

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT,
AND TOURISM

Adoption of Chapter 15-____
Hawai'i Administrative Rules

Month Day, Year

1. Chapter 15-____, Hawai'i Administrative Rules,
entitled "Financing for Condominiums", is adopted to
read as follows:

HAWAI'I ADMINISTRATIVE RULES

TITLE 15

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT,
AND TOURISM

SUBTITLE ____

HAWAI'I GREEN INFRASTRUCTURE AUTHORITY

CHAPTER 15-____

FINANCING FOR CONDOMINIUMS
Subchapter 1 General Provisions

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- \$15-____-2 Definitions

Subchapter 2 Funding Sources

- \$15-____-3 Reimbursable general obligation bonds
- \$15-____-4 Hurricane reserve trust fund
- \$15-____-5 Condominium loan revolving fund

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loan program

- §15-__-7 Types of loans; policy on direct and participation loans
- §15-__-8 Eligibility requirements
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- §15-__-16 Community development financial institutions
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- §15-__-23 Participating lender reports
- §15-__-24 Authority reports
- §15-__-25 State liability prohibited

SUBCHAPTER 1

GENERAL PROVISIONS

§15-__-1 Purpose. The purpose of this chapter is to provide rules governing the implementation of

Financing for Condominiums through Direct Financing and Credit Enhancement Through Loan Loss Reserves, to be known as the Condominium Loan Program and Condominium Loan Loss Reserves Program authorized by Act 296, Session Laws of Hawai'i 2025.

[Eff _____] (Auth: HRS §514D-2; Session Laws of Hawai'i 2025, Act 296, §19) (Imp: HRS §§514D-3, 11; Session Laws of Hawai'i 2025, Act 296, §19)

§15-__-2 Definitions. As used in this chapter, unless a different meaning clearly appears in the context:

"Authority" means the Hawai'i green infrastructure authority as established under section 196-63, Hawai'i Revised Statutes.

"Board" means the board of directors of the Hawai'i green infrastructure authority.

"Community development financial institution" means an entity certified as a community development financial institution by the United States Department of the Treasury's Community Development Financial Institutions Fund.

"Complete loan applications" means the completed application form and all other required documents and financial information required to decision a loan.

"Condominium association" has the same meaning as "association" as defined in section 514B-3, Hawai'i Revised Statutes.

"Condominium loan revolving fund" means the fund established pursuant to section 514D-4, Hawaii Revised Statutes, in which monies can rotate out for eligible expenditures and in for loan repayments and interest income.

"Condominium project" has the same meaning as "project" as defined in section 514B-3, Hawai'i Revised Statutes.

"Department" means the department of business, economic development, and tourism.

"Director" means the director of the department of business, economic development, and tourism.

"Financial institution" includes a bank, trust company, banking association, savings and loan association, mortgage company, investment bank, credit union, or nontraditional financial institution.

"Independent accountant" means independent certified public accountant. The concept of independence shall be defined by rules promulgated by the American Institute of Certified Public Accountants.

"Loan" includes a line of credit.

"Participating community development financial institution" means a community development financial institution participating in the condominium loan program or condominium loan loss reserves program.

"Participating lender" means a financial institution, as defined in section 412:1-109, Hawai'i Revised Statutes, and includes federal or state-chartered banks, savings associations, federally certified community development financial institutions and credit unions or private or public lenders approved by the authority participating in the Condominium Loan Program or Condominium Loan Loss Reserves Program.

"Qualified condominium association" means a condominium association that meets the eligibility requirements under section 15-__-6 and rules adopted by the authority.

"Reserve account" means an account established for a participating lender in which money is deposited to serve as a reserve to reimburse a participating lender for losses on loans enrolled in the Condominium Loan Loss Reserves Program.

"State" means the State of Hawai'i.

[Eff] (Auth: HRS §514D-2; SLH 2025, Act 296, §19) (Imp: HRS §514D-1; SLH 2025, Act 296, §19)

SUBCHAPTER 2

FUNDING SOURCES

§15-__-3 Reimbursable general obligation bonds.

(a) The director of finance shall issue reimbursable general obligation bonds, with a term no less than twenty years, in the sum of \$20,000,000, upon the earlier of the following events:

- (1) Governor Green signs the final version of Financing for Condominiums Administrative Rules; or
- (2) By June 15, 2026.

(b) Bond proceeds of \$20,000,000 shall be deposited during fiscal year 2025-2026, into the condominium loan revolving fund, to be lent to eligible condominium associations. [Eff _____]
(Auth: HRS §514D-2; SLH 2025, Act 296, §19) (Imp: SLH 2025, Act 296, §21)

§15-__-4 Hurricane reserve trust fund. (a)

The insurance commissioner shall transfer the sum of \$5,000,000 from the hurricane reserve trust fund to the condominium loan revolving fund, upon the earlier of the following events:

- (1) The governor signs the final version of Financing for Condominiums Administrative Rules; or
- (2) By June 15, 2026.

(b) Funds from the hurricane reserve trust fund shall be used for payment of debt service on reimbursable general obligation bonds, authorized and issued to capitalize the Condominium Loan Program and Condominium Loan Loss Reserve Program.
[Eff _____] (Auth: HRS §514D-2; SLH 2025, Act 296, §19) (Imp: SLH 2025, Act 296, §22)

§15-__-5 Condominium loan revolving fund. (a)

A condominium loan revolving fund shall be established in the state treasury, into which shall be deposited:

- (1) Moneys from the reimbursable general obligation bonds in the sum of \$20,000,000;

- (2) Moneys from the hurricane reserve trust fund in the sum of \$5,000,000;
 - (3) Moneys received as repayment of loans and interest payments from condominium association borrowers;
 - (4) Appropriations made by the Legislature to the condominium loan revolving fund; and
 - (5) All interest and investment earnings credited to the assets of the fund.
- (b) Moneys in the condominium loan revolving fund shall be expended by the authority for:
- (1) The purposes of providing loans and credit enhancements to finance qualified condominium associations;
 - (2) Paying bondholders; and
 - (3) Paying administrative costs of the Condominium Loan Program. [Eff _____]
(Auth: HRS §514D-2; SLH 2025, Act 296, §19)
(Imp: HRS §514D-4; SLH 2025, Act 296, §19)

SUBCHAPTER 3

DIRECT FINANCING

- §15-__-6 Purpose of loans under the Condominium Loan Program.** (a) The authority may make loans or refinance existing loans under the Condominium Loan Program to qualified condominium associations for maintenance or repair projects, including:
- (1) Installing, repairing, or replacing fire sprinklers or other fire safety measures;
 - (2) Repairing or replacing the pipes;
 - (3) Repairing or replacing the roof; or
 - (4) Any other maintenance or repairs the authority deems qualified for the loans that will lower the risk profile of the condominium project.
- (b) Pursuant to chapter 104, HRS, the State Wage and Hours Laws, the condominium association's contractor must pay prevailing wages for any projects

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in excess of \$2,000, if the loan proceeds are used for the construction or installation of eligible improvements identified in subsection (a).

[Eff _____] (Auth: HRS §514D-2; SLH 2025, Act 296, §19) (Imp: HRS §514D-3, S; SLH 2025, Act 296, §19)

§15-__-7 Types of loans; policy on direct and participation loans. The authority may make two types of loans:

- (1) Direct loans.
 - (A) Direct loans may be made by the authority to an eligible borrower; or
 - (B) Direct loans may be made in conjunction with a participating lender as a separate loan with different loan terms (co-lending); and
- (2) Participation loans made in conjunction with a participating lender where the authority purchases a portion of the loan made by the participating lender, or where the participating lender purchases a portion of the loan made by the authority if the applicant is unable to obtain the entire loan from a financial institution.

[Eff _____] (Auth: HRS §514D-2; SLH 2025, Act 296, §19) (Imp: HRS §§514D-2, 4, 5, 11; SLH 2025, Act 296, §19)

§15-__-8 Eligibility requirements.

Consideration for loans under this chapter shall be extended only to applicants who meet the following requirements:

- (1) The applicant is a condominium association;
- (2) The applicant must have received at least one letter from a financial institution declining its eligibility for a loan to address maintenance or insurance coverage issues;

- (3) The applicant furnishes information to show that the applicant has the ability to repay the loan;
- (4) The purpose of the loan is in conformity with the provisions of section 15-__-6;
- (5) The applicant agrees to increase its replacement reserves fund balance over the term of the loan; and
- (6) The applicant agrees as part of the loan covenants to obtain full replacement property and hurricane insurance coverage upon the completion of the repair and maintenance work. [Eff]
(Auth: HRS §514D-2; SLH 2025, Act 296, §19)
(Imp: HRS §§514D-2, 6; SLH 2025, Act 296, §19)

§15-__-9 Application procedure. Before applying to the authority, an applicant shall make every effort to obtain a loan from a financial institution. If the applicant is unable to obtain a loan from a financial institution, the applicant may apply with the authority or a participating lender.

- (1) The applicant shall utilize the authority's or participating lender's loan application form;
- (2) All documents required for submission of a complete loan application must be submitted with the loan application. [Eff] (Auth: HRS §514D-2; SLH 2025, Act 296, §19) (Imp: HRS §§514D-2, 4, 5, 6; SLH 2025, Act 296, §19)

§15-__-10 Consideration and review of applications. (a) Only complete loan applications will be considered for financing. The authority shall not approve a loan unless the applicant provides reasonable assurance that the loan can and will be repaid pursuant to its terms. Reasonable assurance of repayment shall be based upon consideration of the applicant's record of past audited statement of cash

receipts and disbursements; operating and reserve fund balances; aging of receivables; commitments, contingencies, reserve studies and other documents.

(b) Complete applications meeting the underwriting requirements of the Condominium Loan Program, which will be included in the Condominium Loan Program Guide and available on hawai'i green infrastructure authority's website, received on a first come, first served basis, shall be reviewed and processed by authority staff and decisioned per the Condominium Loan Program Guide.

(c) An applicant shall not be required to pay any fees in connection with submitting an application, but shall be required to pay typical closing costs, including title searches, loan documentation costs, loan fees, and recording costs, for an approved loan. [Eff _____] (Auth: HRS §514D-2; SLH 2025, Act 296, §19) (Imp: HRS §§514D-2, 5, 6; SLH 2025, Act 296, §19)

§15-__-11 Preferences and priorities in granting loans. In granting loans, the authority shall give preference to financing necessary repairs and maintenance (over refinancing an existing loan). However, the authority may need to refinance a portion of an existing loan to provide additional loan capital to finance necessary repairs and maintenance if the existing lender does not consent to the applicant's requested loan. Additionally, the authority's priority shall be to finance all the necessary improvements needed to increase the condominium association's ability to obtain full insurance coverage. [Eff _____] (Auth: HRS §514D-2; SLH 2025, Act 296, §19) (Imp: HRS §§514D-2, 5, 6; SLH 2025, Act 296, §19)

§15-__-12 Interest rate; maximum loan term; and deadline for issuing loans. (a) The interest rate shall be determined and pegged to the rate charged for the reimbursable general obligation bond. The

interest rate for the Condominium Loan Program shall be no less than two hundred basis points over the bond rate. The maximum term of the loan shall not exceed twenty years. No new loans under the Condominium Loan Program shall be issued after June 30, 2027 from appropriations under SLH 2025, Act 296. This deadline does not apply for any subsequent appropriations or funding sources.

(b) If the funding source does not have to be repaid (e.g. general or capital improvement project funds), then the interest rate for the Condominium Loan Program shall be two per cent per annum, fixed. [Eff _____] (Auth: HRS §514D-2; SLH 2025, Act 296, §19) (Imp: HRS §§514D-2, 5, 6; SLH 2025, Act 296, §19)

§15-__-13 Annual audited financial reports required of borrowers; other reports as needed.

During the life of a loan, each borrower shall submit annually to the authority audited financial statements no later than thirty days following the completion of the audit. Additional information, including aging of receivables, cash balance reports, unit delinquency reports, etc. may be required by the authority, on an as needed basis. [Eff _____] (Auth: HRS §514D-2; SLH 2025, Act 296, §19) (Imp: HRS §§514D-2, 5, 6; SLH 2025, Act 296, §19)

§15-__-14 Default. Loans that are three installments in arrears shall be considered in default. The borrower shall also be considered to be in default for failure to comply with any term or condition of the loan authorization, loan agreement, or other loan documents. If the borrower is in default, the whole of the loan, at the option of the authority, may become due and payable. The authority may utilize any remedy provided by law. Any expense incurred by the authority for recovery of moneys shall be borne by the borrower.

Loans in default shall be referred to the state attorney general for collection and action if the authority is not able to collect the past due payments. [Eff _____] (Auth: HRS §514D-2; SLH 2025, Act 296, §19) (Imp: HRS §§514D-2, 5, 6; SLH 2025, Act 296, §19)

SUBCHAPTER 4

CREDIT ENHANCEMENT THROUGH LOAN LOSS RESERVE

§15-__-15 Purpose of Condominium Loan Loss Reserves Program. (a) The Condominium Loan Loss Reserves Program is to provide a credit enhancement to improve the credit risk profile of the borrowing condominium association, and increase the likelihood of being approved for a loan by a participating community development financial institution.

(b) A participating community development financial institution may request up to five per cent of the original loan or line of credit amount to be held in a reserve account to take first losses in a charge-off event. The reserve funds for all enrolled loans shall be pooled and may cover up to seventy-five per cent of a charged-off loan. Actual first loss offsets shall be the lesser of the funds on deposit in the participating lender's reserve account or seventy-five per cent of the loan balance being charged off. [Eff _____] (Auth: HRS §514D-2; SLH 2025, Act 296, §19) (Imp: HRS §§514D-2, 11, 12; SLH 2025, Act 296, §19)

§15-__-16 Community development financial institutions. Any community development financial institution that is approved by the authority may participate in the Community Development Loan Loss Reserves Program as a participating community development financial institution. [Eff _____]

(Auth: HRS §514D-2; SLH 2025, Act 296, §19) (Imp: HRS §§514D-2, 12; SLH 2025, Act 296, §19)

§15-__-17 Types of loans. Loans made to condominium associations by participating community development financial institutions shall be to perform maintenance and necessary repairs, at competitive rates and terms. [Eff _____] (Auth: HRS §514D-2; SLH 2025, Act 296, §19) (Imp: HRS §§514D-2, 11; SLH 2025, Act 296, §19)

§15-__-18 Eligibility requirements. (a) Participating community development financial institutions shall enter into a participation agreement with the authority that establishes the terms and conditions under which the authority will make contributions to the participating community development financial institution's reserve account and specifies the criteria for a loan to qualify for credit enhancements.

(b) Consideration for loans under this chapter shall be extended only to applicants who meet the following requirements:

- (1) The applicant is a condominium association, as defined;
- (2) The applicant must have received at least one letter from a financial institution declining its eligibility for a loan to address maintenance or insurance coverage issues;
- (3) The purpose of the loan is in conformity with provisions of section 15-__-6; and
- (4) The applicant agrees to obtain full replacement property and hurricane insurance coverage upon the completion of the repair and maintenance work.

[Eff _____] (Auth: HRS §514D-2; SLH 2025, Act 296) (Imp: HRS §§514D-2, 6, 12; SLH 2025, Act 296, §19)

§15-__-19 Loan loss reserve account. (a)

Funds from the Condominium Loan Revolving Fund shall be used to make deposits into a reserve account at a depository participating community development financial institution's institution. For non-depository participating community development financial institutions, the reserve account shall be opened at a Hawai'i financial institution selected by the non-depository participating community development financial institution. The authority shall make a contribution equal to five per cent of the loan amount to the reserve account to support eligible loans made to condominium associations. The reserve account shall be used by the authority to cover first losses arising from a default of the loan made by the participating community development financial institution.

(b) All of the money, including interest earned, in a reserve account shall be the property of the State, subject to the terms of the participation agreement with the participating community development financial institution.

(c) Funds shall be withdrawn by the authority from a participating community development financial institution's reserve account and transferred to the condominium loan revolving fund, as follows:

- (1) On an annual basis, reserve account deposit balances in excess of five per cent of the outstanding loan balances. For lines of credit, the five per cent loan loss reserve balance will be based on the amount of the line of credit (not the balance outstanding);
- (2) On an annual basis, interest earned on the reserve account;
- (3) Upon determination that the participating community development financial institution is no longer eligible to participate or withdraws its participation in the Loan Loss Reserves Program; and
- (4) When an enrolled loan is paid in full.

[Eff _____] (Auth: HRS §514D-2; SLH 2025, Act 296, §19) (Imp: HRS §§514D-2, 12, 13; SLH 2025, Act 296, §19)

§15-__-20 Annual fee. For as long as the loan is outstanding or as long as the participating community development financial institution requires a credit enhancement to support the loan, an annual fee will be assessed equal to fifty basis points of the cash balance in the loan loss reserve account. The participating community development financial institution may recover all or part of this fee from the borrower. The revenue shortfall between the bond interest rate paid to bondholders and the annual fee collected from participating community development financial institutions shall be covered with funds from the hurricane reserve trust fund.

[Eff _____] (Auth: HRS §514D-2; SLH 2025, Act 296, §19) (Imp: HRS §§514D-2, 12; SLH 2025, Act 296, §19)

§15-__-21 Application procedure. Condominium associations shall apply directly to participating community development financial institutions. During the underwriting process, if a participating community development financial institution determines that this credit enhancement is needed to support an eligible loan, the participating community development financial institution will submit an enrollment form and other required information to the authority. The authority will review the application for Loan Loss Reserve eligibility and enrollment into the program.

[Eff _____] (Auth: HRS §514D-2; SLH 2025, Act 296, §19) (Imp: HRS §§514D-2, 12; SLH 2025, Act 296, §19)

§15-__-22 Interest rate, maximum loan term; and deadline for loan loss reserve coverage. (a) The interest rate and term of the loan shall be determined by the participating community development financial

institution. Participating community development financial institutions may issue loans after June 30, 2027, however, all loan loss reserve coverage will expire prior to the last payment of the general obligation bond and said funds shall be applied to bond repayment.

(b) If the funding source does not have to be repaid (e.g. general funds or capital improvement project funds), then loan loss reserve coverage can be extended to the maturity of the loan it supports.

[Eff _____] (Auth: HRS §514D-2; SLH 2025, Act 296, §19) (Imp: HRS §§514D-2, 12; SLH 2025, Act 296, §19)

§15-__-23 Participating lender reports. The participating community development financial institution shall submit a report to the authority on an annual basis, which includes the following:

- (1) Information on the outstanding principal balances of enrolled loans, loan losses and any other information on the loan that the authority considers appropriate;
- (2) The participating community development financial institution's annual audited financial statement; and
- (3) Information on the status of the condominium associations' maintenance and repair projects. [Eff _____] (Auth: HRS §514D-2; SLH 2025, Act 296, §19) (Imp: HRS §§514D-2, 16; SLH 2025, Act 296, §19)

§15-__-24 Authority reports. (a) The authority shall include in its annual report to the governor and legislature, a status update on the Condominium Loan and Condominium Loan Loss Reserves Programs.

(b) The condominium loan revolving fund shall be included in the authority's annual financial audit by an independent accountant, a copy of which shall be

provided to the department of business, economic development, and tourism and the legislature.

[Eff _____] (Auth: HRS §514D-2; SLH 2025, Act 296, §19) (Imp: HRS §§514D-7, 17; SLH 2025, Act 296, §19)

§15-__-25 State liability prohibited. Except for the funds available in the participating community development financial institution's reserve account, the State shall not be liable to any participating community development financial institution for payment of principal, interest or any late charges on a loan made by a participating community development financial institution to a qualified condominium association. [Eff _____] (Auth: HRS §514D-2; SLH 2025, Act 296, §19) (Imp: HRS §§514D-2, 18; SLH 2025, Act 296, §19)

2. The adoption of chapter 15-____, Hawai'i 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, Hawai'i Revised Statutes, which were adopted on Month Day, Year, and filed with the Office of the Lieutenant Governor.

James Kunane Tokioka, Chair
Hawai'i Green Infrastructure
Authority, Board of
Directors

APPROVED AS TO FORM:

Deputy Attorney General