
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. As the cost of housing
5 increases, the State must continue to assist residents in
6 finding methods of increasing the availability of homeownership.
7 Saving for a down-payment on a home loan continues to be a
8 barrier for many Hawaii residents with few programs available to
9 assist in this endeavor.

10 The purpose of this Act is to update the Individual Housing
11 Accounts statues (HRSS235-5.5) by increasing the contribution
12 levels, and maximum account levels, to reflect current housing
13 prices more accurately. This will allow taxable income to be
14 reduced by contributions to the first-time home buyer savings
15 account thus encouraging first time home ownership through
16 incentivizing saving for a down payment and closing costs. This
17 incentive acknowledges the significant financial and civic
18 benefits of home ownership for the State.



1 SECTION 2. Section 235-5.5, Hawaii Revised Statutes, is
2 amended to read as follows:
3 **"§235-5.5 Individual housing accounts.** (a) There shall
4 be allowed as a deduction from gross income the amount, not to
5 exceed [~~\$5,000~~] \$15,000, paid in cash during the taxable year by
6 an individual taxpayer to an individual housing account
7 established for the individual's benefit to provide funding for
8 the purchase of the individual's first principal residence. A
9 deduction not to exceed [~~\$10,000~~] \$30,000 shall be allowed for a
10 married couple filing a joint return. No deduction shall be
11 allowed on any amounts distributed less than three hundred
12 sixty-five days from the date on which a contribution is made to
13 the account. Any deduction claimed for a previous taxable year
14 for amounts distributed less than three hundred sixty-five days
15 from the date on which a contribution was made shall be
16 disallowed and the amount deducted shall be included in the
17 previous taxable year's gross income and the tax reassessed.
18 The interest paid or accrued within the taxable year on the
19 account shall not be included in the individual's gross income.
20 For purposes of this section, the term "first principal
21 residence" means a residential property purchased with the



1 payment or distribution from the individual housing account
2 which shall be owned and occupied as the only home by an
3 individual who did not have any interest in, individually, or
4 whose spouse did not have any interest in, if the individual is
5 married, a residential property within the last five years of
6 opening the individual housing account.

7 In the case of a married couple filing separate returns,
8 the sum of the deductions allowable to each of them for the
9 taxable year shall not exceed [~~\$5,000~~] \$15,000, or [~~\$10,000~~]
10 \$30,000 for a joint return, for amounts paid in cash, excluding
11 interest paid or accrued thereon.

12 The amounts paid in cash allowable as a deduction under
13 this section to an individual for all taxable years shall not
14 exceed [~~\$25,000~~] \$200,000, excluding interest paid or accrued.

15 In the case of married individuals having separate individual
16 housing accounts, the sum of the separate accounts and the
17 deduction under this section shall not exceed [~~\$25,000~~]
18 \$200,000, excluding interest paid or accrued thereon.

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



1 married individual, for the exclusive benefit of the individual
2 and spouse jointly, but only if the written governing instrument
3 creating the trust meets the following requirements:

4 (1) Contributions shall not be accepted for the taxable
5 year in excess of [~~\$5,000~~] \$15,000 (or [~~\$10,000~~]
6 \$30,000 in the case of a joint return) or in excess of
7 [~~\$25,000~~] \$200,000 for all taxable years, exclusive of
8 interest paid or accrued;

9 (2) The trustee is a bank, a savings and loan association,
10 a credit union, or a depository financial services
11 loan company, chartered, licensed, or supervised under
12 federal or state law, whose accounts are insured by
13 the Federal Deposit Insurance Corporation, the
14 National Credit Union Administration, or any agency of
15 this State or any federal agency established for the
16 purpose of insuring accounts in these financial
17 institutions. The financial institution must actively
18 make residential real estate 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 later than
7 one hundred twenty months after the date on which the
8 first contribution is made to the trust;

9 (5) Except as provided in subsection (g), the trustee
10 shall not distribute the funds in the account unless
11 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, and provides that the instrument of
15 payment is payable to the mortgagor, construction
16 contractor, or other vendor of the property
17 purchased; or

18 (B) Withholds an amount equal to ten per cent of the
19 amount withdrawn from the account and remits this
20 amount to the director within ten days after the
21 date of the withdrawal. The amount withheld



1 shall be applied to the liability of the taxpayer
2 under subsections (c) and (e); and

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

15 (c) Any contributions paid or distributed out of an
16 individual housing account shall be included in gross income by
17 the individual for whose benefit the account was established for
18 the taxable year in which the payment or distribution is
19 received, unless the amount is used exclusively in connection
20 with the purchase of the first principal residence in Hawaii for
21 the individual for whose benefit the account was established.



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

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

20 If, during any taxable year, the individual uses the
21 account or any portion thereof as security for a loan, the



1 portion so used shall be treated as if it had been distributed
2 to that individual.

3 (f) If the individual for whose benefit the individual
4 housing account was established purchases a residential property
5 in Hawaii with the distribution from the individual housing
6 account[+]

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

19 ~~(2) After December 31, 1989,]~~the individual shall report
20 one-tenth of the total distribution from the
21 individual housing account used to purchase the



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



1 of the tenth taxable year after the purchase of the
2 residential property, the tax liability of the
3 individual shall not be increased by an amount equal
4 to ten per cent of the total distribution from the
5 individual housing account.

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



1 ~~— In the alternative, any individual subject to paragraph (2)~~
2 ~~who established the individual housing account before January 1,~~
3 ~~1990, may elect within one year after the date of purchase, to~~
4 ~~be subject to paragraph (1).]~~

5 (g) No tax liability shall be imposed under this section
6 if:

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

9 (2) Residential property subject to subsection (f) is
10 transferred by will or by operation of law or sold due
11 to the death or total disability of an individual or
12 individual's spouse,

13 subject to the following:

14 An individual shall not be considered to be totally
15 disabled unless proof is furnished of the total disability [~~in~~
16 ~~the form and manner as the director may require~~] as defined in
17 §235-1.

18 Upon the death of an individual for whose benefit an
19 individual housing account has been established, the funds in
20 the account shall be payable to the estate of the individual;
21 provided that if the account was held jointly by the decedent



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

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



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

10 SECTION 3. Statutory material to be repealed is bracketed
 11 and stricken. New statutory material is underscored.

12 SECTION 4. This Act, upon its approval, shall apply to
 13 taxable years beginning after December 31, 2023.

14

INTRODUCED BY:

Jan Melt

JAN 23 2023



H.B. NO. 939

Report Title:

Individual Housing Account; Pre-tax savings account for down-payment.

Description:

Updating the Individual Housing Account (IHA) statutes to more accurately reflect the current cost of housing down-payments.

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