237D-8.5)

§18-237D-8.5-20 Motions. (a) All motions other than those made during a hearing shall be made in writing to the presiding officer, shall state the relief sought, and shall be accompanied by an affidavit, memorandum, or both setting forth the grounds upon which they are based. The presiding officer shall set the time for all motions and opposing affidavits and memorandums, if any.

(b) The moving party shall serve a copy of the motions and all supporting documents on all other parties at least fourteen days prior to the hearing on the motion. Service shall be in accordance with the rules of service of papers under section 18-237D-8.5-13(g).

(c) A memorandum in opposition or a counter affidavit shall be served on all parties not later than seven days prior to the hearing. Service shall be in accordance with the rules of service of papers under section 18-237D-8.5-13(g).

(d) Failure to serve or file a memorandum in opposition to a motion or counter affidavit or failure to appear at the hearing shall be deemed a waiver of objection to the granting or denial of the motion.

[Eff] (Auth: HRS §§231-3(9), 237D-16)
(Imp: HRS §§91-9, 237D-8.5)

§18-237D-8.5-21 Evidence. (a) The presiding officer shall rule on the admissibility of all evidence. The presiding officer may exercise discretion in the admission or rejection of evidence and the exclusion of immaterial, irrelevant, or unduly repetitious evidence with a view to doing substantial

justice.

(b) Evidence shall generally consist of the citation for failure to file third party rent collector information, any applicable reports, and other written statements submitted by either party, if any.

(c) When objections are made to the admission or exclusion of evidence, the grounds relied upon shall be stated briefly. Formal exceptions to rulings are unnecessary and need not be taken.

(d) With the approval of the presiding officer, a witness may read testimony into the record on direct examination. Before any prepared testimony is read, unless excused by the presiding officer, the witness shall deliver copies thereof to the presiding officer and all parties. If the presiding officer deems that substantial savings in time will result, a copy of the prepared testimony may be received in evidence without reading.

(e) If relevant and material matter is offered in evidence in a document containing other matters, the party offering it shall designate specifically the matter so offered. If the other matter in the document would burden the record, at the discretion of the presiding officer, the relevant and material matter may be read into the record or copies of it received as an exhibit. Other parties shall be afforded opportunity at the time to examine the document, and to offer in evidence other portions believed material and relevant.

(f) If any matter contained in a document on file as a public record with the department is offered in evidence, unless otherwise directed by the presiding officer, the document need not be produced and may be received in evidence by reference.

(g) Official notice may be taken of such matters as may be judicially noticed by the courts of the State of Hawaii.

(h) Exhibits shall be prepared in the same format as that required for the filing of documents under section 18-237D-8.5-13, unless otherwise directed or permitted by the presiding officer.

(i) At the hearing, the presiding officer may require the production of further evidence upon any issue and further hearings necessary for the consideration of such evidence. The presiding officer may authorize the filing of specific documentary evidence as a part of the record within a fixed time. [Eff] (Auth: HRS §§231-3(9), 237D-16) (Imp: HRS §§91-10, 237D-8.5)

§18-237D-8.5-22 Continuances or extensions of time. Whenever a person or agency has a right or is required to take action within the period prescribed or allowed by this chapter for an agency appeal, the presiding officer may:

- (1) Before or after the expiration of the prescribed period, on his own without advance notice, extend such period;
- (2) Upon motion before the expiration of the prescribed period, extend such period by granting a continuance; or
- (3) Upon motion after the expiration of the prescribed period, permit the act to be done after the expiration of a specified period where the failure to act is reasonably shown to be excusable. [Eff] (Auth: HRS §§231-3(9), 237D-16) (Imp: HRS §§91-2, 237D-8.5)

§18-237D-8.5-23 Service of decisions. All final orders, opinions, or rulings entered in an agency appeal shall be served in accordance with section 91-12, HRS. [Eff] (Auth: HRS §§231-3(9), 237D-16) (Imp: HRS §§91-12, 237D-8.5)

§18-237D-8.5-24 Correction of transcript. Motions to correct the transcript shall be made within five days after the receipt of the transcript by the movant or within fourteen days from the date the stenographer, or someone similarly skilled, gives

notice to all the parties that the transcript is available under section 18-237D-8.5-09(e), whichever is earlier. The motion shall be acted upon by the presiding officer. [Eff] (Auth: HRS §§231-3(9), 237D-16) (Imp: HRS §§91-9, 237D-8.5)

\$18-237D-8.5-25 Enforcement and stay. (a)

Unless otherwise stated in a final decision, all monetary fines and non-monetary sanctions shall be due and payable within thirty days of the service of the final decision imposing such fines and sanctions, provided that if any party appeals such final decision to the circuit court, the monetary fines and non-monetary sanctions may be stayed by the reviewing court under section 91-14, HRS.

(b) The department is authorized to collect any overdue monetary fines and to enforce any overdue non-monetary sanctions imposed under any final decision, by referral of the matter to the attorney general for the action as it may deem necessary. In the director's discretion, any uncollected monetary fine may be referred to third parties, including a collection agency, or may be offset against any amounts owed by the department to the person. Any third party service fees incurred for the collection of any monetary fine, including collection agency fees, shall be the responsibility of the person against which the monetary fine was assessed.

[Eff] (Auth: HRS §§231-3(9), 237D-16) (Imp: HRS §§91-14, 237D-8.5)

* * *

§§18-237D-200-01 to 18-237D-200-25 Repealed.

[R]

APPROVED AS TO FORM:

Deputy Attorney General

DATE: _____

IV. New Business

B. Discussion and Action on the Small Business Impact Statement to HAR Title 15 Chapter 307, State Assisted Land and Housing Development Program, promulgated by Hawaii Housing Finance and Development Corporation / Department of Business, Economic Development and Tourism – Exhibit 3

**PRE-PUBLIC HEARING SMALL BUSINESS IMPACT STATEMENT
TO THE
SMALL BUSINESS REGULATORY REVIEW BOARD**

(Hawaii Revised Statutes §201M-2)

Date: 12/16/2025

Department or Agency: Hawaii Housing Finance and Development Corporation

Administrative Rule Title and Chapter: HAR 15-307

Chapter Name: State Assisted Land and Housing Development Program

Contact Person/Title: Albert Palmer / Development Section Chief

E-mail: albert.h.palmer@hawaii.gov Phone: 808-587-0500

- A. To assist the SBRRB in complying with the meeting notice requirement in HRS §92-7, please attach a statement of the topic of the proposed rules or a general description of the subjects involved.

- B. Are the draft rules available for viewing in person and on the Lieutenant Governor's Website pursuant to HRS §92-7?

Yes No

If "Yes," provide details: Lt Gov website > Admin Rules > Proposed Changes > HHFDC > "Proposed"

I. Rule Description:

New Repeal Amendment Compilation

II. Will the proposed rule(s) affect small business?

Yes No

(If "No," no need to submit this form.)

* "Affect small business" is defined as "any potential or actual requirement imposed upon a small business . . . that will cause a direct and significant economic burden upon a small business, or is directly related to the formation, operation, or expansion of a small business." HRS §201M-1

* "Small business" is defined as a "for-profit corporation, limited liability company, partnership, limited partnership, sole proprietorship, or other legal entity that: (1) Is domiciled and authorized to do business in Hawaii; (2) Is independently owned and operated; and (3) Employs fewer than one hundred full-time or part-time employees in Hawaii." HRS §201M-1

III. Is the proposed rule being adopted to implement a statute or ordinance that does not require the agency to interpret or describe the requirements of the statute or ordinance?

Yes No

(If "Yes" no need to submit this form. E.g., a federally-mandated regulation that does not afford the agency the discretion to consider less restrictive alternatives. HRS §201M-2(d))

IV. Is the proposed rule being adopted pursuant to emergency rulemaking? (HRS §201M-2(a))

Yes No

(If "Yes" no need to submit this form.)

* * *

If the proposed rule affects small business and are not exempt as noted above, please provide a reasonable determination of the following:

1. Description of the small businesses that will be required to comply with the proposed rules and how they may be adversely affected.

The definition of "affect" includes that the rule must cause "a direct and significant economic burden". The fees do not impose a "significant economic burden". The fee increases are in the 0.01% to 0.001% range of the total project development budgets for these projects, which are in the tens of millions to hundreds of millions of dollars range.

2. In dollar amounts, the increase in the level of direct costs such as fees or fines, and indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs associated with compliance.

If the proposed rule imposes a new or increased fee or fine:

- a. Amount of the current fee or fine and the last time it was increased.
- b. Amount of the proposed fee or fine and the percentage increase.
- c. Reason for the new or increased fee or fine.
- d. Criteria or methodology used to determine the amount of the fee or fine (i.e., Consumer Price Index, Inflation rate, etc.).

3. The probable monetary costs and benefits to the agency or other agencies directly affected, including the estimated total amount the agency expects to collect from any additionally imposed fees and the manner in which the moneys will be used.

4. The methods the agency considered or used to reduce the impact on small business such as consolidation, simplification, differing compliance or reporting requirements, less stringent deadlines, modification of the fines schedule, performance rather than design standards, exemption, or other mitigating techniques.
5. The availability and practicability of less restrictive alternatives that could be implemented in lieu of the proposed rules.
6. Consideration of creative, innovative, or flexible methods of compliance for small businesses. The businesses that will be directly affected by, bear the costs of, or directly benefit from the proposed rules.
7. How the agency involved small business in the development of the proposed rules.
 - a. If there were any recommendations made by small business, were the recommendations incorporated into the proposed rule? If yes, explain. If no, why not.

8. Whether the proposed rules include provisions that are more stringent than those mandated by any comparable or related federal, state, or county standards, with an explanation of the reason for imposing the more stringent standard.

If yes, please provide information comparing the costs and benefits of the proposed rules to the costs and benefits of the comparable federal, state, or county law, including the following:

- a. Description of the public purposes to be served by the proposed rule.

- b. The text of the related federal, state, or county law, including information about the purposes and applicability of the law.

- c. A comparison between the proposed rule and the related federal, state, or county law, including a comparison of their purposes, application, and administration.

- d. A comparison of the monetary costs and benefits of the proposed rule with the costs and benefits of imposing or deferring to the related federal, state, or county law, as well as a description of the manner in which any additional fees from the proposed rule will be used.

- e. A comparison of the adverse effects on small business imposed by the proposed rule with the adverse effects of the related federal, state, or county law.

* * *

Small Business Regulatory Review Board / DBEDT

Phone: (808) 586-2594 / Email: DBEDT.sbrrb.info@hawaii.gov

This Statement may be found on the SBRRB Website at: <http://dbedt.hawaii.gov/sbrrb/resources/small-business-impact-statements>

Reviewed and Approved by the Executive Director 
October 9, 2025

FOR ACTION

I. REQUEST

Approve the Proposed Amendment to and Compilation of Chapter 15-307 “State Assisted Land and Housing Development Program,” Hawaii Administrative Rules, Pursuant to Act 38, Session Laws of Hawaii 2024, and to Amend Fees and Make Technical, Non-Substantive Corrections

II. FACTS

- A. Chapter 15-307, Hawaii Administrative Rules (HAR), governs most of the Hawaii Housing Finance and Development Corporation’s (HHFDC’s) development programs, including but not limited to the exemptions and expedited approvals process under Section 201H-38, Hawaii Revised Statutes (HRS) (201H Exemptions); Dwelling Unit Revolving Fund (DURF) loans; development projects initiated or assisted by HHFDC; and the repurchase or repair of dwelling units having substantial construction defects.
- B. Chapter 15-307, HAR, was adopted in 2021.
- C. On May 28, 2024, Senate Bill 2066 SD2 HD2 CD1 was signed into law as Act 38, Session Laws of Hawaii (SLH) 2024. The stated purpose of Act 38, SLH 2024 is to establish a separate, alternative pathway for projects to qualify for the 201H Exemptions program. Act 38, SLH 2024 amended Section 201H-38, HRS in the following ways:
 - 1. Added a second, separate set of requirements for projects to qualify for the 201H Exemptions program if those projects:
 - a. meet the conditions of Section 201H-38(a)(1), HRS (as amended by Act 38, SLH 2024);
 - b. do not impose stricter income requirements than those adopted or established by the State; and
 - c. for the lifetime of the project, require one hundred percent of the units in the project be exclusively for qualified residents.
 - 2. Made other technical, non-substantive amendments for conformity.
- E. Without adoption of the requested amendments, the alternative pathway for projects to qualify for the 201H Exemptions program would not function as intended.
- F. At its December 14, 2023, meeting, the HHFDC Board of Directors approved proposed amendments to and compilation of Chapter 15-307, HAR, as to the fee schedule and other technical, non-substantive corrections. The administrative rules amendment process for the amended and compiled rules contemplated in the December 14, 2023 For Action was not completed. The proposed amended and compiled rules contemplated in this For Action will supersede the proposed amended and compiled rules contemplated in the December 14, 2023 For Action.

III. DISCUSSION

- A. The Proposed Amendment to and Compilation of Chapter 15-307 “State Assisted Land and Housing Development Program,” HAR, is attached hereto as **Exhibit A**.
- B. Key changes under the proposed amendments include:
 - 1. Implementing the provisions of Act 38, SLH 2024, which amended Section 201H-38, HRS, to establish an alternative exemption pathway in which a proposed housing project may qualify for the 201H Exemptions program if the project sets aside one hundred percent of its units exclusively for qualified residents for the lifetime of the project;
 - 2. Updating the fee schedule, which has not been updated since 2010, to help HHFDC cover service costs pertaining to affordability compliance for projects that utilize the various development programs covered under Chapter 15-307, HAR; and
 - 3. Addressing other necessary conforming, housekeeping, and technical amendments for purposes of clarity and consistency.

IV. RECOMMENDATION

Staff’s recommendation is that the HHFDC Board of Directors:

- A. Approve proposed amendments to and compilation of Chapter 15-307, “State Assisted Land and Housing Development Program,” Hawaii Administrative Rules, subject to:
 - 1. Approval as to form by HHFDC’s Deputy Attorney General; and
 - 2. Approval by the Governor.
- B. Authorize the Executive Director or his designated representative(s) to conduct a public hearing;
- C. Authorize the Executive Director to make any necessary, non-substantive amendments to the proposed rules following the public hearing, which may include the incorporation of public comments; and
- D. After the public hearing, authorize the Executive Director to transmit the proposed rules to the Governor for final approval, provided that no substantive amendments are made.

Attachments: Exhibit A – Proposed Amendments to and Compilation of Chapter 15-307, HAR

Prepared by: Hunter Miller, Housing Development Specialist HM
Albert Palmer, Development Section Chief AP
Reviewed by: Randy Chu, Development Branch Chief RC
Dean Watase, Housing Planning Manager DW
Michael Yee, Chief Planner MY

Approved by the Board of Directors as

Circulated Amended

On October 9, 2025

Development Branch

Please take necessary action.

Dan C. Miller

Executive Director

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT,
AND TOURISM

Amendment and Compilation of Chapter 15-307[~~7~~]
Hawaii Administrative Rules

September XX, 2025

1. Chapter 15-307, Hawaii Administrative Rules, entitled "State Assisted Land and Housing Development Program," is amended and compiled to read as follows:

"HAWAII ADMINISTRATIVE RULES
TITLE 15

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND TOURISM

SUBTITLE 14

HAWAII HOUSING FINANCE AND DEVELOPMENT
CORPORATION

CHAPTER 307

STATE ASSISTED LAND AND HOUSING DEVELOPMENT PROGRAM

Subchapter 1 General Provisions

| | |
|-----------|---|
| §15-307-1 | Purpose |
| §15-307-2 | Definitions |
| §15-307-3 | References to other chapters |
| §15-307-4 | Development by corporation |
| §15-307-5 | Public information |
| §15-307-6 | Public meeting or informational hearing |

EXHIBIT A

§15-307-7 Fees

Subchapter 2 Development of Housing
Projects

| | |
|------------|--|
| §15-307-21 | Purpose |
| §15-307-22 | Development by corporation |
| §15-307-23 | Repealed |
| §15-307-24 | Eligible developer, information required; determination by corporation |
| §15-307-25 | Community input on project proposals |
| §15-307-26 | Project proposal; minimum requirements |
| §15-307-27 | Review of application and project; criteria for selection of proposals |
| §15-307-28 | Processing of proposal |
| §15-307-29 | Agreement with eligible developer or contractor; form of agreement |
| §15-307-30 | State land use district boundary amendments |
| §15-307-31 | Other uses within housing project development |

Subchapter 3 Independent Development of
Projects

| | |
|------------|---|
| §15-307-51 | Purpose |
| §15-307-52 | Project primarily designed for lower income housing; determination by corporation |
| §15-307-53 | Required conditions of agreements |
| §15-307-54 | Conditions imposed at discretion of corporation |
| §15-307-55 | Processing of proposal; agreement with eligible developer |
| §15-307-56 | Alternative exemption pathway under section 201H-38(a)(2), HRS. |
| §15-307-57 | Additional requirements for for-sale projects under section 201H-38(a)(2), HRS. |

Subchapter 4 Repealed

§§15-307-71 to 15-307-79 Repealed

Subchapter 5 Repealed

§§15-307-81 to 15-307-84 Repealed

Subchapter 6 Repealed

§§15-307-91 to 15-307-97 Repealed

Subchapter 7 Repealed

§§15-307-101 to 15-307-110 Repealed

Subchapter 8 Repealed

§§15-307-121 to 15-307-131 Repealed

Subchapter 9 Repurchase or Repair of Dwelling
Units Having Substantial
Construction or Soil Defects

| | |
|-------------|--|
| §15-307-141 | Purpose |
| §15-307-142 | Applicability |
| §15-307-143 | Notice of existence of substantial construction or soil defect |
| §15-307-144 | Repurchase of dwelling unit |
| §15-307-145 | Repair of repurchased dwelling unit |
| §15-307-146 | Resale or rental of repaired dwelling unit |
| §15-307-147 | Former owner's right of first refusal |
| §15-307-148 | Former owner's right to preference |
| §15-307-149 | Former owner's right to relocation assistance when the corporation repurchases a dwelling unit without the former owner's consent |
| §15-307-150 | Repair and rental agreement |
| §15-307-151 | Legal action on behalf of corporation |
| §15-307-152 | Legal action on behalf of owner |

Subchapter 10 Project Financing of Loans and
Mortgage and Security Requirements

§15-307-161 Purpose
§15-307-161.5 Applications for program funds
§15-307-162 Interim financing
§15-307-163 Permanent financing

Subchapter 11 Default

§15-307-171 Default

Subchapter 12 Repealed

§§15-307-201 to 15-307-212 Repealed

Subchapter 13 Repealed

§§15-307-221 to 15-307-226 Repealed

Subchapter 14 Regional Infrastructure Financing

§15-307-241 Purpose
§15-307-242 Regional infrastructure subaccounts;
generally
§15-307-243 Commitment of subaccount funds
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§15-307-245 Processing of regional infrastructure
project proposals
§15-307-246 Evaluation of requests for program
funds; criteria for selection of
proposals
§15-307-247 Eligible regional infrastructure
projects; minimum requirements
§15-307-248 Conditions for subaccount funds
§15-307-249 Audit and cost certifications
§15-307-250 Compliance monitoring; penalties for
non-compliance

Historical Note: Chapter 307 of Title 15, Hawaii
Administrative Rules, is based substantially upon

Chapter 373 of Title 6, Hawaii Administrative Rules.
[Eff 1/9/89; am 8/3/92; R 10/25/99], and Chapter 175
of Title 15, Hawaii Administrative Rules [Eff
10/25/99; R 12/04/10].

SUBCHAPTER 1

GENERAL PROVISIONS

§15-307-1 Purpose. [These rules are adopted under chapter 91, HRS, and] The purpose of this chapter is to implement the provisions of chapter 201H, HRS, providing for the development and construction of housing projects; the development and construction of mixed-use development projects; interim and construction loans; regional infrastructure grants and loans; and the provisions of loans and guarantees to qualified persons. [Eff 12/04/10; am and comp 4/28/17; am and comp 1/15/22; am and comp] (Auth: HRS §§201H-5, 201H-16, 201H-93, 201H-94, 201H-96, 201H-143, 201H-40, 201H-41, 201H-45, 201H-47, 201H-51, 201H-52) (Imp: HRS §§201H-4, 201H-94, 201H-96, 201H-143, 201H-40, 201H-41, 201H-45, 201H-47, 201H-51, 201H-52, Acts 130 and 131, SLH 2016)

§15-307-2 Definitions. As used in this chapter:

"Administrator" means the executive director employed by the board or the executive director's designated representative.

"Applicant" means the primary person or entity who submits a project proposal under these rules.

"Assets" means total cash, securities, and real and personal property less any outstanding liabilities secured by the assets.

"Assisted project" means a project which is initiated and developed by an entity other than the corporation, and which is being provided state assistance to lower sales prices or rental rates. Such assistance may include, but is not [necessarily] limited to, interim and permanent financing, expedited processing of projects, tax credits, general excise tax exemptions, and rental assistance.

"Board" means the board of directors of the Hawaii housing finance and development corporation established under chapter 201H, HRS.

"Contractor" means a general engineering contractor or general building contractor licensed under chapter 444, HRS.

"Corporation" means the Hawaii housing finance and development corporation established under chapter 201H, HRS.

"County" includes the counties of Kauai, Maui, Hawaii, and the city and county of Honolulu, and unless the context requires a different meaning, [it] "county" shall mean the county in which the project is situated.

"Design professional" means a professional engineer, architect, surveyor, or landscape architect licensed under chapter 464, HRS.

"Develop" or "development" means the planning, financing, or acquisition of real property, demolition of existing structures, clearance of real property, construction, reconstruction, alteration, or repairing of approaches, streets, sidewalks, utilities, and services or other site improvements, or construction, reconstruction, repair, remodeling, extension, equipment, or furnishing of buildings or other structures or any combination of the foregoing, of any housing project. It also includes any and all undertakings necessary therefor, and the acquisition of any housing, in whole or in part.

["Diversified agricultural use" means use of an agricultural lot for the cultivation of crops, including flowers, vegetables, foliage, fruit, forage, and aquaculture.]

["Dwelling" means a structure designated for residential use.]

"Dwelling unit" or "unit" means the structure and land upon which the structure is constructed, whether on fee simple or leasehold property, developed pursuant to chapter 201H, HRS, which is intended for residential purposes. It may also mean improved or unimproved real property which is developed for residential purposes pursuant to the provisions of chapter 201H, HRS.

~~["Elder"]~~ "Elderly" means a person ~~[who is a qualified resident of the State and]~~ who has attained the age of sixty-two.

"Eligible contractor" means a general engineering contractor or general building contractor licensed under chapter 444, HRS, who:

- (1) Is determined by the board to be qualified by experience and financial responsibility and support to construct housing of the type described and of the magnitude encompassed by the given project; and
- (2) Meets all other requirements that the board deems to be just and reasonable, and all other requirements provided in ~~[these rules]~~ this chapter.

"Eligible developer" means an individual, partnership, cooperative, including limited equity housing cooperatives (as defined in chapter 421H, HRS), firm, nonprofit or profit corporation, limited liability company, or public agency which the corporation has certified pursuant to the provisions of section 15-307-24 of ~~[these rules]~~ this chapter.

"Former owner" means a former owner of a dwelling unit:

- (1) From whom the dwelling unit was repurchased pursuant to section 201H-47, HRS; or
- (2) Who has obtained a waiver of repurchase rights from the corporation under section 201H-47, HRS.

"Government assistance program" means any housing program qualified by the corporation and administered or operated by the State, the corporation, the United States, or any of its political subdivisions, agencies, or instrumentalities, corporate or otherwise, which may be used to effectuate housing development for qualified persons in the State.

"Government assistance program" includes, but is not limited to, the following:

- (1) Any program specified, allowed, or eligible for assistance under chapter 201H, HRS;
- (2) Any program specified, allowed, or eligible for assistance under laws, rules, or

regulations of the United States Department of Housing and Urban Development and the United States Department of Agriculture; or

(3) Any program regulated by either the corporation, counties, or the United States or any of their political subdivisions, agencies, or instrumentalities, corporate or otherwise.

"Homeless" means those who meet one or more of the four categories of homelessness established by the United States Department of Housing and Urban Development, as follows:

(1) Individuals and families who lack a fixed, regular, and adequate nighttime residence and includes a subset for an individual who is exiting an institution where ~~he or she~~ the individual resided for ninety days or less and who resided in an emergency shelter or a place not meant for human habitation immediately before entering that institution;

(2) Individuals and families who will imminently lose their primary nighttime residence;

(3) Unaccompanied youth and families with children and youth who are defined as homeless under other federal statutes; or

(4) Individuals and families who are fleeing, or are attempting to flee, domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions that relate to violence against the individual or a family member.

"Household" means an individual; or two or more persons who live or intend to live together as a unit and whose income and resources are available to meet the household's need and who may, but need not be, related by blood, marriage, or operation of law, including foster children and hanai children and whose head of household has reached the age of majority, or is otherwise legally emancipated.

~~["HRS" means the Hawaii Revised Statutes.]~~

"Improvement" means an addition, renovation, or

replacement to the dwelling unit which enhances the value of the property, and for which labor and capital are expended. Improvements do not include repairs or maintenance of the property.

"Lower cost housing", in the context of identifying the persons or families intended to be served by such housing, primarily includes housing for persons or families whose incomes are identified as one hundred forty per cent or less of the area median income for each of the counties of Hawaii, Maui, [Honolulu,] and Kauai, and the city and county of Honolulu, as determined by the United States [department of housing and urban development] Department of Housing and Urban Development from time to time, and as adjusted by family size. For the purpose of [these rules,] this chapter, such persons or families include persons or families within the following income groups:

- (1) "Very low income" -- those earning fifty per cent of the area median income and below;
- (2) "Low income" -- those earning above fifty per cent up to eighty per cent of the area median income;
- (3) "Low-moderate income" -- those earning above eighty per cent up to one hundred twenty per cent of the area median income; or
- (4) "Moderate income" - those earning above one hundred twenty per cent up to one hundred forty per cent of the area median income.

"Mixed-use developments" means a development that contains affordable residential dwelling units that may be combined with governmental, educational, commercial, cultural, institutional, or industrial uses; is approved by the county in which the project is located; and is subject to:

- (1) Chapter 104, HRS;
- (2) Title 40 United States Code sections 3141, 3142, 3143, 3144, 3146, and 3147; or
- (3) A project labor agreement by law or contract in the construction of the project.

"Mixed-use transit-oriented developments" means a mixed-use development within county-designated

transit-oriented development zones or within a one-half-mile radius of public transit stations, if a county has not designated transit-oriented development zones.

"Mortgage payment" means the owner's payment on any mortgage which is necessary for financing the purchase of an owner's dwelling unit. It may also include payments for lease rent, real property taxes, mortgage insurance, association fees, and any other expenses directly related to financing the purchase of the owner's real property or to maintaining an ownership interest in the real property.

"Owner" means the owner of a dwelling unit.

"Qualified resident" means the same as defined under section 201H-32, HRS.

"Plans and specifications" includes construction plans and specifications and any other documents that may be required by the county in the processing of the plans and specifications for the issuance of permits for construction and building of improvements within a project.

"Project" or "housing project" means a plan, design, or undertaking by the corporation or an eligible developer for the development of dwelling units, and includes all real and personal property, buildings and improvements, commercial space, lands for farming and gardening, community facilities acquired or constructed or to be acquired or constructed, and all tangible or intangible assets held or used in connection with the housing project, assisted project, or sponsored project.

"Property value" means the value of a property as determined by a qualified appraiser.

~~["Qualified appraiser" means a real estate appraiser licensed or certified to practice in the State of Hawaii subject to the requirements of section 466K-4, Hawaii Revised Statutes.]~~

"Regional infrastructure improvement" means improvements that would increase the capacity of the infrastructure facilities, including regional sewer systems, water systems, drainage systems, roads, and telecommunications and broadband, if the project

improvement increases the capacity to accommodate future growth, and not solely benefit one particular project.

~~["Rules" means these rules.]~~

"Special needs housing" means housing for persons for whom social problems, age, or physical or mental handicaps impair their ability to live independently and for whom such ability can be improved by more suitable housing conditions.

~~["Sponsored project" means a project which is initiated by the corporation, and is usually located on lands owned by the corporation. The corporation may or may not act as the developer of a project which it sponsors.]~~

"Starter home" or "starter home unit" means a dwelling unit that is designed to meet the basic living capacity requirements of homebuyers with families of limited size by eliminating needless design and space amenities, but which nonetheless enables future expansion, modification, and improvement by the owner to accommodate increased occupancy over time as may be necessary.

~~["State" means the State of Hawaii.]~~

"Subaccount" means an accounting set-aside within the dwelling unit revolving fund established pursuant to section 201H-191, HRS, for a specific county for the purpose of administering funding sources for regional infrastructure improvements by or for the benefit of that county.

~~["Subdivision and construction documents" includes all subdivision documents and plans and specifications.]~~

~~["Subdivision documents" includes preliminary maps, final maps, subdivision construction plans and specifications, and any other document that may be required by the State or county in the processing of applications and permits relating to the development of the project.]~~

"Subsidies" means the difference between all costs expended by the corporation, less any recoveries by the corporation. It also includes unrecovered development, land, financing, and carrying costs.

"Substantial construction or soil defect" means a defect or deficiency in a dwelling unit which affects its structural integrity, habitability, or appearance and which is not caused by the act or omission of the owner or a person hired, retained, or engaged by the owner. This includes, but is not necessarily limited to, structural defects such as shifting foundations and bearing walls, structural deficiencies due to the use of defective or undersized materials, defects affecting the health and safety of occupants, and shifting, sliding, or sinking ground of such degree as to affect the dwelling unit on the land or the health and safety of the occupants of the land.

~~["Sustainable affordable leases" means the same as defined in section 516-1, HRS.]~~

~~["Value" means the value of a property as determined by a qualified appraiser.]~~ [Eff 12/04/10; am and comp 4/28/17; am and comp 1/15/22; am and comp] (Auth: HRS §§201H-4, 201H-16, 201H-93, 201H-94, 201H-96, 201H-143, 201H-40, 201H-41, 201H-42) (Imp: HRS §§201H-1, 201H-4, 201H-8, 201H-33, 201H-38, 201H-40, 201H-41, 201H-94, 201H-96, 201H-94, 201H-143, 201H-144, 201H-151, 201H-161, 201H-162, Acts 131 and 132, SLH 2016)

§15-307-3 References to other chapters. To the extent appropriate for the implementation of chapter 201H, HRS, references in documents, forms, and similar instruments of the corporation to ~~[chapters]~~ chapter [201E,] 201G~~[, 356, 359, and 359G,]~~ HRS, shall be treated as references to chapter 201H, HRS. [Eff 12/04/10; am and comp 4/28/17; am and comp ; comp 1/15/22] (Auth: HRS §201H-4) (Imp: HRS §§201H-4)

§15-307-4 Development by corporation. (a) The corporation may develop land or housing projects in accordance with the provisions of chapter 201H, HRS:

- (1) On its own behalf;

- (2) On behalf of, or in partnership with any government agency, or any landowner, or developer; or
- (3) With an eligible developer or contractor.

(b) The corporation may develop housing projects for

- (1) ~~employees,~~ Employees, teachers, or other government workers~~r~~; ~~and~~
- (2) ~~university~~ University and college students and faculty~~r~~;
- (3) ~~nonprofit~~ Nonprofit organizations~~r~~; and
- (4) ~~government~~ Government agencies for special needs housing projects primarily designed to meet the needs of elderly, persons with disabilities, displaced or homeless persons and their families, and other groups with special needs.

The corporation may establish preferences and other necessary requirements and conditions for such housing projects on a project-by-project basis.

(c) The corporation shall offer not less than ten per cent of the total number of finished houselots in a ~~single family~~ single-family project of fifty or more units to owner-builders or nonprofit organizations assisting owner-builders in the construction of units thereon. This requirement does not apply to assisted projects ~~which~~ that are not initiated by the corporation.

(d) The corporation may incorporate starter homes into any lower cost housing project developed by the corporation. The corporation shall determine the number of starter home units to be included in each particular project on a project-by-project basis.

- (1) Building, setback, minimum lot size, infrastructure, and architectural standards for the construction and development of starter homes shall be in compliance with the design and construction requirements of the county in which the lower cost housing project is located.
- (2) The sale of starter home units by the corporation shall meet all requirements set forth in chapter 15-308 ~~Hawaii~~

~~Administrative Rules~~]. [Eff 12/04/10; am and comp 4/28/17; am and comp 1/15/22; am and comp] (Auth: HRS §201H-4, 201H-33, 201H-40) (Imp: HRS §§201H-12, 201H-33, 201H-40, Act 131, SLH 2016)

§15-307-5 Public information. The administrator may disseminate information and render assistance to the public in order that the provisions of the programs of the corporation may be understood and implemented effectively. The administrator may use all available media or publications to distribute [these rules] this chapter or a summary thereof to the public.
[Eff 12/04/10; am and comp 4/28/17; comp 1/15/22; am and comp] (Auth: HRS §201H-4) (Imp: HRS §201H-4)

§15-307-6 Public meeting or informational hearing. The corporation may hold or cause to be held informational hearings on any project proposed to be developed by the corporation as it deems necessary to receive and study community reaction to the proposed project. [Eff 12/04/10; am and comp 1/15/22; comp] (Auth: HRS §201H-4) (Imp: HRS §§201H-4, 201H-6)

§15-307-7 Fees. The corporation shall have the right to charge reasonable fees for processing any instrument or taking any action required under this chapter. These fees shall be nonrefundable. Such fees shall be as prescribed by the exhibit at the end of this chapter entitled "Fees", "FEE SCHEDULE (1/01/26)", dated _____ JAN 2026. [Eff 12/04/10; am and comp 4/28/17; am and comp 1/15/22; am and comp] (Auth: HRS §§201H-4, 201H-16, 201H-100) (Imp: HRS §§201H-4, 201H-16, 201H-100)

SUBCHAPTER 2

DEVELOPMENT OF HOUSING PROJECTS

307-15

EXHIBIT A

§15-307-21 Purpose. The purpose of this subchapter is to establish a procedure for the corporation to initiate by itself or with an eligible developer or contractor, or to enter into agreements with eligible developers or contractors, for the development of housing projects. This subchapter shall govern the development of real property and the construction of units thereon. [Eff 12/04/10; am and comp 4/28/17; comp 1/15/22; comp] (Auth: HRS Chapter 201H, §201H-33) (Imp: HRS §201H-33)

§15-307-22 Development by corporation. The corporation may develop land or housing projects in accordance with the provisions set forth in chapter 201H, HRS:

- (1) On its own behalf;
- (2) With an eligible developer or contractor; or
- (3) With a State or county agency.

[Eff 12/04/10; am and comp 4/28/17; comp 1/15/22; comp] (Auth: HRS §§201H-4, 201H-33) (Imp: HRS §§201H-4, 201H-33, 201H-40, Act 131, SLH 2016)

§15-307-23 Project proposal; who may submit.

(a) Any individual, partnership, profit or nonprofit corporation, or public agency, upon having filed application with the corporation as required by section 15-307-24, may submit project proposals for review and certification by the corporation.

(b) A project proposal may be submitted to the corporation together with the application required under section 15-307-24.] [Eff 12/04/10; comp 4/28/17; comp 1/15/22; R] (Auth: HRS §§201H-4, 201H-33) (Imp: HRS §§201H-33, 201H-38, 201H-40, 201H-41, 201H-42)

§15-307-24 Eligible developer, information required; determination by corporation. (a) An applicant may include any of the following:

(1) [individual,] Individual;

- (2) ~~[partnership,]~~ Partnership;
- (3) ~~[limited liability company,]~~ Limited liability company;
- (4) ~~[cooperative,]~~ Cooperative, including a limited equity housing cooperative as defined in chapter 421H, HRS[~~r~~];
- (5) ~~[firm,]~~ Firm;
- (6) ~~[a]~~ A profit or a nonprofit corporation[~~r~~];
or
- (7) ~~[a]~~ A public agency;

that desires to be considered to develop a project either together with the corporation[~~r~~] or independent of the corporation, and who, in connection with the development of a project, will need assistance such as acquisition of land or development rights to land, financing, subsidies, exemptions from general excise taxes, or expedited processing of a project under the provisions of chapter 201H, HRS, and the rules promulgated thereunder[~~r~~].

(b) An applicant may submit a project proposal to the corporation for its review as specified herein.
The applicant shall submit [to the corporation] a developer's application, on forms provided by the corporation, along with any additional information that the corporation may deem appropriate, as the corporation determines to be applicable[~~r~~], such as:
[Information requested may include, but is not necessarily limited to:]

- (1) Name, address, email address, and telephone number of the applicant and each member of the project team, and evidence of the applicant's status as a corporation, partnership, joint venture, or other business organization;
- (2) A summary of the ~~[role]~~ roles and responsibilities of each team member as it pertains to the project;
- (3) If the applicant is a corporation, certified copies of the articles of incorporation, and the names, addresses, email addresses, and telephone numbers of each of the officers and directors of the corporation, and of any

shareholder of the corporation holding more than twenty-five per cent of the outstanding shares issued by the corporation. If the applicant is a partnership, joint [venturer,] venture, or sole proprietorship, certified copies of the partnership, joint venture agreement or proprietorship, as applicable, and the names, addresses, email addresses, and telephone numbers of each of the individual partners, joint [venturers,] ventures, or owners;

- (4) A resume of the applicant's experience in the development of housing projects including a list and a brief description of the projects in which the applicant participated;
- (5) [The name] Name, title, address, email address, and telephone number of the person to whom communications should be addressed;
- (6) Evidence of the applicant's legal authority to incur obligations and to sign and deliver such documents as may be necessary to finance, develop, and construct the project;
- (7) A current certificate of good standing from the department of commerce and consumer affairs, tax clearance from the department of taxation, and certification of compliance with department of labor and industrial relations requirements;
- (8) Evidence of the applicant's capability to develop, own, manage, and provide appropriate services in connection with housing;
- (9) Evidence of the applicant's credit worthiness including the following financial information, which shall be kept confidential to the extent permitted by law:
 - (A) The most recent year's financial statements. If the statements are unaudited, tax returns shall be provided. In the event the applicant is an entity not yet formed, federal

and state tax returns and financial statements for the previous year of the applicant entity, or additional information the corporation may require;

- (B) Interim balance sheets and income statements of the applicant and principal developer if the fiscal year-end data is over nine months old;
- (C) Tax returns if the applicant or guarantor is an individual;
- (D) Articles of incorporation, bylaws, resolutions, and certificates of good standing as are appropriate to support corporate actions; and
- (E) Any other financial data deemed appropriate by the corporation for proper credit-worthiness analysis[+].

- (10) The applicant's ties to the community and support from local community groups;
- (11) Description of all housing projects or facilities owned or operated by the applicant;
- (12) A description of any financial default, modification of terms and conditions of financing, or legal action taken or pending against the applicant or its principals;
- (13) A description of the applicant's past or current business experience or involvement in any programs or of its provision of services, other than housing, if any, that would give evidence of the applicant's management capabilities;
- (14) Evidence of ability to secure the necessary performance or payment bond or other evidence of surety and the ability to perform the work required ~~[to be performed]~~ in the proposed housing project ~~[proposed]~~;
- (15) A statement of the applicant's past or current involvement with the corporation or its predecessors, and the assistance, if any, received from those entities;

- (16) A project proposal in substantial compliance with section 15-307-26, which the applicant intends to submit to the corporation for approval; and
- (17) Any other information that the corporation deems necessary to determine the qualification of the applicant.

~~[4b]~~ (c) The board may certify that the applicant is an eligible developer for the purposes of development of housing projects approved by the corporation under chapter 201H, HRS, if the board finds that the applicant:

- (1) Has demonstrated compliance with all laws, ordinances, rules, and other governmental requirements that the applicant is required to meet;
- (2) Has the necessary experience;
- (3) Has adequate and sufficient financial resources and support and has secured or has demonstrated the ability to secure a performance or payment bond, or other surety to develop housing projects of the size and type which the applicant proposes to develop; and
- (4) Has complied with the requirements of a government assistance program approved by the corporation, or met all other requirements that the corporation determines to be appropriate and reasonable. [Eff 12/04/10; am and comp 4/28/17; comp 1/15/22; am and comp] (Auth: HRS §§201H-4, 201H-33) (Imp: HRS §§201H-40)

§15-307-25 Community input on project proposals.

An ~~[eligible developer]~~ applicant shall conduct or participate in at least one public meeting in the community or development plan area in which the proposed project is located to solicit community input on the proposed project. The public meeting shall take place prior to corporation action on the project proposal. The ~~[eligible developer]~~ applicant shall consult with affected community groups such as

neighborhood boards, homeowners' associations, surrounding property owners, and the council member for the region. [Eff 12/04/10; comp 4/28/17; comp 1/15/22; am and comp] (Auth: HRS §§201H-4, 201H-33) (Imp: HRS §§103-24.6, 201H-33)

§15-307-26 Project proposal; minimum requirements. (a) A project proposal, whether submitted by an applicant [~~or eligible developer,~~] or initiated by the corporation for development by the corporation, in order to be considered for approval by the board for processing under the provisions of chapter 201H, HRS, shall contain, as the corporation may determine to be applicable, the following minimum information:

- (1) Name and address of the [~~eligible developer~~] applicant;
- (2) Evidence that the [~~eligible developer~~] applicant has met the requirements of chapter 201H, HRS, applicable to eligible developers, and the requirements of section 15-307-24 [~~of these rules~~];
- (3) A master plan of the proposed project, which shall show all or as much of the following information as may be required by the corporation:
 - (A) Evidence of site control (such as a deed, agreement of sale, commitment letter, or development agreement), and names and addresses of all legal and equitable holders of an interest in the land and a complete description of each holder's interest in the land;
 - (B) An accurate description of the land, preferably the metes and bounds, boundary description of the property, file plan, or preliminary plat, its geographic and relative location within a larger tract of land, with descriptions of adjacent or surrounding subdivisions or other improvements on land;

(C) Approximate number of dwelling units [~~r~~] within the proposed project, including the approximate number of dwelling units for very low, low, low-moderate, and moderate-income households. Pursuant to section 15-307-52 [~~of these rules~~], unless the project is otherwise subject to the requirements of a government assistance program approved by the corporation, more than [50] fifty per cent of total dwelling units shall be for very low, low, low-moderate, and moderate-income households;

(D) The total area of the proposed project;

(E) Site plan showing the general development of the site, including the locations and descriptions of proposed and existing buildings, parking areas, and service areas; unusual site features; proposed and existing major streets in and adjacent to the proposed project; and proposed and existing major drainage facilities;

(F) Methods of sewage and solid waste disposal, and sources of water and other utilities;

(G) Description of land contours;

(H) Location and description of existing historical or significant landmarks or their natural features within and adjacent to the proposed project;

(I) Description of existing improvements within and adjacent to the proposed project, as well as off-site and on-site infrastructure and improvements requirements;

(J) Proposed and existing uses of each phase of the proposed project, and existing uses of lots adjacent to the proposed project for parks and other

public places or spaces within adjoining properties; and

(K) Shoreline setbacks as may be required by chapter 205A, HRS.

(4) Preliminary plans and specifications of typical housing units and other improvements in the project, including

(A) the number of proposed housing units[~~τ~~];

(B) the number and types of structures[~~τ~~];

(C) the number of stories[~~τ~~];

(D) the number of units by size (number of bedrooms and bathrooms)[~~τ~~];

(E) any special features or amenities[~~τ~~];

(F) use of natural resources such as solar or other renewable energy, grid interactive and efficient conservation devices, and energy efficient designs to be Utilized[~~τ~~];

(G) conservation devices and energy efficient designs to be utilized[~~τ~~];

(H) [a] description of the types of indigenous land plant species [which] that shall be used for the landscaping of the housing project, if applicable[~~τ~~]; and

(I) the projected sales prices or rental rates for the units[~~τ~~].

(5) Proposed financing of the project, including:

(A) The manner in which the project will be financed during the development and construction of the project and upon completion of the project;

(B) The sources of repayment of such financing;

(C) Estimated start-up expenses and the sources of funds to meet these expenses;

(D) The net equity, if any, [which] that the developer intends to contribute to the proposed project; and

(E) Budgets and cashflow requirements[~~τ~~].

- (6) Development timetable, market analysis, sales marketing program, and other activities relating to a successful development of the project to completion;
- (7) Description of the manner in which the proposed project addresses the housing needs of lower income families;
- (8) Description of the land for the proposed project as to present use, soil classification, agricultural importance as determined by the land evaluation, and site assessment commission, flood, and drainage conditions;
- (9) An assessment of the effects of the development of the proposed project upon the environment, agriculture, recreational, cultural, historic, scenic, flora and fauna, or other resources of the area;
- (10) Availability of public services and facilities such as schools, sewers, parks, water, sanitation, drainage, roads, police and fire protection, the adequacy thereof, and whether public agencies providing the services or facilities would be unreasonably burdened by the development of the proposed project;
- (11) Specific requests to the corporation for participation by the corporation for financial or other assistance, description of the state subsidies required and applied for, and financial and other assistance provided for by other governmental agencies;
- (12) A summary of comments from the community or community groups;
- (13) If the proposal for the development will cause displacement, the proposal shall include a program of housing accommodation for displaced persons;
- (14) Applicable provisions of existing state and county general plans, development plans, community development plans, and other comparable plans developed or adopted by the

state or county government in which the proposed project is situated, county zoning of the area and other applicable land use requirements, and if known, any substantial difference in the proposed project from the respective county general plan or development, or community development plan, or other county plans and zoning and other land use requirements, and the reasons for varying from the respective county requirements;

(15) Specific requests for exemption from existing laws, charter provisions, ordinances and rules relating to the proposed project, including requests for exemption from subdivision standards and building codes, density, height, ~~set back~~ setback, parking, street width, open space, park dedication, and other specific land use requirements;

(16) Any other information that the corporation finds necessary to make an environmental assessment and to determine whether or not the proposed project complies as closely as possible with existing laws, charter provisions, ordinances, and rules, and is suitable under and meets the intent and purposes of chapter 201H, HRS. [Eff 12/04/10; am and comp 4/28/17; am and comp 1/15/22; am and comp] (Auth: HRS §§201H-4, 201H-33) (Imp: HRS §§103-24.6, 201H-33, Act 131, SLH 2016)

§15-307-27 Review of application and project; criteria for selection of proposals. The administrator shall review the ~~application~~ applications and project ~~proposals~~ proposal to determine if the applicant qualifies by experience and financial responsibility and support to develop housing projects of the size and type proposed to be developed, and to determine if the proposed project meets certain minimum requirements, as follows:

The proposed project:

- (1) Is reasonably necessary and suitable for the development of lower cost housing units in the State, at the proposed location;
- (2) Is primarily designed for lower [cost]
income housing;
- (3) Follows existing laws, charter provisions, ordinances, and rules as closely as is consistent with the production of lower cost housing in the State;
- (4) Meets minimum standards of good planning, zoning, design, pleasant amenities, and a coordinated development;
- (5) Is consistent with the housing objectives and policies of the Hawaii state plan;
- (6) Does not adversely affect surrounding property;
- (7) Does not unduly burden existing water systems, sewage and other waste disposal systems, transportation systems, roadway, drainage, street lighting, open spaces, parks, and other recreational areas, public utilities, and public services, or includes, as part of the proposed project, the development of such systems, facilities, and services at reasonable cost;
- (8) Utilizes natural resources such as solar or other renewable energy, grid interactive and efficient as well as energy-conserving devices to the extent reasonable and practicable;
- (9) Utilizes indigenous species of plants whenever and wherever feasible in the landscaping of the housing project; and
- (10) Meets other minimum requirements established by the corporation and adopted as rules of the corporation pursuant to chapters 91 and 201H, HRS. [Eff 12/04/10; comp 4/28/17; am and comp 1/15/22; am and comp] (Auth: HRS §§201H-4, 201H-40) (Imp: HRS §103-24.6)

§15-307-28 Processing of proposal. (a) The administrator shall, upon receipt of an application or project proposal or both, time stamp the same as received and review the application for completeness and compliance with applicable rules under this subchapter. An incomplete application shall be returned to the applicant. The administrator shall, upon certifying that the application or project proposal is complete and is in compliance with sections ~~15-307-23,~~ 15-307-24 and 15-307-26 of this subchapter, inform both the applicant and the board that a recommendation of approval or disapproval should be made within ninety days. The administrator shall invite comments from appropriate agencies in the review of the proposal for appropriateness, technical compliance, and feasibility.

(b) After review of the proposal for appropriateness, technical compliance, and feasibility, the administrator may submit the proposal with a recommendation for approval, contingent approval, or disapproval to the board. Any proposal forwarded to the board by the administrator may be rejected, accepted, deferred, or re-referred to the administrator for further review and recommendation. [Eff 12/04/10; comp 4/28/17; comp 1/15/22; am and comp] (Auth: HRS §§201H-4, 201H-33) (Imp: HRS §201H-33)

§15-307-29 Agreement with eligible developer or contractor; form of agreement. (a) The administrator, upon approval by the board, may enter into an agreement with an eligible developer or contractor, to develop a housing project; provided that the plans and specifications of the housing project provide for the rental of units to eligible tenants or the sale of units in fee simple or in leasehold either to the corporation or to the purchaser. In the case of for-sale projects, the sale of the units shall be subject to all of the provisions in sections 201H-47, 201H-49, and 201H-50, HRS, including the shared appreciation equity program,

except for units which are to be sold at market prices.

(b) The agreement shall be subject to modification, and shall include, but not be limited to, the following applicable terms, conditions, and covenants:

- (1) Purpose of the agreement, which shall include the development of lower cost housing;
- (2) A description of the role and responsibility of the corporation, the eligible developer or contractor, and other parties to the agreement, including the manner of compensating each party and the amount of profit for work performed;
- (3) Project concept and cost;
- (4) Time required to complete the project;
- (5) Delivery of dwelling units;
- (6) Sales prices or rents of dwelling units;
- (7) Construction agreements (when one of the parties is a contractor);
- (8) Insurance and bonding or surety requirements;
- (9) Inspection requirements and procedures;
- (10) Manner in which progress payments will be made; and
- (11) Such standard clauses that the corporation determines to be required, including, but not limited to, the following:
 - (A) Indemnity;
 - (B) Severability;
 - (C) Termination; and
 - (D) Assignability.

[Eff 12/04/16; comp 4/28/17; comp 1/15/22;
comp] (Auth:
HRS §§201H-4, 201H-33) (Imp: HRS §§201H-33,
201H-38)

§15-307-30 State land use district boundary

amendments. Upon receipt of any project proposal from an eligible developer that requires a state land use district boundary amendment by the state land use

commission, the corporation may, concurrently with its review of the application and the project proposal, petition the state land use commission for a state land use district boundary amendment as provided in chapter 205, HRS. [Eff 12/04/10; comp 4/28/17; comp 1/15/22; comp] (Auth: HRS §201H-4)
(Imp: HRS §201H-38)

§15-307-31 Other uses within housing project development. The corporation may designate portions of the land for commercial, industrial, and other uses. In the designation of such commercial, industrial, and other uses, the corporation shall consider the extent to which the proposed uses and the development thereof:

- (1) Conform to the objectives and policies of the Hawaii state plan;
- (2) Provide employment opportunities for the community;
- (3) Provide necessary and convenient amenities to the residents within the development;
- (4) Impact upon the suitability of the dwelling units within the development in the proximity of the proposed uses; and
- (5) Affect the economic feasibility of the development. [Eff 12/04/10; am and comp 4/28/17; comp 1/15/22; comp] (Auth: HRS §§201H-4, 201H-33, 201H-44)
(Imp: HRS §201H-44, Act 131, SLH 2016)

SUBCHAPTER 3

INDEPENDENT DEVELOPMENT OF PROJECTS

§15-307-51 Purpose. The purpose of this subchapter is to establish a procedure for eligible developers to develop housing projects pursuant to agreements with the corporation. [Eff 12/04/10; comp 4/28/17; comp 1/15/22; comp] (Auth: HRS 201H-4, 201H-33) (Imp: HRS §201H-42)

§15-307-52 Project primarily designed for lower income housing; determination by corporation. (a) A project shall be primarily designed for lower income housing if the project meets the requirements set forth in section 15-307-26, or a government assistance program approved by the corporation.

(b) An eligible developer may submit a project proposal to the corporation for the corporation to determine if the project is primarily designed for lower income housing, and whether the corporation is willing to enter into an agreement with the eligible developer for the housing project.

(c) The project proposal to be submitted by the eligible developer shall contain the information required under section 15-307-26.

(d) An eligible developer shall conduct or participate in at least one public meeting in the community or development plan area in which the proposed project is located to solicit community input on the proposed project. The public meeting shall take place prior to corporation action on the project proposal. The eligible developer shall consult with affected community groups such as neighborhood boards, homeowners' associations, surrounding property owners, and the council member for the region. [Eff 12/04/10; am and comp 4/28/17; comp 1/15/22; comp] (Auth: HRS §§201H-4, 201H-33) (Imp: HRS §201H-41)

§15-307-53 Required conditions of agreements.

If the corporation determines that the proposed project is primarily designed for lower income housing, and the corporation desires to enter into an agreement with the eligible developer, the agreement with the eligible developer for the development of housing projects shall include the following conditions:

(1) That the eligible developer may furnish a performance or material house bond, issued by sureties that shall be satisfactory to the corporation, in favor of the corporation, to assure the timely and complete performance of the housing project;

- (2) That the plans and specifications of the housing project provide for the rental of units to eligible tenants or the sale of units in fee simple or in leasehold either to the corporation or to the purchaser. In the case of for-sale projects, the sale of the units shall be subject to all of the provisions in sections 201H-47, 201H-49, and 201H-50, HRS, including the shared appreciation equity program, except for units which are to be sold at market prices; and
- (3) That the housing project encompasses the use of lands adequately suited to size, design, and types of occupancies designated for projects primarily designed for lower income housing, properly located for occupancy by the groups for which the development is designed, or appropriate in its situation and surroundings for more intensive or denser zoning. [Eff 12/04/10; comp 4/28/17; comp 1/15/22; comp] (Auth: HRS §§201H-4, 201H-33) (Imp: HRS §201H-41)

§15-307-54 Conditions imposed at discretion of corporation. The corporation may include such conditions as it may deem to be appropriate, to assure that the project will be developed and the units sold or rented primarily as lower income housing. By agreement, the corporation may provide that all or a portion of the housing to be placed under the control of the corporation, is to be rented or sold by the corporation or to be sold to the corporation upon completion of all or a portion of the units.
[Eff 12/04/10; comp 4/28/17; comp 1/15/22; comp] (Auth: HRS §§201H-4, 201H-33) (Imp: HRS §201H-41)

§15-307-55 Processing of proposal; agreement with eligible developer. Processing of proposals and agreements with eligible developers shall be in accordance with sections 15-307-27 and 15-307-28.

[Eff 12/04/10; comp 4/28/17; comp 1/15/22; comp
] (Auth: HRS §§201H-4, 201H-33) (Imp: HRS §201H-42)

§15-307-56 Alternative exemption pathway under section 201H-38(a)(2), HRS. (a) A proposed housing project may qualify for exemptions from applicable statutes, charter provisions, ordinances, and rules pursuant to section 201H-38(a)(2), HRS, if the project additionally satisfies the requirements of this section; provided that projects qualifying under this section remain subject to all other applicable provisions of this chapter unless expressly exempted.

(b) The project shall:

- (1) Set aside one hundred per cent of the dwelling units exclusively for qualified residents as defined by 201H-32, HRS.
- (2) Not be required to provide units that are subject to affordability restrictions because of being processed under this section.

(c) The project shall be subject to a recorded declaration of land use restrictive covenants against the fee simple interest in the land, which shall not be subordinated to any other interest, including but not limited to any lender's mortgage interest, and shall guarantee compliance with subsection (b) for the lifetime of the project.

(d) The lifetime of the project shall extend until its demolition, except that if the project is demolished and rebuilt in-kind due to casualty, its lifetime shall continue uninterrupted, and the exemptions granted pursuant to section 201H-38, HRS, and restrictions imposed by this section shall remain in effect.

(e) Upon the end of the lifetime of the project, including through demolition that is not followed by in-kind reconstruction pursuant to subsection (d), and upon actual demolition of the project, the project owner may request a release of the declaration of land use restrictive covenants. Upon approval of the request and recording of the release, the project shall no longer be subject to this section and shall

no longer be entitled to the exemptions granted pursuant to section 201H-38, HRS.

(f) The corporation may establish compliance monitoring procedures which the project must comply with and may charge a fee for such monitoring. The corporation may perform an audit at least once per year and shall have access to all books and records upon notice to the project owner.

(g) If the corporation determines that the project is in noncompliance with this section, the corporation may pursue any and all remedies including, but not limited to: specific performance, foreclosure, other legal action, or termination of the exemptions granted pursuant to section 201H-38, HRS.

(h) The corporation shall notify the project owner of any noncompliance and provide sixty calendar days to cure the violation. The corporation may extend the cure period for good cause, provided that the total cure period, including any extension, shall not exceed six months.

(i) Noncompliance with section 15-307-56 or section 15-307-57, or with section 201H-38(a)(2), HRS, shall incur a penalty fee due and payable to the corporation of: (1) in the case of a unit rented or occupied in violation, up to \$10,000 per dwelling unit per month, assessed against the owner(s) of the non-complying dwelling unit(s); and (2) in the case of a unit resold in violation, the greater of \$10,000 or 50% of the net appreciation realized by the seller, assessed against the seller. Interest on unpaid penalty fees at a 5% annual rate, compounded monthly, shall be added to the amount due as an additional penalty fee. The corporation may waive or reduce penalty fees in its sole discretion. [Eff

] (Auth: HRS §§201H-4, 201H-38) (Imp: HRS §201H-38)

§15-307-57 Additional requirements for for-sale projects under section 201H-38(a)(2), HRS. (a) For-sale projects qualifying under section 15-307-56 shall be subject to the requirements set forth in this section, in addition to any other requirements

established by the corporation. These provisions shall apply to the extent determined appropriate by the corporation to ensure compliance with section 201H-38(a)(2), HRS.

(b) Units shall be sold subject to deed restrictions guaranteeing occupancy by qualified residents for the lifetime of the project.

(c) The corporation shall have the right to foreclose on dwelling units whose owners are in violation of the applicable deed restrictions or other requirements of this section.

(d) The corporation or the corporation's designee shall determine eligibility to purchase dwelling units and may apply relevant provisions of chapter 15-308 for the lifetime of the project, including but not limited to:

- (1) Subchapter 2, relating to eligibility and preferences to purchase dwelling units, except that income restrictions shall not apply;
- (2) Subchapter 5, relating to repurchase of dwelling units when an owner seeks to transfer title;
- (3) Subchapter 7, relating to owner-occupancy waivers; and
- (4) Subchapter 8, relating to preferences for qualified residents in the initial sale of dwelling units, which shall apply to all units in the initial sale without time limitation.

(e) For the lifetime of the project, the corporation shall have the right to repurchase dwelling units when an owner seeks to transfer title, regardless of whether the transfer is a sale or another form of conveyance. [Eff]
(Auth: HRS §§201H-4, 201H-38) (Imp: HRS §201H-38)

SUBCHAPTER 4 -- REPEALED

~~§15-307-71 REPEALED.~~ [R 1/15/22]

~~§15-307-72 REPEALED.~~ [R 1/15/22]

~~§15-307-73 REPEALED.~~ [R 1/15/22]

~~§15-307-74 REPEALED.~~ [R 1/15/22]

~~§15-307-75 REPEALED.~~ [R 1/15/22]

~~§15-307-76 REPEALED.~~ [R 1/15/22]

~~§15-307-77 REPEALED.~~ [R 1/15/22]

~~§15-307-78 REPEALED.~~ [R 1/15/22]

~~§15-307-79 REPEALED.~~ [R 1/15/22]

§15-307-71 to §15-307-79 REPEALED. [R 1/15/22]

SUBCHAPTER 5 -- REPEALED

~~[§15-307-81 REPEALED.~~ [R 1/15/22]

~~§15-307-82 REPEALED.~~ [R 1/15/22]

~~§15-307-83 REPEALED.~~ [R 1/15/22]

~~§15-307-84 REPEALED.~~ [R 1/15/22]

§15-307-81 to §15-307-84 REPEALED. [R 1/15/22]

SUBCHAPTER 6 -- REPEALED

~~[§15-307-91 REPEALED.~~ [R 1/15/22]

~~§15-307-92 REPEALED.~~ [R 1/15/22]

~~§15-307-93 REPEALED.~~ [R 1/15/22]

~~§15-307-94 REPEALED.~~ [R 1/15/22]

~~§15-307-95 REPEALED.~~ [R 1/15/22]

~~§15-307-96 REPEALED.~~ [R 1/15/22]

~~§15-307-97 REPEALED.~~ [R 1/15/22]

§15-307-91 to §15-307-97 REPEALED. [R 1/15/22]

SUBCHAPTER 7 -- REPEALED

~~[§15-307-101 REPEALED.~~ [R 1/15/22]

~~§15-307-102 REPEALED.~~ [R 1/15/22]

~~§15-307-103 REPEALED.~~ [R 1/15/22]

~~§15-307-104 REPEALED.~~ [R 1/15/22]

~~§15-307-105 REPEALED.~~ [R 1/15/22]

~~§15-307-106 REPEALED.~~ [R 1/15/22]

~~§15-307-107 REPEALED.~~ [R 1/15/22]

~~§15-307-108 REPEALED.~~ [R 1/15/22]

~~§15-307-109 REPEALED.~~ [R 1/15/22]

~~§15-307-110 REPEALED.~~ [R 1/15/22]

§15-307-101 to §15-307-110 REPEALED. [R 1/15/22]

SUBCHAPTER 8 -- REPEALED

~~§15-307-121 REPEALED.~~ [R 1/15/22]

~~§15-307-122 REPEALED.~~ [R 1/15/22]

~~§15-307-123 REPEALED.~~ [R 1/15/22]

~~§15-307-124 REPEALED.~~ [R 1/15/22]

~~§15-307-125 REPEALED.~~ [R 1/15/22]

~~§15-307-126 REPEALED.~~ [R 1/15/22]

~~§15-307-127 REPEALED.~~ [R 1/15/22]

~~§15-307-128 REPEALED.~~ [R 1/15/22]

~~§15-307-129 REPEALED.~~ [R 1/15/22]

~~§15-307-130 REPEALED.~~ [R 1/15/22]

~~§15-307-131 REPEALED.~~ [R 1/15/22]

§15-307-121 to §15-307-131 REPEALED. [R 1/15/22]

SUBCHAPTER 9

REPURCHASE OR REPAIR OF DWELLING UNITS HAVING SUBSTANTIAL CONSTRUCTION OR SOIL DEFECTS

§15-307-141 Purpose. The purpose of this subchapter is to set forth the manner in which the corporation shall exercise the right conferred by section 201H-51, HRS, to repurchase or repair dwelling units which have substantial construction or soil defects. [Eff 12/04/10; comp 4/28/17; comp 1/15/22; am and comp] (Auth: HRS §§201H-4, 201H-51) (Imp: HRS §201H-51)

§15-307-142 Applicability. Unless otherwise provided herein, this subchapter applies to all dwelling units for which the restrictions set forth in section 201H-47, HRS, are in effect. [Eff 12/04/10; comp 4/28/17; comp 1/15/22; comp] (Auth: HRS §§201H-4, 201H-51) (Imp: HRS §§201H-47, 201H-51)

§15-307-143 Notice of existence of substantial construction or soil defect. (a) Prior to commencing any legal proceeding against the corporation for claims arising out of a substantial construction or soil defect in a dwelling unit to which this subchapter applies, the owner shall deliver to the corporation by mail, postage prepaid, or in person a notice of substantial construction or soil defect.

(b) Upon receipt of the notice, the corporation may, but shall not be obligated to, take one of the following actions:

- (1) Execute a repurchase agreement with the owner;
- (2) Execute a repair and rental agreement with the owner; or
- (3) Execute a statement of intent to enforce its repurchase right, and deliver the statement to the owner.

(c) If within ninety days from receipt of the notice of construction or soil defect, the corporation fails to take any action authorized under subsection (b), then the owner after the expiration of the ~~ninety-day~~ ninety-day period shall have the right to start legal proceedings arising out of the construction or soil defect against the corporation.

(d) If the corporation takes an action described under subsection (b) within ninety days after the receipt of the notice of construction or soil defect, then the owner shall be precluded from starting any legal proceedings arising out of the construction or soil defect against the corporation.

(e) Observance of the requirements of this section does not toll any period of limitations imposed under chapter 657, HRS. [Eff 12/04/10; comp]

4/28/17; comp 1/15/22; am and comp]
(Auth: HRS §§201H-4, 201H-51) (Imp: HRS §201H-51)

§15-307-144 Repurchase of dwelling unit. (a)

Upon receipt of a notice of construction or soil defect, the corporation shall review the notice and conduct an investigation to determine if a substantial construction or soil defect exists in the dwelling unit and if at least one of the following conditions also exists:

- (1) The dwelling unit has been found to be unsafe by the building department of the county in which the dwelling unit is situated;
- (2) The corporation determines that the construction or soil defect cannot be repaired or it will not be economically feasible to repair the construction or soil defect; or
- (3) The corporation determines that the construction or soil defect is of such a magnitude that it will take longer than one year to repair.

(b) If the corporation determines that there is a substantial construction or soil defect in the dwelling unit and at least one of the conditions set forth in paragraph (a)(1), (a)(2) or (a)(3) also exists, then the corporation, upon approval by the board, may, but shall not be obligated to:

- (1) Enter into a repurchase agreement with the owner and repurchase the dwelling unit; or
- (2) If the owner fails to enter into a repurchase agreement, then execute and deliver to the owner a statement of intent to enforce its repurchase right within the [ninety day] ninety-day period prescribed under section 15-308-89 and repurchase the dwelling unit without the owner's consent.

(c) If the corporation repurchases the dwelling unit pursuant to section 201H-51, HRS, then the repurchase shall include the transfer by the owner to the corporation of the owner's right, title, and

interest in the dwelling unit and rights with respect to the dwelling unit as more fully described in paragraph (d)(2) and the repurchase price shall be established pursuant to section 15-308-85.

(d) The repurchase agreement between the owner and the corporation shall include at least the following:

- (1) A release and indemnification by the owner in favor of the corporation relating to any liability arising out of [the], and any work performed by, design professionals and contractors to repair the dwelling unit.
- (2) A covenant that the owner shall, pursuant to the repurchase agreement, transfer to the corporation all of the owner's right, title, and interest in the dwelling unit and all of the owner's rights with respect to the dwelling unit, including, but not limited to, all of the rights of the owner under instruments such as the deed or lease and contracts of warranty, claims for relief under contracts, and claims for relief for tortious conduct.

(e) If the corporation repurchases the dwelling unit pursuant to section 201H-51, a displacee certificate, effective for ten years, shall be issued to the owners. Only one displacee certificate shall be issued for each dwelling unit repurchased.

[Eff 12/04/10; comp 4/28/17; am and comp 1/15/22; am and comp] (Auth: HRS §§201H-4, 201H-51) (Imp: HRS §201H-51)

§15-307-145 Repair of repurchased dwelling unit.

(a) After a dwelling unit is repurchased by the corporation pursuant to section 201H-51, HRS, the corporation shall determine whether or not the dwelling unit should be repaired.

(b) If the corporation determines that the dwelling unit should be repaired, then it may retain the services of one or more design professionals and

contractors for the purpose of repairing the dwelling unit.

(c) If the corporation determines that the dwelling unit should not be repaired, then it may retain the services of one or more contractors for the purpose of destroying the dwelling unit. [Eff 12/04/10; comp 4/28/17; comp 1/15/22; comp] (Auth: HRS §§201H-4, 201H-51) (Imp: HRS §201H-51)

§15-307-146 Resale or rental of repaired dwelling unit. (a) After a repurchased dwelling unit is repaired by the corporation, the dwelling unit shall be first offered for sale to the former owner pursuant to section 15-307-147(a).

(b) If the former owner fails to exercise his or her first right of refusal provided for under section 15-307-147(a), then the corporation may proceed to resell or rent the repaired dwelling unit pursuant to section 15-308-61; provided, however, that any sale of the dwelling unit shall be subject to the former owner's rights under section 15-307-147(c). [Eff 12/04/10; comp 4/28/17; am and comp 1/15/22; comp] (Auth: HRS §§201H-4, 201H-51) (Imp: HRS §201H-51)

§15-307-147 Former owner's right of first refusal. (a) A former owner of a dwelling unit shall have the right of first refusal regarding the resale by the corporation of a dwelling unit repurchased from him or her under this subchapter; provided[, however,] that the former owner has not yet purchased a dwelling unit pursuant to section 15-307-148.

(b) Under this section, after a dwelling unit repurchased from the former owner by the corporation under this subchapter is repaired, the corporation shall first offer the dwelling unit for sale to the former owner for a price equal to the repurchase price paid by the corporation for the dwelling unit and subject to the restrictions set forth in sections 201H-47 and 201H-34, HRS, and the shared appreciation program restriction in effect at the time of repurchase. If the former owner rejects the offer,

then the corporation may offer the dwelling unit for sale to persons other than the former owner at the price and subject to the restrictions set forth in this subsection.

(c) If the corporation is unable to sell the dwelling unit under the terms and conditions set forth in subsection (b), then the corporation may offer the dwelling unit for sale under new terms and conditions that may differ from those specified in subsection (b); provided[, however,] that the corporation shall first offer the dwelling unit for sale to the former owner under the new terms and conditions. If the former owner rejects the offer, then the corporation may offer the dwelling unit for sale to persons other than the former owner under the new terms and conditions. [Eff 12/04/10; comp 4/28/17; am and comp 1/15/22; am and comp] (Auth: HRS §§201H-35, 201H-51) (Imp: HRS §201H-51)

§15-307-148 Former owner's right to preference.

(a) A former owner of a dwelling unit repurchased by the corporation under this subchapter shall have the right to a preference in all other projects of the corporation; provided[, however,] that the former owner has not repurchased a dwelling unit pursuant to section 15-307-147.

(b) For the purpose of this section, the former owner's right to a "preference" means that the former owner has the right superior to any other person to purchase or rent a dwelling unit in any project of the corporation.

(c) [~~In order to~~] To be entitled to a preference, the former owner shall deliver by mail, postage prepaid, or in person to the corporation a request for preference and the effective displacee certificate issued by the corporation.

(d) Upon receipt of a request for preference, the corporation shall provide information to the former owner regarding available projects.

(e) If the former owner exercises a right of preference with respect to a project, the corporation shall offer to sell or rent a dwelling unit in that

project to the former owner; provided, however, that the former owner meets the eligibility requirements imposed under chapter 201H, HRS, and under this chapter. The corporation, upon approval by the board, may, although it shall not be obligated to, waive one or more eligibility requirements to permit the former owner to purchase or rent the dwelling unit in the project. [Eff 12/04/10; comp 4/28/17; am and comp 1/15/22; am and comp] (Auth: HRS §§201H-4, 201H-51) (Imp: HRS §201H-51)

§15-307-149 Former owner's right to relocation assistance when the corporation repurchases a dwelling unit without the former owner's consent. If the corporation repurchases a dwelling unit without the former owner's consent, then the former owner shall be entitled to relocation assistance as provided for in chapter 111, HRS, and chapter 15-307~~r~~ [Hawaii Administrative Rules]. [Eff 12/04/10; comp 4/28/17; comp 1/15/22; am and comp] (Auth: HRS §§201H-4, 201H-51) (Imp: HRS Chapter 111, HRS §201H-51)

§15-307-150 Repair and rental agreement.

(a) If the corporation receives a notice of substantial construction or soil defect and determines that the dwelling unit has a substantial construction or soil defect, then the corporation, upon approval of the board, may, but shall not be obligated to, enter into a repair and rental agreement with the owner.

(b) If the corporation enters into a repair and rental agreement with the owner, the corporation shall enter into contracts with such design professionals and contractors whose services are reasonably necessary to repair the dwelling unit. Under the terms of the contracts, the corporation, and not the owner, shall be responsible for making payments due to the design professionals and contractors under the contracts.

(c) If the corporation determines that the owner will be substantially deprived of the use of the

dwelling unit during the time it is being repaired pursuant to a repair and rental agreement, the corporation shall pay rent to the owner during the period of time the dwelling unit is being repaired. The amount of rent to be paid shall be determined by the corporation; provided[~~, however~~] that the rent paid shall not exceed the amount of the mortgage payments being made by the owner on the dwelling unit.

(d) The repair and rental agreement provided for under this section shall include at least the following:

- (1) The scope of repair to be performed on the dwelling unit;
- (2) The amount of rent to be paid to the owner, if any; and
- (3) A release and indemnification by the owner in favor of the corporation relating to any liability arising out of the construction or soil defect and the work performed by the design professionals and contractors to repair the dwelling unit. [Eff 12/04/10; comp 4/28/17; comp 1/15/22; am and comp] (Auth: HRS §§201H-4, 201H-51) (Imp: HRS §201H-51)

§15-307-151 Legal action on behalf of corporation. (a) If the corporation expends moneys to repurchase or repair and rent a dwelling unit pursuant section 201H-51, HRS, then the corporation, upon approval by the board, shall have the authority to take legal action against the developer, co-developer, general contractor, and their subcontractors, consultants, and other parties involved with the development, construction, or sale of the dwelling unit or with the substantial construction or soil defect [in order] to recover the moneys expended.

(b) The corporation, upon approval by the board, shall have the authority to retain attorneys and expert witnesses and incur the expenses reasonably necessary for the legal action to recover the moneys expended.

(c) The corporation shall not be barred from bringing a legal action under this section notwithstanding any period of limitations set forth in chapter 657, HRS. [Eff 12/04/10; comp 4/28/17; comp 1/15/22; am and comp] (Auth: HRS §201H-4) (Imp: HRS §201H-51)

§15-307-152 Legal action on behalf of owner.

(a) For the purpose of this section, the term "dwelling unit" means all residences developed, constructed, financed, or sold pursuant to chapter 201G, HRS, regardless of whether or not the restrictions set forth in section 201H-47, HRS, remain in effect. The term "land" means vacant lots developed, constructed, financed, or sold pursuant to chapter 201H, HRS, regardless of whether or not the restrictions set forth in section 201H-47, HRS, remain in effect.

(b) If a dwelling unit or land is found to have a substantial construction or soil defect, the corporation, upon approval of the board, may, but shall not be obligated to, file a legal action on behalf of the owner of the dwelling unit for the recovery of damages or for injunctive relief against the developer, co-developer, general contractor, and their subcontractors, consultants and other parties involved with the development, construction, or sale of the dwelling unit or with the construction or soil defect.

(c) Before the corporation may file or participate in any legal action on behalf of the owner, the corporation shall enter into an agreement approved by the board, with the owner relating to the corporation's participation in the legal action. The agreement shall include, but shall not be limited to, provisions as to the following:

- (1) The scope of the corporation's participation in the legal action;
- (2) The responsibility for payment of the expenses of litigation, including attorneys' fees and expert witnesses' fees; and

- (3) The allocation of any damages awarded in the legal action or of any proceeds from settlement of the legal action.
- (d) The corporation, upon approval of the board, shall have the authority to retain attorneys and expert witnesses and incur the expenses reasonably necessary for the legal action.
- (e) The corporation shall not be barred from bringing a legal action under this subsection notwithstanding any period of limitations set forth in chapter 657, HRS. [Eff 12/04/10; am and comp 4/28/17; comp 1/15/22] (Auth: HRS §§201H-4) (Imp: HRS §§201H-51)

SUBCHAPTER 10

PROJECT FINANCING OF LOANS AND MORTGAGE AND SECURITY REQUIREMENTS

§15-307-161 Purpose. The purpose of this subchapter is to set forth the rules relating to the interim and permanent financing of housing projects. [Eff 12/04/10; am and comp 4/28/17; comp 1/15/22] (Auth: HRS §§201H-4, 201H-51, 201H-191) (Imp: HRS §§201H-40, 201H-123, 201H-96)

§15-307-161.5 Applications for program funds. Applicants desiring to utilize fund moneys under this program shall submit to the corporation an application containing the information required under sections 15-307-24 and 15-307-26 of [these rules.] this chapter. [Eff 4/28/17; comp 1/15/22; am and comp 1/15/22] (Auth: HRS §§201H-4, 201H-51, 201H-191) (Imp: HRS §§201H-40, 201H-123, 201H-96)

§15-307-162 Interim financing. (a) Interim loans for approved projects shall be funded in accordance with section 201H-43, HRS, and will be available to developers who qualify in accordance with this chapter.

(b) A developer shall satisfy the corporation that the developer or contractor is a sound credit risk and has the ability to repay the money borrowed.

(c) Upon the report and recommendation of the administrator, the corporation, through board action, may at any time thereafter approve or disapprove the loan. If the corporation accepts a request for an interim loan for a project, the corporation must make specific findings that the use and application of program funds for the project are consistent with the purposes of this chapter.

(d) The loan amount shall not exceed the actual cost of the project including the land cost, total construction contract price, architectural and engineering fees, interest on the loan, legal and accounting expenses, construction insurance and performance bond premiums, charges for appliances, and such other related expenses and costs as are directly attributable to the development and construction of the project; provided that in no event shall the loan amount exceed a percentage of the total value of the project as determined by the corporation for such project.

(e) Mortgage and security requirements shall conform to section 201H-43, HRS, and may include the condition that no disbursements of the loan fund will be made by the corporation until the corporation receives satisfactory evidence that there is available permanent financing or other means of repayment covering the project or the individual dwelling units that are for sale.

(f) A building and loan agreement and other security agreements, as appropriate, shall be executed on approval of the interim loan upon such terms and conditions as may be required by the corporation.

(g) The corporation may participate with private lenders in the provision of interim loans to developers. [Eff 12/04/10; comp 4/28/17; comp 1/15/22] (Auth: HRS §§201H-4, 201H-43) (Imp: HRS §§201H-43, 201H-144)

§15-307-163 Permanent financing. (a) Permanent loans for approved multifamily housing projects with five or more residential units may be available to developers who qualify in accordance with this chapter; provided that the project financing does not include a loan or grant from the corporation's rental housing revolving fund. The corporation may accept or deny a request for a permanent loan for a project. The corporation may also defer action on any request for a permanent loan and may request that additional information be submitted.

(b) Permanent loans shall be subject to the following underwriting standards and additional conditions:

- (1) A debt coverage ratio of not less than 1.00x on hard debt service requirements for the duration of the amortization period of the loan; and
- (2) A loan-to-value ratio of the total loan amount to the total appraised value, shall not exceed one hundred per cent; [and].
- (c) The corporation shall objectively review each project on a case-by-case basis. The corporation shall also set forth the terms and conditions of the loan, including the interest rate, repayment requirements, appropriate security, and the like.
- (d) The corporation shall take all reasonable steps necessary to ensure that projects funded shall remain affordable for the economic life of the project or for the full loan term.
- (e) The corporation shall ensure that loans are secured to safeguard against a change in the use or ownership of the project, or the project no longer fulfilling the intended purpose for which the loan was provided. The corporation may also include the condition that no disbursements of the loan fund will be made by the corporation until the corporation receives satisfactory evidence that there is available other means of repayment covering the project. Loans may be secured through any of the following means:

- (1) Use of a subordinated mortgage;

- (2) Development of a project on government-owned land with conditions attached to the land;
- (3) Use of a regulatory agreement; or
- (4) Any of a combination of the above.

(f) The corporation shall establish provisions for monitoring the following:

- (1) The progress of projects receiving permanent loans under ~~[these rules]~~ this chapter; and
- (2) Compliance with the terms and conditions of the loan.

(g) The corporation may charge a compliance monitoring fee, which shall be as presented in the exhibit at the end of this chapter entitled "Fees" dated JAN 2026. The corporation shall have the right to rescind or recapture moneys loaned if the terms of the contract are not fulfilled.

(h) If the corporation accepts a request for a permanent loan for a project, the corporation must make specific findings that the use and application of program funds for the project are consistent with the purposes of this chapter.

(i) The corporation may participate with private lenders in the provision of permanent loans to developers. [Eff 4/28/17; am and comp 1/15/22; am and comp] (Auth: HRS §§201H-4, 201H-191)
(Imp: HRS §201H-191)

SUBCHAPTER 11

DEFAULT

§15-307-171 Default. In the event any loan made under this chapter becomes delinquent, the corporation may proceed with foreclosure action in accordance with chapter 667, HRS, or may pursue any other civil remedy permitted by law.
[Eff 12/04/10; comp 4/28/17; comp 1/15/22] (Auth: HRS §201H-4) (Imp: HRS §§201H-45, 201H-164, HRS Chapter 667)

SUBCHAPTER 12 -- REPEALED

~~§15-307-201 REPEALED.~~ [R 1/15/22]

~~§15-307-202 REPEALED.~~ [R 1/15/22]

~~§15-307-203 REPEALED.~~ [R 1/15/22]

~~§15-307-204 REPEALED.~~ [R 1/15/22]

~~§15-307-205 REPEALED.~~ [R 1/15/22]

~~§15-307-206 REPEALED.~~ [R 1/15/22]

~~§15-307-207 REPEALED.~~ [R 1/15/22]

~~§15-307-208 REPEALED.~~ [R 1/15/22]

~~§15-307-209 REPEALED.~~ [R 1/15/22]

~~§15-307-210 REPEALED.~~ [R 1/15/22]

~~§15-307-211 REPEALED.~~ [R 1/15/22]

~~§15-307-212 REPEALED.~~ [R 1/15/22]

§15-307-201 to §15-307-212 REPEALED. [R 1/15/22]

SUBCHAPTER 13 -- REPEALED

~~§15-307-221 REPEALED.~~ [R 1/15/22]

~~§15-307-222 REPEALED.~~ [R 1/15/22]

~~§15-307-223 REPEALED.~~ [R 1/15/22]

~~§15-307-224 REPEALED.~~ [R 1/15/22]

~~§15-307-225 REPEALED.~~ [R 1/15/22]

~~§15-307-226 REPEALED.~~ [R 1/15/22]

§15-307-221 to §15-307-226 REPEALED. [R 1/15/22]

SUBCHAPTER 14

REGIONAL INFRASTRUCTURE FINANCING

§15-307-241 Purpose. The purpose of this subchapter is to set forth the rules relating to use of the dwelling unit revolving fund for grants or loans to finance regional infrastructure improvements. [Eff 4/28/17; comp 1/15/22; comp] (Auth: HRS §§201H-4, 201H-191.5) (Imp: S201H-191.5)

§15-307-242 Regional infrastructure subaccounts; generally. (a) Upon request of a county government, the corporation may establish a regional infrastructure subaccount within the dwelling unit revolving fund for that county pursuant to the requirements of [~~§201H-191.5.~~] section 201H-191.5, HRS. Each county subaccount so established may be used to provide grants and loans to state agencies, or loans to counties or private developers, to cover eligible costs of regional infrastructure improvements within that specific county.

(b) Regional infrastructure subaccount funds may be utilized for the planning, design, feasibility studies, construction, and materials for infrastructure improvements that would increase the capacity of the infrastructure facilities, including regional sewer systems, water systems, drainage systems, roads, and telecommunications and broadband. The corporation may also use subaccount funds to repay private investors for their investment plus any interest accrued on their investments made into the subaccounts to finance, in whole or in part,

infrastructure improvements that would increase the capacity of said infrastructure facilities.

(c) The corporation may, from time to time and at its sole discretion, determine that there are sufficient funds available in the dwelling unit revolving fund to transfer to regional infrastructure subaccounts for the purpose of making regional infrastructure grants and loans to [State] state departments and agencies, or regional infrastructure loans to county departments and agencies and private entities.

(d) Grants and loans shall be made only for capital improvement projects supported by the respective county council and mayor, or state agency, as applicable, with a view towards planned growth rather than upkeep and maintenance.

(e) The Hawaii interagency council for transit-oriented development shall review and make recommendations on applications for subaccount funds for infrastructure projects related to transit-oriented development.

(f) The corporation may assess fees, including application, origination and servicing fees, as prescribed by the exhibit at the end of this [chapter] subchapter entitled "Fees", dated JAN 2026 to cover the administrative expenses of originating and managing the subaccounts. The fees shall be deposited into the dwelling unit revolving fund. [Eff 4/28/17; am and comp 4/28/17; am and comp 1/15/22; am and comp] (Auth: HRS §§201H-4, 201H-191.5) (Imp: HRS §§201H-4, 201H-191.5)

§15-307-243 Commitment of subaccount funds. (a) Regional infrastructure subaccount fund loans may be committed in participation with other lenders.

(b) The corporation shall not issue nor make any commitment of regional infrastructure subaccount funds for any project unless the board has first made a determination that the purposes and amounts for which regional infrastructure subaccount funds are to be

applied are consistent with the purposes of the program. All commitments of regional infrastructure subaccount funds shall be made subject to the availability of program funds. [Eff 4/28/17; comp 1/15/22; comp] (Auth: HRS §§201H-4, 201H-191.5) (Imp: HRS §201H-191.5)

§15-307-244 Regional infrastructure financing.

(a) Loan amounts shall not exceed the actual cost of the infrastructure project, including total construction contract price, architectural and engineering fees, interest on the loan, legal and accounting expenses, construction insurance and performance bond premiums, and other such related expenses and costs as are directly attributable to the development and construction of the regional infrastructure project; provided that in no event shall the loan amount exceed a percentage of the total value of the infrastructure project as determined by the corporation for such project.

(b) Payments of regional infrastructure loans may include loan repayments, the value of credits or reservations for infrastructure capacity, and in-kind payments of improved real property; provided that the value of the credits or reservations, the appraised value of the improved property, and other loan payments, if applicable, shall not be less than the loan amount. [Eff 4/28/17; comp 1/15/22; comp] (Auth: HRS §§201H-4, 201H-191.5) (Imp: §201H-191.5)

§15-307-245 Processing of regional infrastructure project proposals. (a) An applicant shall make a written request including and supported by information, materials, forms, and exhibits about the project as set forth in § 15-307-26, above, as applicable to the project, and such additional information as may be required by the corporation.

(b) The administrator shall, upon receipt of an application or project proposal or both, time stamp the same as received and review the application for

completeness and compliance with applicable rules under this subchapter. An incomplete application shall be returned to the applicant.

(c) After review of the application for appropriateness, technical compliance, and feasibility, the administrator may submit the proposal with a recommendation for approval, contingent approval, or disapproval to the board.

(d) The board may recommend that a request for regional infrastructure subaccount funds be allocated or may deny a request for regional infrastructure subaccount funds for a project. The board may also defer action on any request for regional infrastructure subaccount funds and may request that additional information be submitted. If the board recommends that a request for regional infrastructure subaccount funds be allocated for a project, the board shall make specific findings that the use and application of regional infrastructure subaccount funds for the project are consistent with the purposes of this subchapter. [Eff 4/28/17; comp 1/15/22; comp] (Auth: HRS §§201H-4, 201H-191.5) (Imp: \$201H-191.5)

\$15-307-246 Evaluation of requests for program funds; criteria for selection of proposals. (a) The corporation or its designee(s) shall review each request for regional infrastructure subaccount funds to verify that the infrastructure project meets the requirements and purposes of this subchapter. If it is determined that the project does not meet the requirements and purposes of this subchapter, staff shall notify the applicant that the application for program funds will not be processed for action and state the reasons the application will not be processed. Staff shall review and evaluate projects only if the infrastructure project meets the minimum threshold requirements set forth in section 15-307-247 and the applicant submits a complete application.

(b) Funds shall be made available on a case-by-case basis. In selecting regional infrastructure projects for funding assistance under this subchapter,

the corporation shall give consideration to the following factors:

- (1) The relative merits of the project including the need for the project, public benefits, and project readiness;
- (2) The ability of the applicant to deliver the project as planned, fulfill project commitments, and ensure compliance with the terms of the financing agreement;
- (3) The creditworthiness of the applicant;
- (4) The extent of local government support or the support of any other governmental body whose purview involves statewide community planning or permitting;
- (5) The recommendations of the Hawaii interagency council for transit-oriented development;
- (6) The amount of affordable rental housing development the proposed regional infrastructure project will support once completed, as measured by unit count; and
- (7) The amount of funding requested relative to the total cost of the infrastructure project. [Eff 4/28/17; comp 1/15/22; comp] (Auth: HRS §§201H-4, 201H-191.5) (Imp: §201H-191.5)

§15-307-247 Eligible regional infrastructure projects; minimum requirements. Proposed regional infrastructure project applicants shall meet the following minimum threshold requirements to be considered for financing assistance under this subchapter:

- (1) The proposed regional infrastructure project is for the benefit of housing [and] or mixed-use transit-oriented development projects;
- (2) The proposed regional infrastructure project is located in an area designated for planned growth and will increase the capacity of the infrastructure facilities;

- (3) The project has the support of the applicable county planning and housing agencies;
- (4) The project has the support of the applicable state departments or agencies; and
- (5) The project has the support of the applicable mayor and the county legislative body, as evidenced by one or more of the following:
 - (A) Written letter of support from the mayor of the county in which the project is located;
 - (B) Certified copies of resolutions in support of the project adopted by the county legislative body in which the project is located; or
 - (C) Minutes, reports, or memoranda of actions taken by a county legislative body in which the project is located in support of the project. [Eff 4/28/17; comp 1/15/22; comp]
(Auth: HRS §§201H-4, 201H-191.5) (Imp: \$201H-191.5)

§15-307-248 Conditions for subaccount funds.

(a) The administrator and state departments or agencies, counties, or private developers, upon approval by the board, may enter into an agreement, including a loan agreement, development agreement, or regulatory agreement, evidencing the eligible developer's obligation to develop the project in a manner that carries out the intent and purpose of this program.

(b) The corporation shall require the eligible developer to prepare and maintain such records, including cost certifications, necessary to show that subaccount funds are being used in a manner meeting program requirements.

(c) Eligible developers shall also provide periodic written reports to the corporation on the progress of the project. Written reports shall be

submitted at a minimum on an annual basis; provided that the corporation shall receive a report subsequent to any of the following events:

- (1) Non-payment of interest or principal;
- (2) Breach of contractual obligations related to all involved parties;
- (3) Illegality;
- (4) Default of a major contract counterparty;
- (5) Regulatory or policy changes;
- (6) Construction delays;
- (7) Significant deviation from projected costs and cash flows;
- (8) Sudden increase in costs; or
- (9) Force majeure events that affect the economic value of the project. [Eff 4/28/17; comp 1/15/22; comp] (Auth: HRS §§201H-4, 201H-191.5) (Imp: S201H-191.5)

§15-307-249 Audit and cost certifications. All books and records of a project shall be subject to audit and all expenditures of a project shall be subject to cost certification. [Eff 4/28/17; comp 1/15/22; comp] (Auth: HRS §§201H-4, 201H-191.5) (Imp: S201H-191.5)

§15-307-250 Compliance monitoring; penalties for non-compliance. (a) The corporation may perform an audit at least once a year until a regional infrastructure project is completed, but shall have access to all books and records upon notice to the eligible developer.

(b) The penalty for non-compliance with program rules and requirements is at the discretion of the corporation. For projects receiving program funds in the form of loans, foreclosure proceedings is one alternative. For projects receiving grants, the corporation may undertake legal proceedings to secure specific performance. In all cases, the corporation reserves the right to pursue any and all legal remedies to recapture the funds awarded, to seek specific performance, or other actions that it deems necessary.

(c) Upon determination by the corporation of non-compliance with program rules and requirements, the owner or eligible developer, or both, shall be notified and given sixty calendar days to correct the violations. The corporation may extend the correction period, up to a total of six months if it is determined that good cause exists for granting such an extension." [Eff 4/28/17; comp 1/15/22; am and comp] (Auth: HRS §§201H-4, 201H-191.5) (Imp: §201H-191.5)

2. Material, except source notes and other notes, to be repealed is bracketed and stricken. New material is underscored.

3. Additions to update source notes and other notes to reflect these amendments and compilation are not underscored.

4. These amendments to and compilation of chapter 15-307, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

I certify that the foregoing are copies of the rules drafted in the Ramseyer format, pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on Month XX, 2025, and filed with the Office of the Lieutenant Governor.

GARY MACKLER, Chairperson
Hawaii Housing Finance and
Development Corporation

APPROVED AS TO FORM:

Deputy Attorney General

EXHIBIT A

[~~FEES~~] Fee Schedule (1/01/26)

[Effective _____]

Pursuant to §15-307-7, fees [~~fees~~] may be charged by the [~~Hawaii Housing Finance and Development Corporation~~] Hawaii housing finance and development corporation as follows:

| <u>PURPOSE</u> | <u>AMOUNT CHARGED</u> |
|---|--|
| Developer's Non-refundable 201H Application Fee | [\$2,000] \$5,000 |
| Developer's Non-refundable DURF Application Fee | [\$2,000] \$5,000 |
| Developer's Non-refundable Project Ground Lease Extension or Modification Application Fee | [\$2,000] \$5,000 |
| Developer's DURF Loan Financing Fee** | 1% to 2.5% of loan amount |
| Interest on DURF Interim Loan** | 0% to 8.5% compounded annually |
| Interest on DURF Permanent Loan** | The applicable federal rate ("AFR") as determined by the Internal Revenue Service, plus 3% |
| DURF [Permanent] Loan Affordability Restrictions Compliance Monitoring Fee** | \$35 per unit per year for all project units excluding managers units. |
| 201H Exemptions Affordability Restrictions Compliance Monitoring Fee** | \$25 per unit per year for all project units excluding manager units. |
| Administrative Fee (assessed to developers)** | \$0 to \$2,500 per unit |

| <u>PURPOSE</u> | <u>AMOUNT CHARGED</u> |
|---|--|
| Regional Infrastructure Loan Application Fee** | <u>[\$2,000]</u> <u>\$5,000</u> |
| Regional Infrastructure Loan Origination Fee** | 1.0% of loan amount |
| Regional Infrastructure Loan Amendment Fee** | <u>[\$2,000]</u> <u>\$5,000</u> |
| Regional Infrastructure Loan Servicing Fee, per year for the loan term** | 0.30% of loan amount, compounded annually |
| Interest on Regional Infrastructure Loan to Private entity or county department or agency** | 1.0% plus the actual interest rate paid by the State on the loan funds, compounded annually |
| Interest on Regional Infrastructure Loan to state department or agency** | 0%-1.0% plus the actual interest rate paid by the State on the loan funds, compounded annually |
| <i>** May be adjusted by the board on a case-by-case basis.</i> | |

V. Administrative Matters

A. Update on the Board's Upcoming Advocacy Activities and Programs in accordance with the Board's Powers under Section 201M-5, Hawaii Revised Statutes (HRS)

1. Simplifying Permitting for Enhanced Economic Development (SPEED) Task Force's most recent meeting pursuant to Act 133 to identify actions taken challenges encountered, and legislative measures necessary to facilitate, expedite, and coordinate state and intergovernmental permit processes; and appropriates funds
2. Discussion and Update of the Board's Maui Island meeting scheduled for March 19, 2026 – including Mayor's Proclamation and Presentation
3. Becker Communications Inc., regarding the Board's Small Business Outreach
4. Presentations to Industry Associations
5. Staff's Small Business Outreach

January 7, 2026

From: Dr. Jennifer Salisbury
Small Business Regulatory Review Board
SPEED Task Force Member

Subj: REPORT ON SPEED TASK FORCE SECOND MEETING JANUARY 6, 2026 AND
PIG RECOMMENDATIONS

Aloha,

As a follow up to my ongoing service on Governor Green's Simplified Permitting for Enhanced Economic Development (SPEED) Task Force, I submit this letter an on-going update. The second of six Task Force meetings occurred at the State Capitol on January 6, 2026; the Task Force paid for my travel between Maui to Honolulu to appear in person.

December 5, 2025 was the deadline for the three Permitting Interaction Groups (PIGs) to submit to the Task Force all recommendations and summary of discussion. As reminder, the three PIGs included 6E/State Historic Preservation District, Department of Health/Individual Wastewater System, and Building Permits (all vertical construction); I served on all three PIGs. The findings of the 3 PIGs were reported back to the Task Force on December 15, 2025 during a zoom call which was a presentation only (no feedback or questions).

The PIG recommendations were compiled in a 31-page summary of a 446-page report [here](#), which in summary was captured by this conclusion:

Taken together, these common themes point toward a shared reform agenda: invest in people; design processes that incentivize complete, high-quality applications; modernize data and technology infrastructure; ensure consistency in policy and practice among agencies; and continue convening stakeholders for collaborative problem-solving. While the detailed recommendations in each PIG section differ by technical domain, they sum up to a mutually reinforcing program. Implemented together, they could offer a pathway to permitting systems that are faster and more predictable for applicants while improving environmental protection, cultural stewardship, public safety, and long-term resilience statewide.

This meeting discussed groups that were not directly represented on the SPEED Task Force including: Native Hawaiian groups, Island Burial Councils, Office of Hawaiian Affairs, County-specific State Historic Preservation Division Chairs, Chambers of Commerce for the Counties and the State, retail business owners, private sector contractors and employers, among others. This discussion led to restating one recommendation from the 6E PIG as noted below.

The PIG recommendations presented below were brought to the Task Force on December 15, 2025 for discussion, potential restating, and voting during the January 6, 2026 meeting. Recommendations restated for voting are noted below in colored highlighting with comments matching below.

Building Permit PIG recommendations and discussion:

| PIG | ID | Recommendation | Type of Change |
|------------|-----------|---|-----------------------|
| BP | 1 | Build a Permitting Workforce Pipeline | Statewide Legislative |
| BP | 2 | Develop a Statewide, AI-Enhanced Digital Permit Intake Platform | Statewide Legislative |
| BP | 3 | Establish a Statewide Off-site Construction Program | Statewide Legislative |
| BP | 4 | Invest in Ongoing Professional Development for Permit Staff | Statewide Legislative |

- Structures created off-site/out-of-state are challenging the State and County reviews and permits; PIG Chair was open and seeking communication for alternate solutions, especially when allowing construction of structures off-site/out-of-state/pre-fabricated
- PIG Chair also noted that the State Task Force can make recommendations, but the Counties are the permit issuing authority
- Discussions about all four recommendations occurred both via zoom and in the physical space; all comments expressed support and some concerns about budget support for these recommendations
- The 2nd recommendation from the Building Permit PIG was withdrawn and restated to “consider the development of a shared AI platform...”; “a modern portal *could* enforce required field at intake...”; “AI-assisted pre-check *could* be deployed...”; “The platform *could* be designed...”.
- The 3rd recommendation from the Building Permit PIG was withdrawn and restated to legislature *direct* the OSPD to *assist the Legislature to identify the group to establish...*

SHPD/6E PIG recommendations and discussion:

| PIG | ID | Recommendation | Type of Change |
|------------|-----------|---|-----------------------------|
| 6E | 1 | Clarify and Extend Statutory Timelines under HRS 6E | Statewide Legislative |
| 6E | 2 | Increase SHPD Staffing and Digitization Capacity | Statewide Legislative |
| 6E | 3 | Invest in SHPD GIS Tools | Statewide Legislative |
| 6E | 4 | Convene HRS 6E Stakeholders Regularly | Department or Agency Policy |

- Public testimony included concerns and frustrations with the HICRIS website, and trying to comply with 6E a balance
- Discussion from Task Force included the 6E improvements were most critical and included island burial council functionality (including quorum) for the different islands,

alternate governing bodies such as a State Burial Council or Office of Hawaiian Affairs to act when specific island burial councils cannot act (for whatever reason, not just quorum)

- The 4th recommendation for 6E PIG was withdrawn and restated to include additional stakeholders and a chair: business and commerce representatives, such as retail merchants, restaurants, realtors, home-builders/general contractor, Chamber of Commerce, chair or designee from County Historic Preservation, and ex officio members; further, the State Legislature chair/lead the Stakeholder Working Group(s), moving forward.

Department of Health and Individual Wastewater System recommendations and discussion:

| PIG | ID | Recommendation | Type of Change |
|-----|----|--|-----------------------------|
| IWS | 1 | Fund a Data-Driven Study to Modernize IWS Limits and Enable Innovative Wastewater Technologies | Statewide Legislative |
| IWS | 2 | Convene IWS Stakeholders Regularly | Department or Agency Policy |
| IWS | 3 | Create an IWS “Fast Lane” | Department or Agency Policy |
| IWS | 4 | Fund Incentives for Cesspool Conversion and Regional Infrastructure | Statewide Legislative |
| IWS | 5 | Protect Homeowners through Education and Required Disclosure | Statewide Legislative |

- Many members discussed regional sewer-systems are not options in many locations in Hawaii
- Discussion about what a “Fast Lane” is and how to package IWS design, similar to design reviews for building permits (but for septic systems)
- Reviewed similarities with other geographic locations (such as Long Island/Suffolk County, New York) in the same challenge as Hawaii
- I was actively involved in all five recommendations from this PIG

I commented that two themes emerged in the PIG discussions: simple versus sophisticated, regarding both the applicant and the structure. A simple applicant thinks differently than a more sophisticated applicant, and likely should be treated differently; a simple structure permit may be different than a more sophisticated permit. Factors that may sophisticate a permit could and does include: Special Management Areas, 6E/SHPD requirements, topography of the parcel, State District, County Zoning, utility availability, building codes/items regarding the actual structure, and other items that can increase the complexity of the permit.

At the conclusion of the January 6, 2026 meeting, all three PIGs were dissolved, having fulfilled their requirements: creation of the PIG on September 11, 2025, presentation of recommendations to the Task Force from each PIG on December 15, 2025, and then discussion/vote on PIG recommendations. **All recommendations identified from the PIGs, or**

restated by the Task Force as highlighted above, were either adopted unanimously or passed with a super-majority.

Because of Hawaii's Sunshine Law, not all Task Force members could serve on the PIGs; PIG participant numbers cannot create a Task Force quorum and were limited to 17 members for each PIG. To support all Task Force members, whether PIG members or not, all 34-members of the Task Force were offered the opportunity to present one additional recommendation each.

No member recommendations were received prior to the meeting and one recommendation received during the meeting, which was subsequently withdrawn.

The first PIG set was chaired by the House of Representatives; the second PIG set will be chaired by the Senate; the Task Force Chair Ilagan asked for feedback in potentially asking for County Councilmembers to chair the third PIG groups.

Upcoming PIG and SPEED Task Force deadlines:

SCHEDULE FOR SPEED TASK FORCE

SET 1 of 3 Priorities (Building Permit, Chapter 6E, IWS)

Meeting 1: Presentations (Sept 11, 2025)
Meeting 2: Recommendations (Dec 15, 2025)
Meeting 3: Adoption (Jan 06, 2026)

SET 2 of 3 Priorities (Building Codes, Land Use District Boundary Amendments, Water Resource Management)

Meeting 4: Presentations (May, 2026)
Meeting 5: Recommendations (Jul, 2026)
Meeting 6: Adoption (Aug, 2026)

SET 3 of 3 Priorities (OPEN)

Meeting 7: Presentations (Sept, 2026)
Meeting 8: Recommendations (Nov, 2026)
Meeting 9: Adoption (Dec, 2026)

- Third set of PIGs *potentially* to include:
 - Special Management Area/Coastal Zone Management
 - American Disabilities Act
 - Conservation Use District

Jen's Service on the SPEED Task Force as of today, by the numbers:

- ❖ 20 Recommendations to the Task Force
- ❖ 3 Service on Permitted Interaction Groups
- ❖ 46.25 hours spent to date in SPEED Task Force Meetings
- ❖ 44 Conversations with Maui Employers, Contractors and Small Businesses about the Task Force
- ❖ 23.25 hours in other Small Business Network Meetings, not directly with the Task Force

I am very grateful the State of Hawaii Department of Business, Economic Development and Tourism (DBEDT) and the Small Business Regulatory Review Board continues supporting me in

serving this task force. **We have scheduled the VERY FIRST Small Business Regulatory Review Board meeting on Maui, and only the second neighbor-island meeting ever, set for March 19, 2026 on Maui.** More details as the New Year unfolds!

I had the honor of supporting the Maui Chamber of Commerce's "Business Matters" radio show on December 30th, speaking about the SPEED Task Force: [Show Link Here](#)

Please note that I have created a three-part series on my national-award-nominated-podcast, My Life As A Landlord, which explains further about the SPEED Task Force and the three PIGs; these episodes start on January 13, 2026 continuing the two Tuesdays continuing. The podcast can be found [here](#), and on all podcast platforms including YouTube, Apple and Spotify; search for "My Life As A Landlord."



I would also like to thank the small businesses and contractors on Maui, AND beyond, who have been reaching out with their "impossible" situations, to allow me to add actual examples of permitting issues, which includes:

- Permits for businesses lost in the Lahaina fires, who are optically battling with residences for permit attention
- Permits for Department Of Health for remote Maui nui location for cesspool conversion within a shoreline

If you know of anyone needing support through these connections on the Task Force, please reach out to me.

I am also honored to report that I have been nominated as a 2026 "Woman Who Means Business" from Pacific Business News; Maui United Way championed the nomination. There will be a write up of all nominees in the February issue of PBN and the award will be announced at the event on March 12, 2026.

As the next SPEED Task Force meeting will be post-legislative session, this will be my last update email until May.

Mahalo for your input and support,

Dr. Jennifer Salisbury "Jen"

[Quick links if you have more questions:](#)

State of Hawaii Small Business Regulatory Review Board: [Small Business Regulatory Review Board](#)

State of Hawaii SPEED Task Force: [Streamline Permitting for Enhanced Economic Development](#)

COUNTY OF MAUI
OFFICE OF THE MAYOR

PROCLAMATION

Recognizing the First Neighbor-Island Meeting of the Small Business Regulatory Review Board

WHEREAS, the State of Hawai'i Small Business Regulatory Review Board (SBRRB) was established to ensure that small businesses have a meaningful voice in the creation, modification, and implementation of administrative rules that impact their operations; and

WHEREAS, small businesses form the backbone of Hawai'i's economy, making up more than 90 percent of all businesses statewide and employing the majority of our residents, including thousands of working families here in Maui County; and

WHEREAS, the Small Business Regulatory Review Board provides crucial oversight to promote fairness, transparency, and balance in the regulatory process, ensuring that our local businesses can compete, innovate, and contribute to our communities; and

WHEREAS, this historic meeting marks the first-ever neighbor-island session of the Small Business Regulatory Review Board, symbolizing a turning point for inclusion, accessibility, and statewide collaboration to support small business interests beyond O'ahu; and

WHEREAS, the County of Maui is honored to host this milestone occasion, reflecting the shared commitment of county and state leaders to listen, learn, and act on the unique needs of neighbor-island entrepreneurs, particularly as Lahaina and West Maui communities rebuild their economy and local enterprises; and

WHEREAS, this gathering represents a new chapter of cross-island partnership—one grounded in aloha, respect, and cooperation—where collective action will strengthen Hawai'i's resilience and reaffirm that small business success is community success;

NOW, THEREFORE, I, [Mayor's Full Name], Mayor of the County of Maui, do hereby proclaim this day as

**SMALL BUSINESS REGULATORY REVIEW BOARD NEIGHBOR-
ISLAND MEETING DAY**

in the County of Maui, and encourage all residents, business owners, and public officials to celebrate this moment as a turning point in the State of Hawai'i's enduring commitment to empower small businesses across all our islands.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the County of Maui to be affixed this _____ day of _____, 2025.

[Mayor's Signature Line]