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

10           Contributions to the first-time home buyer savings account  
11 will reduce taxable income. This incentivizes first time home  
12 ownership through saving for a down payment and closing costs.

13           Accordingly, the purpose of this Act is to increase the  
14 maximum annual deduction for contributions into, and maximum  
15 account levels for, individual housing accounts, to reflect  
16 current housing prices more accurately.



1 SECTION 2. Section 235-5.5, Hawaii Revised Statutes, is  
2 amended as follows:

3 1. By amending subsections (a) and (b) to read:

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



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

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

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

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



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

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

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

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



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

5 (4) The entire interest of an individual or married couple  
6 for whose benefit the trust is maintained shall be  
7 distributed to the individual or couple not later than  
8 one hundred twenty months after the date on which the  
9 first contribution is made to the trust;

10 (5) Except as provided in subsection (g), the trustee  
11 shall not distribute the funds in the account unless  
12 the trustee:

13 (A) Verifies that the money is to be used for the  
14 purchase of a first principal residence located  
15 in Hawaii, and provides that the instrument of  
16 payment is payable to the mortgagor, construction  
17 contractor, or other vendor of the property  
18 purchased; or

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



1                   date of the withdrawal. The amount withheld  
 2                   shall be applied to the liability of the taxpayer  
 3                   under subsections (c) and (e); and

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

16          2. By amending subsections (f) and (g) to read:

17          "(f) If the individual for whose benefit the individual  
 18          housing account was established purchases a residential property  
 19          in Hawaii with the distribution from the individual housing  
 20          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) No tax liability shall be imposed under this section  
2 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) is  
6 transferred by will or by operation of law or sold due  
7 to the death or total disability of an individual or  
8 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 SECTION 3. Statutory material to be repealed is bracketed  
9 and stricken. New statutory material is underscored.

10 SECTION 4. This Act shall take effect on July 1, 3000, and  
11 shall apply to taxable years beginning after December 31, 2025.



**Report Title:**

Individual Housing Account; Pre-tax Savings

**Description:**

Increases the maximum annual deduction for contributions to, and maximum account levels for, individual housing accounts. Effective 7/1/3000. (HD2)

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

