

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

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

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

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

8 (1) The director of finance or the director's designee,
9 who shall serve as chairperson of the board;

10 (2) The director of human services or the director's
11 designee;

12 (3) The director of commerce and consumer affairs or the
13 director's designee;

14 (4) A representative of employers, to be appointed by the
15 governor;

16 (5) A representative with experience in the field of
17 investments, to be appointed by the governor;

18 (6) A representative of an association representing
19 employees, to be appointed by the governor;



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

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

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

10 (d) The term of office of each member of the board
11 appointed by the governor shall be four years, but the members
12 shall serve at the pleasure of the governor. A member shall be
13 eligible for reappointment. If there is a vacancy for any
14 reason, the governor shall make an appointment to become
15 immediately effective for the unexpired term. The senate member
16 shall serve at the pleasure of the president of the senate. The
17 member of the house of representatives shall serve at the
18 pleasure of the speaker of the house of representatives. The
19 directors of finance, human services, and commerce and consumer
20 affairs, or their designees, shall serve in an ex officio
21 capacity.



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

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

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

9 § -3 Duties of the board. The board shall:

10 (1) Establish, implement, and maintain the individual
11 housing accounts savings program pursuant to section
12 -4;

13 (2) Adopt rules pursuant to chapter 91 for the general
14 administration of the program as provided in section
15 -5;

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



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



1 (7) Develop and implement an outreach plan to gain input
2 and disseminate information regarding the plan and
3 individual housing account savings in general.

4 **§ -4 Establishment of the individual housing accounts**
5 **savings program.** (a) There is established the individual

6 housing accounts savings program to be administered by the
7 board. The program shall:

- 8 (1) Allow employees in the State to contribute to an
9 account established under the program through payroll
10 deduction;
- 11 (2) Require an employer to offer its employees the
12 opportunity to contribute to an account in the program
13 through payroll deductions;
- 14 (3) Provide for automatic enrollment of employees and
15 allow employees to opt out of the program;
- 16 (4) Offer a default contribution rate set by the board;
- 17 (5) Offer default escalation of contribution levels that
18 can be increased or decreased within the limits
19 established by the board;



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



1 (15) Provide that the investment administrator for the
2 program shall be the trustee of all contributions and
3 earnings on amounts contributed to accounts
4 established under the program;

5 (16) Not impose on employers any duties that are otherwise
6 prohibited under state or federal law;

7 (17) Keep administration fees in the program low; and

8 (18) Allow the use of private sector partnerships to
9 administer and invest the contributions to the program
10 under the supervision and guidance of the board.

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

16 § -5 **Rules.** The board shall adopt rules pursuant to
17 chapter 91 necessary for the purposes of this chapter.

18 § -6 **Confidentiality.** Individual housing account
19 information for accounts under this program, including but not
20 limited to names, addresses, telephone numbers, personal
21 identification information, amounts contributed, and earnings on



1 amounts contributed, shall be confidential and shall be
2 maintained as confidential:

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

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

10 § -7 Individual housing accounts savings program

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

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

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

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

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



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

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

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

12 SECTION 2. Section 235-5.5, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "**§235-5.5 Individual housing accounts.** (a) There shall
15 be allowed as a deduction from gross income the amount, not to
16 exceed \$5,000, paid in cash during the taxable year by an
17 individual taxpayer to an individual housing account established
18 for the individual's benefit to provide funding for the purchase
19 of the individual's first principal residence[-] or to provide
20 assistance during economic hardships, for capital improvements
21 for homeownership, cemetery and mortuary services, or senior



1 housing. A deduction not to exceed \$10,000 shall be allowed for
2 a married couple filing a joint return. No deduction shall be
3 allowed on any amounts distributed less than three hundred
4 sixty-five days from the date on which a contribution is made to
5 the account. Any deduction claimed for a previous taxable year
6 for amounts distributed less than three hundred sixty-five days
7 from the date on which a contribution was made shall be
8 disallowed and the amount deducted shall be included in the
9 previous taxable year's gross income and the tax reassessed. In
10 addition, the taxpayer shall pay a ten per cent penalty on any
11 amounts distributed less than three hundred sixty-five days from
12 the date on which the amounts were made as a contribution. The
13 interest paid or accrued within the taxable year on the account
14 shall not be included in the individual's gross income. For
15 purposes of this section, the term "first principal residence"
16 means a residential property purchased with the payment or
17 distribution from the individual housing account which shall be
18 owned and occupied as the only home by an individual who did not
19 have any interest in, individually, or whose spouse did not have
20 any interest in, if the individual is married, a residential



1 property within the last five years of opening the individual
2 housing account.

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

8 The amounts paid in cash allowable as a deduction under
9 this section to an individual for all taxable years shall not
10 exceed \$25,000, excluding interest paid or accrued. In the case
11 of married individuals having separate individual housing
12 accounts, the sum of the separate accounts and the deduction
13 under this section shall not exceed \$25,000, excluding interest
14 paid or accrued thereon.

15 (b) There shall be allowed as a deduction from gross
16 income the amount, not to exceed \$ _____, paid in cash
17 during the taxable year by an individual taxpayer to an
18 individual housing account established for the individual's
19 benefit to provide funding for the first month's rent or a
20 rental deposit on a dwelling place that is to be used by the
21 individual or the individual's immediate family as the principal



1 residence, or to provide funding for downpayment assistance or
2 closing costs on a principal residence. No deduction shall be
3 allowed on any amounts distributed within twenty-four months
4 from the date on which the first contribution is made to the
5 account. The interest paid or accrued within the taxable year
6 on the account shall not be included in the individual's gross
7 income.

8 If the individual for whose benefit the individual housing
9 account was established uses the account as provided by this
10 subsection with the distribution from the individual housing
11 account, the individual shall report _____ of the total
12 distribution from the individual housing account used to obtain
13 the rental housing or provide downpayment assistance or closing
14 costs as gross income in the taxable year in which the
15 distribution is completed and in each taxable year thereafter
16 until all of the distribution has been included in the
17 individual's gross income.

18 [~~(b)~~] (c) For purposes of this section, the term
19 "individual housing account" means a trust created or organized
20 in Hawaii for the exclusive benefit of an individual, or, in the
21 case of a married individual, for the exclusive benefit of the

1 individual and spouse jointly, but only if the written governing
2 instrument creating the trust meets the following requirements:

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

7 (2) The trustee is a bank, a savings and loan association,
8 a credit union, [~~or~~] a depository financial services
9 loan company, or a community development financial
10 institution, chartered, certified, licensed, or
11 supervised under federal or state law, whose accounts
12 are insured by the Federal Deposit Insurance
13 Corporation, the National Credit Union Administration,
14 or any agency of this State or any federal agency
15 established for the purpose of insuring accounts in
16 these financial institutions. The financial
17 institution must actively make residential real estate
18 mortgage loans in Hawaii;

19 (3) The assets of the trust shall be invested only in
20 fully insured savings or time deposits. Funds held in
21 the trust may be commingled for purposes of



1 investment, but individual records shall be maintained
2 by the trustee for each individual housing account
3 holder that show all transactions in detail;

4 (4) The entire interest of an individual or married couple
5 for whose benefit the trust is maintained shall be
6 distributed to the individual or couple ~~[not]~~ no later
7 than one hundred twenty months after the date on which
8 the first contribution is made to the trust;

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

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

20 (i) Mortgagor, construction contractor, or other
21 vendor of the property purchased; or



1 (ii) Landlord or landlord's assignee or owner or
2 owner's assignee; or
3 (B) Withholds an amount equal to ten per cent of the
4 amount withdrawn from the account and remits this
5 amount to the director within ten days after the
6 date of the withdrawal. The amount withheld
7 shall be applied to the liability of the taxpayer
8 under subsections [~~(e)~~] (d) and [~~(e)†~~] (f); and
9 (6) If any amounts are distributed before the expiration
10 of three hundred sixty-five days from the date on
11 which a contribution is made to the account, the
12 trustee shall so notify in writing the taxpayer and
13 the director. If the trustee makes the verification
14 required in paragraph (5) (A), then the department
15 shall disallow the deduction under subsection (a) and
16 subsections [~~(e)~~, ~~(e)~~, and ~~(f)~~] (d), (f), and (g)
17 shall not apply to that amount. If the trustee
18 withholds an amount under paragraph (5) (B), then the
19 department shall disallow the deduction under
20 subsection (a) and subsection [~~(e)~~] (f) shall apply,
21 but subsection [~~(e)~~] (d) shall not apply.

1 ~~(e)~~ (d) Any contributions paid or distributed out of an
2 individual housing account shall be included in gross income by
3 the individual for whose benefit the account was established for
4 the taxable year in which the payment or distribution is
5 received, unless the amount is used exclusively in connection
6 with the purchase of the first principal residence in Hawaii, to
7 provide assistance during economic hardships, for capital
8 improvement for homeownership, cemetery and mortuary services,
9 or senior housing, or for the uses authorized under subsection
10 (b) for the individual for whose benefit the account was
11 established.

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



1 ~~(e)~~ (f) If a distribution from an individual housing
2 account to an individual for whose benefit the account was
3 established is made and not used in connection with the purchase
4 of the first principal residence in Hawaii, to provide
5 assistance during economic hardships, for capital improvement
6 for homeownership, cemetery and mortuary services, or senior
7 housing, or for the uses authorized under subsection (b) for the
8 individual, the tax liability of the individual under this
9 chapter for the taxable year in which the distribution is
10 received shall be increased by an amount equal to ten per cent
11 of the amount of the distribution which is includable in the
12 individual's gross income for the taxable year.

13 If, during any taxable year, the individual uses the
14 account or any portion thereof as security for a loan, the
15 portion so used shall be treated as if it had been distributed
16 to that individual.

17 ~~(f)~~ (g) If the individual for whose benefit the
18 individual housing account was established purchases a
19 residential property in Hawaii with the distribution from the
20 individual housing account:



- 1 (1) Before January 1, 1990, and if the individual sells in
2 any manner or method or by use of any instrument
3 conveying or transferring the residential property,
4 the gross income of the individual under this chapter
5 for the taxable year in which the residential property
6 is sold, conveyed, or transferred, whichever is
7 applicable, shall include an amount equal to the
8 amount of the distribution from the individual housing
9 account, and in addition, the gross income of the
10 individual shall be increased by an amount equal to
11 ten per cent of the total distribution from the
12 individual housing account; or
- 13 (2) After December 31, 1989, the individual shall report
14 one-tenth of the total distribution from the
15 individual housing account used to purchase the
16 residential property as gross income in the taxable
17 year in which the distribution is completed and in
18 each taxable year thereafter until all of the
19 distribution has been included in the individual's
20 gross income at the end of the tenth taxable year
21 after the purchase of the residential property. If



1 the individual sells in any manner or method or by use
2 of any instrument conveying or transferring the
3 residential property, the gross income of the
4 individual under this chapter for the taxable year in
5 which the residential property is sold, conveyed, or
6 transferred, whichever is applicable, shall include an
7 amount equal to the amount of the distribution from
8 the individual housing account not previously reported
9 as gross income, and in addition, the tax liability of
10 the individual shall be increased by an amount equal
11 to ten per cent of the total distribution from the
12 individual housing account. If the individual sells
13 the residential property in any manner as provided in
14 this paragraph after all of the distribution has been
15 included in the individual's gross income at the end
16 of the tenth taxable year after the purchase of the
17 residential property, the tax liability of the
18 individual shall not be increased by an amount equal
19 to ten per cent of the total distribution from the
20 individual housing account.



1 An individual who purchased a residential property in Hawaii
2 with the distribution from an individual housing account before
3 January 1, 1990, who is subject to paragraph (1) may elect to
4 report as provided in paragraph (2). The election shall be made
5 before January 1, 1991. If the individual makes the election,
6 the individual shall report one-tenth of the total distribution
7 from the individual housing account as gross income in the
8 taxable year in which the election occurs and in each taxable
9 year thereafter until all of the distribution has been included
10 in gross income as provided by paragraph (2). If the individual
11 making the election sells the residential property in any manner
12 as provided in paragraph (2), then the individual shall include
13 as income the amount of the distribution not previously reported
14 as income and increase the individual's tax liability as
15 provided in the second sentence of paragraph (2), except when
16 the third sentence of paragraph (2) applies.

17 In the alternative, any individual subject to paragraph (2)
18 who established the individual housing account before January 1,
19 1990, may elect within one year after the date of purchase, to
20 be subject to paragraph (1).



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

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

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

9 subject to the following:

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

13 Upon the death of an individual for whose benefit an
14 individual housing account has been established, the funds in
15 the account shall be payable to the estate of the individual;
16 provided that if the account was held jointly by the decedent
17 and a spouse of the decedent, the account shall terminate and be
18 paid to the surviving spouse; or, if the surviving spouse so
19 elects, the spouse may continue the account as an individual
20 housing account. Upon the total disability of an individual for
21 whose benefit an individual housing account has been



1 established, the individual or the individual's authorized
2 representative may elect to continue the account or terminate
3 the account and be paid the assets; provided that if the account
4 was held jointly by a totally disabled person and a spouse of
5 that person, then the spouse or an authorized representative may
6 elect to continue the account or terminate the account and be
7 paid the assets.

8 ~~[(h)]~~ (i) If the individual for whose benefit the
9 individual housing account was established subsequently marries
10 a person who has or has had any interest in residential
11 property, the individual's housing account shall be terminated,
12 the funds therein shall be distributed to the individual, and
13 the amount of the funds shall be includable in the individual's
14 gross income for the taxable year in which ~~[such]~~ the marriage
15 took place; provided that the tax liability defined under
16 subsection ~~[(f)]~~ (g) shall not be imposed.

17 (j) A taxpayer may establish an individual housing account
18 in the name of a dependent of the taxpayer upon providing the
19 dependent's birth certificate and social security number to the
20 director of taxation. The individual housing account
21 established pursuant to this section may be opened upon the



1 birth of the dependent. Any contributions to the individual
2 housing account, subject to the limitations in subsection (b),
3 shall be deductible by the taxpayer until the child reaches
4 age _____.

5 The director of taxation shall prepare any forms that may
6 be necessary to establish an individual housing account in the
7 name of a dependent of the taxpayer and may require proof of
8 claim of the dependent.

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

18 (1) The director of taxation may adopt rules pursuant to
19 chapter 91 necessary to effectuate the purposes of this section,
20 including defining the terms "economic hardship" and "capital
21 improvement for home ownership".



1 SECTION 3. There is appropriated out of the general
 2 revenues of the State of Hawaii the sum of \$ or so
 3 much thereof as may be necessary for fiscal year 2021-2022 and
 4 the same sum or so much thereof as may be necessary for fiscal
 5 year 2022-2023 to be deposited into the individual housing
 6 accounts savings program administrative fund.

7 SECTION 4. There is appropriated out of the individual
 8 housing accounts savings program administrative fund the sum of
 9 \$ or so much thereof as may be necessary for fiscal
 10 year 2021-2022 and the same sum or so much thereof as may be
 11 necessary for fiscal year 2022-2023 for administrative and
 12 operating expenses of the individual housing accounts savings
 13 board.

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

16 SECTION 5. Statutory material to be repealed is bracketed
 17 and stricken. New statutory material is underscored.

18 SECTION 6. This Act shall take effect on July 1, 2021.

19

INTRODUCED BY: 



S.B. NO. 26

Report Title:

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

Description:

Establishes the individual housing accounts savings program, board, and administrative fund. Imposes a ten per cent penalty on certain distributions. Allows individual housing accounts for dependent children. Expands authorized uses of individual housing accounts. Appropriates funds.

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