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# A BILL FOR AN ACT

RELATING TO THE INDIVIDUAL HOUSING ACCOUNT PROGRAM.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that the affordable  
2 housing crisis continues to be one of the State's most  
3 significant and challenging social problems and is a critical  
4 issue for many Hawaii residents. Considering the current median  
5 home value is estimated at between \$820,000 and \$977,000, the  
6 allowed contribution requires a minimum of eight years of  
7 savings. As the cost of housing continues to rise, the State  
8 must assist residents in finding methods of increasing the  
9 availability of homeownership. Saving for a down-payment on a  
10 home loan continues to be a barrier for many Hawaii residents  
11 with few programs available to assist in this endeavor.

12           Contributions to the first-time home buyer savings account  
13 will reduce taxable income. This incentivizes first time home  
14 ownership through saving for a down payment and closing costs.  
15 The purpose of this Act is to update the Individual Housing  
16 Accounts statute by increasing the contribution levels, and



1 maximum account levels, to reflect current housing prices more  
2 accurately.

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

5 "§235-5.5 Individual housing accounts. (a) There shall  
6 be allowed as a deduction from gross income the amount, not to  
7 exceed [~~\$5,000~~] \$20,000, paid in cash during the taxable year by  
8 an individual taxpayer to an individual housing account  
9 established for the individual's benefit to provide funding for  
10 the purchase of the individual's first principal residence. A  
11 deduction not to exceed [~~\$10,000~~] \$40,000 shall be allowed for a  
12 married couple filing a joint return. No deduction shall be  
13 allowed on any amounts distributed less than three hundred  
14 sixty-five days from the date on which a contribution is made to  
15 the account. Any deduction claimed for a previous taxable year  
16 for amounts distributed less than three hundred sixty-five days  
17 from the date on which a contribution was made shall be  
18 disallowed and the amount deducted shall be included in the  
19 previous taxable year's gross income and the tax reassessed.  
20 The interest paid or accrued within the taxable year on the  
21 account shall not be included in the individual's gross income.



1 For purposes of this section, the term "first principal  
2 residence" means a residential property purchased with the  
3 payment or distribution from the individual housing account  
4 which shall be owned and occupied as the only home by an  
5 individual who did not have any interest in, individually, or  
6 whose spouse did not have any interest in, if the individual is  
7 married, a residential property within the last five years of  
8 opening the individual housing account.

9 In the case of a married couple filing separate returns,  
10 the sum of the deductions allowable to each of them for the  
11 taxable year shall not exceed [~~\$5,000~~] \$20,000, or [~~\$10,000~~]  
12 \$40,000 for a joint return, for amounts paid in cash, excluding  
13 interest paid or accrued thereon.

14 The amounts paid in cash allowable as a deduction under  
15 this section to an individual for all taxable years shall not  
16 exceed [~~\$25,000~~] \$200,000, excluding interest paid or accrued.  
17 In the case of married individuals having separate individual  
18 housing accounts, the sum of the separate accounts and the  
19 deduction under this section shall not exceed [~~\$25,000~~]  
20 \$200,000, excluding interest paid or accrued thereon.



1 (b) For purposes of this section, the term "individual  
2 housing account" means a trust created or organized in Hawaii  
3 for the exclusive benefit of an individual, or, in the case of a  
4 married individual, for the exclusive benefit of the individual  
5 and spouse jointly, but only if the written governing instrument  
6 creating the trust meets the following requirements:

7 (1) Contributions shall not be accepted for the taxable  
8 year in excess of [~~\$5,000~~] \$20,000 (or [~~\$10,000~~]  
9 \$40,000 in the case of a joint return) or in excess of  
10 [~~\$25,000~~] \$200,000 for all taxable years, exclusive of  
11 interest paid or accrued;

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



- 1           (3) The assets of the trust shall be invested only in  
2           fully insured savings or time deposits. Funds held in  
3           the trust may be commingled for purposes of  
4           investment, but individual records shall be maintained  
5           by the trustee for each individual housing account  
6           holder that show all transactions in detail;
- 7           (4) The entire interest of an individual or married couple  
8           for whose benefit the trust is maintained shall be  
9           distributed to the individual or couple not later than  
10          one hundred twenty months after the date on which the  
11          first contribution is made to the trust;
- 12          (5) Except as provided in subsection (g), the trustee  
13          shall not distribute the funds in the account unless  
14          the trustee:
- 15                (A) Verifies that the money is to be used for the  
16                purchase of a first principal residence located  
17                in Hawaii, and provides that the instrument of  
18                payment is payable to the mortgagor, construction  
19                contractor, or other vendor of the property  
20                purchased; or



1           (B) Withholds an amount equal to ten per cent of the  
2                           amount withdrawn from the account and remits this  
3                           amount to the director within ten days after the  
4                           date of the withdrawal. The amount withheld  
5                           shall be applied to the liability of the taxpayer  
6                           under subsections (c) and (e); and

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

19           (c) Any contributions paid or distributed out of an  
20                          individual housing account shall be included in gross income by  
21                          the individual for whose benefit the account was established for



1 the taxable year in which the payment or distribution is  
2 received, unless the amount is used exclusively in connection  
3 with the purchase of the first principal residence in Hawaii for  
4 the individual for whose benefit the account was established.

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

15 (e) If a distribution from an individual housing account  
16 to an individual for whose benefit the account was established  
17 is made and not used in connection with the purchase of the  
18 first principal residence in Hawaii for the individual, the tax  
19 liability of the individual under this chapter for the taxable  
20 year in which the distribution is received shall be increased by  
21 an amount equal to ten per cent of the amount of the



1 distribution which is includable in the individual's gross  
2 income for the taxable year.

3 If, during any taxable year, the individual uses the  
4 account or any portion thereof as security for a loan, the  
5 portion so used shall be treated as if it had been distributed  
6 to that individual.

7 (f) If the individual for whose benefit the individual  
8 housing account was established purchases a residential property  
9 in Hawaii with the distribution from the individual housing  
10 account [+

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



1           ~~ten per cent of the total distribution from the~~  
2           ~~individual housing account; or~~  
3           (2) ~~After December 31, 1989,~~ the individual shall report  
4           one-tenth of the total distribution from the  
5           individual housing account used to purchase the  
6           residential property as gross income in the taxable  
7           year in which the distribution is completed and in  
8           each taxable year thereafter until all of the  
9           distribution has been included in the individual's  
10          gross income at the end of the tenth taxable year  
11          after the purchase of the residential property. If  
12          the individual sells in any manner or method or by use  
13          of any instrument conveying or transferring the  
14          residential property, the gross income of the  
15          individual under this chapter for the taxable year in  
16          which the residential property is sold, conveyed, or  
17          transferred, whichever is applicable, shall include an  
18          amount equal to the amount of the distribution from  
19          the individual housing account not previously reported  
20          as gross income, and in addition, the tax liability of  
21          the individual shall be increased by an amount equal



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

11 ~~[An individual who purchased a residential property in Hawaii~~  
12 ~~with the distribution from an individual housing account before~~  
13 ~~January 1, 1990, who is subject to paragraph (1) may elect to~~  
14 ~~report as provided in paragraph (2). The election shall be made~~  
15 ~~before January 1, 1991. If the individual makes the election,~~  
16 ~~the individual shall report one-tenth of the total distribution~~  
17 ~~from the individual housing account as gross income in the~~  
18 ~~taxable year in which the election occurs and in each taxable~~  
19 ~~year thereafter until all of the distribution has been included~~  
20 ~~in gross income as provided by paragraph (2). If the individual~~  
21 ~~making the election sells the residential property in any manner~~



1 ~~as provided in paragraph (2), then the individual shall include~~  
2 ~~as income the amount of the distribution not previously reported~~  
3 ~~as income and increase the individual's tax liability as~~  
4 ~~provided in the second sentence of paragraph (2), except when~~  
5 ~~the third sentence of paragraph (2) applies.~~

6 ~~In the alternative, any individual subject to paragraph (2)~~  
7 ~~who established the individual housing account before January 1,~~  
8 ~~1990, may elect within one year after the date of purchase, to~~  
9 ~~be subject to paragraph (1).]~~

10 (g) No tax liability shall be imposed under this section  
11 if:

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

14 (2) Residential property subject to subsection (f) is  
15 transferred by will or by operation of law or sold due  
16 to the death or total disability of an individual or  
17 individual's spouse,

18 subject to the following:

19 An individual shall not be considered to be totally  
20 disabled unless proof is furnished of the total disability [in



1 ~~the form and manner as the director may require]~~ as defined in  
2 §235-1.

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

19       (h) If the individual for whose benefit the individual  
20 housing account was established subsequently marries a person  
21 who has or has had any interest in residential property, the



1 individual's housing account shall be terminated, the funds  
2 therein shall be distributed to the individual, and the amount  
3 of the funds shall be includable in the individual's gross  
4 income for the taxable year in which such marriage took place;  
5 provided that the tax liability defined under subsection (f)  
6 shall not be imposed.

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

16 SECTION 3. Statutory material to be repealed is bracketed  
17 and stricken. New statutory material is underscored.

18 SECTION 4. This Act, upon its approval, shall apply to  
19 taxable years beginning after December 31, 2024.

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# H.B. NO. 1701

INTRODUCED BY: Jim Motta

King

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JAN 18 2024



# H.B. NO. 1701

**Report Title:**

Minority Caucus Package; Individual Housing Account

**Description:**

Updates the Individual Housing Account statute to more accurately reflect the current cost of housing down-payments.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

