

DEPARTMENT OF HUMAN SERVICES

Repeal of Chapter 15-172 and
Adoption of Chapter 17-2010
Hawaii Administrative Rules

October 21, 2004

1. Chapter 172 of Title 15, Hawaii
Administrative Rules, entitled "Rent-to-Own Program"
is repealed.

2. Chapter 2010 of Title 17, Hawaii
Administrative Rules, entitled "Rent-to-Own Program"
is adopted.

HAWAII ADMINISTRATIVE RULES

TITLE 15

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT
AND TOURISM

SUBTITLE 14

HOUSING AND COMMUNITY DEVELOPMENT CORPORATION OF
HAWAII

CHAPTER 172

RENT-TO-OWN PROGRAM

Repealed

§§15-172-1 to 15-172-21 Repealed. [R **NOV 15 2004**]

HAWAII ADMINISTRATIVE RULES

TITLE 17

DEPARTMENT OF HUMAN SERVICES

SUBTITLE 5

HOUSING AND COMMUNITY DEVELOPMENT CORPORATION OF
HAWAII

CHAPTER 2010

RENT-TO-OWN PROGRAM

Subchapter 1 General Provisions.

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Historical Note: Chapter 2010 of Title 17, Hawaii Administrative Rules, is based substantially upon Chapter 351 of Title 6, Hawaii Administrative Rules, [Eff 9/3/94; R 10/25/99], and Chapter 172 of Title 15, Hawaii Administrative Rules. [Eff 10/25/99; R **NOV 15 2004**]

SUBCHAPTER 1

GENERAL PROVISIONS

§17-2010-1 Purpose. These rules are adopted under chapter 91, Hawaii Revised Statutes (hereinafter referred to as "HRS"), and implement section 201G-361, HRS. [Eff **NOV 15 2004**] (Auth: HRS §§201G-4, 201G-361) (Imp: HRS §201G-361)

§17-2010-2 Definitions. As used in this chapter and the program's procedural handbook:

"Corporation" means the housing and community development corporation of Hawaii.

"Executive director" means the executive director employed by the corporation or the executive director's designated representative.

"Family" means:

- (1) Two or more persons who live or intend to live together as a unit and whose income and resources are available to meet the family'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; or
- (2) A person who is pregnant or in the process of securing legal custody of a minor child or children, and who has reached the age of majority or is otherwise emancipated.

"Gross family income" means the total amount of income of the participant and all adult family members from all sources before deductions.

"Participant" means a person or family who executes a contract with the corporation to participate in the rent-to-own program.

"Procedural handbook" means a set of instructions, guidelines, terms, and conditions relating to the rent-to-own program.

"Qualified resident" means the same as defined under section 201G-112, HRS.

"State" means the State of Hawaii.

[Eff **NOV 15 2004**] (Auth: HRS §§201G-4, 201G-361)
(Imp: HRS §201G-361)

§17-2010-3 Delegation. The corporation delegates to the executive director the authority to implement and carry out the purposes of this chapter.
[Eff **NOV 15 2004**] (Auth: HRS §§201G-4, 201G-361)
(Imp: HRS §201G-361)

SUBCHAPTER 2

RENT-TO-OWN PROGRAM

§17-2010-11 Purpose. The purpose of this program is to enable residents of the State to become homeowners through the establishment of a rent-to-own program. Under the program, a qualified resident will be provided an opportunity to rent a housing unit for up to five years prior to exercising his or her option to purchase the unit, subject to the conditions set forth in these rules. [Eff **NOV 15 2004**] (Auth: HRS §§201G-4, 201G-361) (Imp: HRS §201G-361)

§17-2010-12 Rent-to-own program; general provisions. (a) The corporation is authorized to develop or participate in the development of housing projects in which dwelling units are offered for rent to qualified residents who may not have the financial capability to purchase a dwelling unit at the time of initial occupancy, but who demonstrate a desire and potential capability of being able to purchase the unit within five years as determined by the corporation.

(b) The sales price of the dwelling unit shall be established at the beginning of the rental term and shall remain in effect for the first five years after the rental agreement is executed.

(c) The participant shall have the option of purchasing the unit at any time within the five-year period and shall have the right to remain in the unit for at least five years provided that all conditions set forth in these rules are met.

(d) During the period that the participant rents the unit, the following shall apply:

- (1) The corporation shall credit a portion of the participant's rent toward the purchase price of the unit, which amount shall be determined on a project-by-project basis;
- (2) The participant shall learn the responsibilities of homeownership and begin to save money toward the purchase of the home by participating in a homeownership counseling program approved by the corporation;
- (3) The corporation shall have the right to verify on an annual basis that the participant is making sufficient progress toward saving money for the purchase of the unit; and if it is determined that the participant is not making sufficient progress, the corporation shall have the right to terminate the contract and offer the unit to another potential purchaser with all rental amounts paid to date being forfeited; and

(4) The participant shall perform minor maintenance on the dwelling unit, with major maintenance being provided by the corporation or the owner of the project, if the owner is other than the corporation.

(e) When a participant decides to exercise his or her option to purchase the unit, in order to qualify for a first mortgage, the participant must satisfy conventional lender requirements or requirements under any of the corporation's mortgage lending programs. In rural areas, financing may be provided through the United States Department of Agriculture's Rural Development Program.

(f) If the participant does not qualify to purchase the unit within the five-year period, the renter shall forfeit the right to continue living in the unit and the unit shall be rented to another potential purchaser. Renters displaced in accordance with this section shall be given preference to occupy other rental units owned by the corporation.

(g) The corporation shall have the right to re-establish the sales price of the unit upon expiration of the option period or upon resale of the unit.
 [Eff **NOV 15 2004**] (Auth: HRS §§201G-4, 201G-361)
 (Imp: HRS §201G-361)

§17-2010-13 Process and procedures. (a)
 Applications for participation in the rent-to-own program shall be available at the principal office of the corporation or through a private realtor or property manager contracted to handle the rent-to-own program on behalf of the corporation.

(b) Units shall be rented and sold under the rent-to-own program in accordance with all applicable state and federal fair housing laws.

(c) Prior to identification of the site or the start of marketing, an affirmative fair housing marketing plan shall be filed with the U.S. Department of Housing and Urban Development, and marketing of the units shall not commence until approval of the plan is received from the department. Such approval shall be

necessary to ensure receipt of Federal Housing Administration mortgage insurance.

(d) The corporation shall establish a system to determine preferences by lot in the event that it receives more qualified residents than it has units available.

(e) Applications may be accepted from an applicant for more than one project sponsored by the corporation. [Eff **NOV 15 2004**] (Auth: HRS §§201G-4, 201G-361) (Imp: HRS §201G-361)

§17-2010-14 Eligibility for assistance. (a) An applicant shall be eligible to participate in the rent-to-own program if the applicant meets all of the following requirements:

- (1) Is a qualified resident who is domiciled in the State;
- (2) Has not previously received assistance under a homeownership program designed and implemented under chapter 201G, HRS, by the corporation or any of the counties in the State. However, the corporation may, on an individual basis, allow a person who previously purchased a dwelling sponsored by the corporation or any of the counties to reapply provided that the corporation or the county repurchased the dwelling unit and there has been a significant change in one of the following:
 - (A) Family size;
 - (B) Place of employment; or
 - (C) Income;provided that an applicant may become eligible again if the sale of such person's first dwelling was caused by extreme hardship such as family death, divorce, loss of employment, or a handicap, and the dwelling was repurchased by the corporation or the county;
- (3) Has an acceptable credit report;

- (4) At least one head of household family member must be gainfully employed or have an established source of continuing income;
- (5) Has a sufficient income such that the monthly rental payment will not exceed forty per cent of gross monthly income unless offset by other favorable factors, such as sufficient savings, as determined by the corporation;
- (6) Does not have a record or history of conduct or behavior, including past rent payment delinquencies, which may prove detrimental to other tenants or the corporation; and
- (7) Is at least eighteen years of age.

(b) The corporation may also establish other requirements for participation in the program, such as asset limits. [Eff **NOV 15 2004**] (Auth: HRS §§201G-4, 201G-361) (Imp: HRS §201G-361)

§17-2010-15 Occupancy guidelines for rent-to-own units. (a) The following occupancy guidelines may be used for rent-to-own units when the number of applicants exceeds the number and types of units available:

Dwelling Unit Size	Preferred Family Size
0 Bedroom	1 person
1 Bedroom	2 persons
2 Bedroom	3 persons
3 Bedroom	4 persons
4 Bedroom	5 persons

(b) The maximum family size is based on prevailing county housing, zoning, building, health and fire codes. [Eff **NOV 15 2004**] (Auth: HRS §§201G-4, 201G-361) (Imp: HRS §201G-361)

§17-2010-16 Participation in a homeownership counseling program required. (a) All participants in the rent-to-own program shall be required to participate in a homeownership counseling and training program approved by the corporation.

(b) The homeownership counseling program shall minimally provide training to participants with adequate incomes and who are desirous of purchasing a home but lack sufficient funds for the downpayment and closing costs. The primary focus of the program is to facilitate the home purchase by providing strategies to save money and resolve credit problems; and to educate participants on how to shop for and purchase a home.

[Eff **NOV 15 2004**] (Auth: HRS §§201G-4, 201G-351, 201G-361) (Imp: HRS §§201G-351, 201G-361)

§17-2010-17 Preference. (a) Unless otherwise provided in these rules, the corporation may give preference to rent-to-own applicants on the basis of overall need and to applicants who:

- (1) Meet the occupancy guidelines set forth in section 17-2010-15;
- (2) For single family developments only, have, excluding an applicant's spouse, minor dependents, as defined in the applicable regulations of the Internal Revenue Service, and as shown on the applicant's or co-applicant's state income tax return, divorce decree, or other document which is to be submitted upon the request of the corporation. If preference was given due to birth of a child or pregnancy after the tax return year, verification of newborn children will be made at the time of lot selection and purchase;
- (3) Have been displaced from their homes because of governmental action; and
- (4) For income preferences only, income preference will be based on family size and

annual family income as established from time to time for the State by the United States Department of Housing and Urban Development. All income for family members who are eighteen years of age and older who are currently residing with the family and will physically reside in the dwelling unit to be purchased will be added to the gross family income to determine the income preference. The corporation shall determine the income preference for each project.

(b) Not more than twenty per cent of all affordable dwelling units in a specific project, as determined by the corporation, shall be for applicants with a preference as provided in subsection (a); however, the corporation may establish a limit on the number of units for which preference is provided on a project-by-project basis.

(c) Other preferences may be determined by the corporation for a specific project.

[Eff **NOV 15 2004**] (Auth: HRS §§201G-4, 201G-351, 201G-361) (Imp: HRS §§201G-351, 201G-361)

S17-2010-18 Information and verification.

(a) The corporation shall require applicants to provide information relating to family income, family size, financial condition, and status changes prior to executing a rent-to-own contract.

(b) The corporation may require applicants and program participants to provide documentation to verify information submitted to the corporation, including but not limited to:

- (1) Hawaii state income tax return;
- (2) Federal income tax return;
- (3) Certification of pregnancy; and
- (4) Other documents as required by the corporation.

(c) An applicant found to have wilfully submitted false information, made misstatements, or withheld important information shall be deemed to be ineligible, provided that the corporation shall not

waive its right to pursue any other recourse provided by law.

(d) The corporation may establish an expiration date for applications received to purchase a dwelling unit on a project-by-project basis. [Eff

NOV 15 2004] (Auth: HRS §§201G-4, 201G-361)
(Imp: HRS §201G-361)

§17-2010-19 Repurchase and other restrictions.

For units which are purchased under this program, the corporation shall have the right to impose repurchase, owner-occupancy, shared appreciation, and other restrictions as set forth in chapter 15-174.

[Eff **NOV 15 2004**] (Auth: HRS §§201G-4, 201G-361)
(Imp: HRS §201G-361)

§17-2010-20 Rental agreement. (a) A five-year revocable permit as provided by the corporation shall constitute the rental agreement for ~~units under~~ this rental program and shall set forth the names of the authorized occupants, security deposit requirements, monthly rent amount, conditions of occupancy ("house rules"), and obligations of the parties, including performance of minor maintenance and major maintenance. The revocable permit shall also state that any ongoing or repeated violations of the house rules established or chronic delinquencies may result in eviction from the unit, with forfeiture of rental amounts paid to date.

(b) The revocable permit shall be executed by the responsible members of the tenant family and the administrator.

(c) Amendments to the revocable permit shall be in writing and executed by the parties involved and attached to the revocable permit.

(d) In the event of the death of the participants who have executed a contract to participate in the rent-to-own program, the surviving immediate family members shall have the option to enter into a new contract provided that they meet the eligibility

requirements of the program. Any credits accrued to the original participant shall be credited to the surviving qualified participant. [Eff **NOV 15 2004**] (Auth: HRS §§201G-4, 201G-361) (Imp: HRS §201G-361)

§17-2010-21 Program administration. Except as otherwise provided by law or rule, the rental program under this chapter shall be administered in accordance with chapter 521, HRS, the residential landlord-tenant code. [Eff **NOV 15 2004**] (Auth: HRS §201G-4) (Imp: HRS §201G-361)

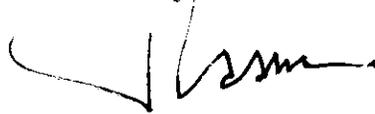
DEPARTMENT OF HUMAN SERVICES

The repeal of chapter 15-172 and the adoption of chapter 17-2010, Hawaii Administrative Rules, on the Summary Page dated October 21, 2004, was adopted on October 21, 2004 following public hearings held on September 14, 2004 after public notice was given in the Honolulu Star-Bulletin, The Garden Island, The Maui News, West Hawaii Today, and Hawaii Herald-Tribune newspapers on August 12, 2004.

The repeal and adoption shall take effect ten days after filing with the Office of the Lieutenant Governor.



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LINDA LINGLE
Governor
State of Hawaii
Date: **NOV 3 2004**

04 NOV -4 NO:37

Filed

OFFICE OF THE
LIEUTENANT GOVERNOR

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