

JAN 17 2025

A BILL FOR AN ACT

RELATING TO HOUSING.

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

1 SECTION 1. Chapter 201H, Hawaii Revised Statutes, is
2 amended by adding a new subpart to part III to be appropriately
3 designated and to read as follows:

4 " . Kupuna Home Equity Conversion Mortgage Program

5 **§201H-A Definitions.** For purposes of this subpart:

6 "First mortgage" means such classes of first liens as are
7 commonly given to secure advances on, or the unpaid purchase
8 price of, real estate or a first or subordinate lien on all
9 stock allocated to a dwelling unit in a residential cooperative
10 housing corporation, together with the credit instruments, if
11 any, secured thereby.

12 "Home equity conversion mortgage" means a first mortgage
13 that provides for future payments to the kupuna homeowner based
14 on accumulated equity and which a housing creditor is authorized
15 to make:

16 (1) Under any law of the United States or applicable
17 agency regulations thereafter; or



S.B. NO. 843

(2) Under any law of the State.

"Kupuna homeowner" means any homeowner who is, or whose spouse is, at least sixty-two years of age or older.

"Mortgage" means a:

(1) First mortgage or first lien on real estate, in fee simple;

(2) First or subordinate mortgage or lien on all stock allocated to a dwelling unit in a residential cooperative housing corporation; or

(3) First mortgage or first lien on a leasehold under a lease:

(A) For no less than ninety-nine years that is renewable; or

(B) That has a term that ends no earlier than the minimum number of years, as specified by the corporation, beyond the actuarial life expectancy of the mortgagor or co-mortgagor, whichever is the later date.

§201H-B Insurance authority. The corporation may, upon application by a mortgagee, insure any home equity conversion mortgage eligible for insurance under this subpart and, upon



1 terms and conditions as the corporation may prescribe, make
2 commitments for the insurance of mortgages before the date of
3 their execution or disbursement to the extent that the
4 corporation determines that the mortgages:

5 (1) Have promise for improving the financial situation or
6 otherwise meeting the special needs of kupuna
7 homeowners;

8 (2) Will include appropriate safeguards for mortgagors to
9 offset the special risks of the mortgage; and

10 (3) Have a potential for acceptance in the mortgage
11 market.

12 **§201H-C Eligibility requirements.** To be eligible for
13 insurance under this subpart, a mortgage shall:

14 (1) Have been originated by a mortgagee approved by the
15 corporation;

16 (2) Have been executed by a mortgagor who:

17 (A) Qualifies as a kupuna homeowner;

18 (B) Has received adequate counseling, as provided in
19 section 201H-E by an independent third party that
20 is not, either directly or indirectly, associated
21 with or compensated by a party involved in:



- 1 (i) Originating or servicing the mortgage;
2 (ii) Funding the load underlying the mortgage; or
3 (iii) The sale of annuities, investments, long-
4 term care insurance, or any other type of
5 financial or insurance product;

6 (C) Has received full disclosure, as prescribed by
7 the corporation, of all costs charged to the
8 mortgagor, including costs of estate planning,
9 financial advice, and other services that are
10 related to the mortgage but are not required to
11 obtain the mortgage. The disclosure shall
12 clearly state which charges are required to
13 obtain the mortgage and which are not required to
14 obtain the mortgage; and

15 (D) Meets any additional requirements prescribed by
16 the corporation;

17 (3) Be secured by a dwelling that is designed principally
18 for a one- to four-family residence in which the
19 mortgagor occupies one of the units;



1 (4) Provide that prepayment, in whole or in part, may be
2 made without penalty at any time during the period of
3 the mortgage;

4 (5) Provide for a fixed or variable interest rate or
5 future sharing between the mortgagor and the mortgagee
6 of the appreciation in the value of the property, as
7 agreed upon by the mortgagor and mortgagee;

8 (6) Contain provisions for satisfaction of the obligation
9 satisfactory to the corporation;

10 (7) Provide that the kupuna homeowner shall not be liable
11 for any difference between the net amount of the
12 remaining indebtedness of the kupuna homeowner under
13 the mortgage and the amount recovered by the mortgagee
14 from:

15 (A) The net sales proceeds from the dwelling that are
16 subject to the mortgage, based upon the amount of
17 the accumulated equity selected by the mortgagor
18 to be subject to the mortgage, as agreed upon by
19 the mortgagor and mortgagee; or

20 (B) The insurance benefits paid pursuant to section
21 201H-H(a)(3);



- 1 (8) Contain terms and provisions with respect to
- 2 insurance, repairs, alterations, payment of taxes,
- 3 default reserve, delinquency charges, foreclosure
- 4 proceedings, anticipation of maturity, additional and
- 5 secondary liens, and other matters as the corporation
- 6 may prescribe;
- 7 (9) Provide for future payments to the mortgagor based on
- 8 accumulated equity, minus any applicable fees and
- 9 charges, according to the method that the mortgagor
- 10 shall select from among the methods under this
- 11 paragraph, by payment of the amount:
- 12 (A) Based upon a line of credit;
- 13 (B) On a monthly basis over a term specified by the
- 14 mortgagor;
- 15 (C) On a monthly basis over a term specified by the
- 16 mortgage and based upon a line of credit;
- 17 (D) On a monthly basis over the tenure of the
- 18 mortgagor;
- 19 (E) On a monthly basis over the tenure of the
- 20 mortgage and based upon a line of credit; or



(F) On any other basis that the corporation considers appropriate;

(10) Provide that the mortgagor may convert the method of payment under paragraph (9) to any other method during the term of the mortgage, except that in the case of a fixed rate mortgage, the corporation may, by rules adopted pursuant to chapter 91, limit such convertibility; and

(11) Have been made with restrictions as the corporation determines to be appropriate to ensure that the mortgagor does not fund any unnecessary or excessive costs for obtaining the mortgage, including any costs of estate planning, financial advice, or other related services.

§201H-D Disclosures by mortgagee. The corporation shall require each mortgagee of a mortgage insured under this subpart to make available to the kupuna homeowner:

(1) At the time of the loan application, a written list of the names and addresses of third-party information sources who are approved by the corporation as



1 responsible and able to provide the information
2 required by section 201H-E;

3 (2) At least ten days before loan closing, a statement
4 informing the kupuna homeowner that the liability of
5 the kupuna homeowner under the mortgage is limited and
6 explaining the kupuna homeowner's rights, obligations,
7 and remedies with respect to temporary absences from
8 the home, late payments, and payment default by the
9 lender, all conditions requiring satisfaction of the
10 loan obligation, and any other information that the
11 corporation may require;

12 (3) On an annual basis, but no later than January 31 of
13 each year, a statement summarizing the:

14 (A) Total principal amount paid to the kupuna
15 homeowner under the loan secured by the mortgage;

16 (B) Total amount of deferred interest added to the
17 principal; and

18 (C) Outstanding loan balance at the end of the
19 preceding year; and

20 (4) Before loan closing, a statement of the projected
21 total cost of the mortgage to the kupuna homeowner



1 based on the projected total future loan balance, such
2 cost expressed as a single average annual interest
3 rate for at least two different appreciation rates for
4 the term of the mortgage, for no less than two
5 projected loan terms, as the corporation shall
6 determine, which shall include the cost for a:

7 (A) Short-term mortgage; and

8 (B) Loan term equaling the actuarial life expectancy
9 of the mortgagor.

10 **§201H-E Counseling services and information for**

11 **mortgagors.** (a) The corporation shall provide or cause to be
12 provided adequate counseling for the mortgagor. Counseling
13 shall be provided by counselors that meet qualification
14 standards and follow uniform counseling protocols, as
15 established by the corporation. The protocols shall require, at
16 a minimum, a qualified counselor to discuss with each mortgagor
17 information that shall include:

18 (1) Options other than a home equity conversion mortgage
19 that are available to the kupuna homeowner, including
20 other housing, social service, health, and financial
21 options;



1 (2) Other home equity conversion options that are or may
2 become available to the kupuna homeowner, including
3 sale-leaseback financing, deferred payment loans, and
4 property tax deferral;

5 (3) The financial implications of entering into a home
6 equity conversion mortgage;

7 (4) A disclosure that a home equity conversion mortgage
8 may have tax consequences, affect eligibility for
9 assistance under federal and state programs, and have
10 an impact on the estate and heirs of the kupuna
11 homeowner; and

12 (5) Any other information the corporation may require.

13 (b) The corporation shall consult with consumer groups,
14 industry representatives, representatives of counseling
15 organizations, and other interested parties to identify
16 alternative approaches to providing consumer information
17 required by this section that may be feasible and desirable for
18 home equity conversion mortgages insured under this subpart and
19 other types of reverse mortgages. The corporation may, in lieu
20 of providing the consumer education required by this section,
21 adopt alternative approaches to consumer education that may be



1 developed as a result of such consultations only if the
2 alternative approaches provide all of the information required
3 under this section.

4 **§201H-F Limitation on insurance authority.** The aggregate
5 number of mortgages insured under this subpart shall not exceed
6 275,000. In no case shall the benefits of insurance under this
7 subpart exceed \$ for a one-family residence.

8 **§201H-G Administrative authority.** The corporation may:

9 (1) Enter into contracts and agreements with federal,
10 state, and local agencies, public and private
11 entities, and other persons as the corporation deems
12 necessary or desirable to carry out the purposes of
13 this subpart;

14 (2) Make investigations and studies of data, and publish
15 and distribute such reports, as the corporation deems
16 appropriate; and

17 (3) Establish, by notice or mortgagee letter, any
18 additional or alternative requirements that the
19 corporation determines are necessary to improve the
20 fiscal safety and soundness of the kupuna reverse
21 mortgage program.



§201H-H Protection of kupuna homeowner and lender. (a)

Notwithstanding any other law to the contrary, the corporation may take any action necessary to:

(1) Provide any mortgagor under this subpart with funds to which the mortgagor is entitled under the insured mortgage or ancillary contracts but that the mortgagor has not received because of the default of the party responsible for payment;

(2) Obtain repayment of disbursements provided under paragraph (1) from any source; and

(3) Provide any mortgagee under this subpart with funds not to exceed the limitations in section 201H-F to which the mortgagee is entitled under the terms of the insured mortgage or ancillary contracts authorized in this subpart.

(b) Actions under subsection (a) may include:

(1) Disbursing funds to the mortgagor or mortgagee;

(2) Accepting an assignment of the insured mortgage notwithstanding that the mortgagor is not in default under its terms, and calculating the amount and making



1 the payment of the insurance claim on such assigned
2 mortgage;

3 (3) Requiring a subordinate mortgage from the mortgagor at
4 any time in order to secure repayments of any funds
5 advanced or to be advanced to the mortgagor;

6 (4) Requiring a subrogation to the corporation of the
7 rights of any parties to the transaction against any
8 defaulting parties; and

9 (5) Imposing premium charges.

10 **§201H-I Safeguard to prevent displacement of kupuna**

11 **homeowner.** (a) The corporation shall not insure a home equity
12 conversion mortgage under this subpart unless the mortgage
13 provides that the kupuna homeowner's obligation to satisfy the
14 loan obligation is deferred until the kupuna homeowner's death,
15 the sale of the home, or the occurrence of other events
16 specified in rules adopted by the corporation.

17 (b) When equity in the dwelling unit owned by the kupuna
18 homeowner is exhausted, the corporation shall coordinate with
19 and assist the kupuna homeowner to relocate into an affordable
20 rental housing unit under the corporation and commence the sale
21 of the dwelling unit. The kupuna homeowner shall not have any



1 debt after sale of the dwelling. The rent of an affordable
2 rental housing unit shall be similar to rent rates under tenant-
3 based housing choice voucher program under section 8 of the
4 United States Housing Act of 1973, as amended.

5 **§201H-J Insurance authority for refinancing.** (a) The
6 corporation may, upon application by a mortgagee, insure under
7 this subpart any mortgage given to refinance an existing home
8 equity conversion mortgage insured under this subpart.

9 (b) The corporation shall require, by rules adopted
10 pursuant to chapter 91, that the mortgagee of a mortgage insured
11 under this subpart provide to the mortgagor, within an
12 appropriate time period and in a manner prescribed by the
13 corporation, a good faith estimate of the:

14 (1) Total cost of refinancing; and

15 (2) Increase in the mortgagor's principal limit as
16 measured by the estimated initial principal limit on
17 the mortgage to be insured under this subpart less the
18 current principal limit on the home equity conversion
19 mortgage that is being refinanced and insured under
20 this subpart.



1 (c) The mortgagor under a mortgage insured pursuant to
2 this subpart may waive the applicability with respect to such
3 mortgage, of the counseling requirements under section 201H-
4 C(2)(B) if the:

5 (1) Mortgagor has received the disclosure required under
6 subsection (b);

7 (2) Increase in the principal limit described in
8 subsection (b) exceeds the amount of the total cost of
9 refinancing by an amount to be determined by the
10 corporation; and

11 (3) Time between closing of the original home equity
12 conversion mortgage that is refinanced through the
13 mortgage insured under this subpart and the
14 application for a refinancing mortgage insured under
15 this section does not exceed five years.

16 (d) Notwithstanding any other law to the contrary, the
17 corporation may reduce the amount of the single premium payment
18 otherwise collected at the time of the insurance of a mortgage
19 refinanced under this section. The amount of the single premium
20 for mortgages refinanced under this section shall be determined



1 by the corporation based on the actuarial study required under
2 subsection (e).

3 (e) No later than one hundred eighty days after the
4 effective date of this Act, the corporation shall conduct an
5 actuarial analysis to determine the adequacy of the insurance
6 premiums collected under the program under this subpart with
7 respect to:

8 (1) A reduction in the single premium payment collected at
9 the time of the insurance of a mortgage refinanced and
10 insured under this section;

11 (2) The establishment of a single limit on the benefits of
12 insurance under section 201H-F; and

13 (3) The combined effect of reduced insurance premiums and
14 a single limitation on insurance authority.

15 (f) The corporation may establish a limit on the
16 origination fee that may be charged to a mortgagor under a
17 mortgage insured under this subpart, except that such limitation
18 shall provide that the origination fee may be fully financed
19 with the mortgage and shall include any fees paid to
20 correspondent mortgagees approved by the corporation.



1 **§201H-K Funding for counseling.** The corporation may use a
2 portion of the mortgage insurance premiums collected under this
3 subpart to adequately fund the counseling and disclosure
4 activities required under section 201H-E, including counseling
5 for those kupuna homeowners who elect not to take out a home
6 equity conversion mortgage; provided that the use of the funds
7 is based upon accepted actuarial principles.

8 **§201H-L Authority to insure home purchase mortgage.** (a)
9 Notwithstanding any other law to the contrary, the corporation
10 may insure, upon application by a mortgagee, a home equity
11 conversion mortgage upon terms and conditions as the secretary
12 may prescribe, when the home equity conversion mortgage will be
13 used to purchase a one- to four-family dwelling unit, one unit
14 of which the mortgagor shall occupy as a primary residence, and
15 to provide for any future payments to the mortgagor, based on
16 available equity, as authorized under section 201H-C(9).

17 (b) A home equity conversion mortgage insured pursuant to
18 subsection (a) shall involve a principal obligation that does
19 not exceed \$ for a one-family residence.

20 **§201H-M Requirements on mortgage originators.** (a) The
21 mortgagee and any other party that participates in the



1 origination of a mortgage to be insured under this subpart
2 shall:

3 (1) Not participate in, be associated with, or employ any
4 party that participates in or is associated with any
5 other financial or insurance activity; or

6 (2) Demonstrates to the corporation that the mortgagee or
7 other party maintains, or will maintain, firewalls and
8 other safeguards designed to ensure that:

9 (A) Individuals participating in the origination of
10 the mortgage shall have no involvement with, or
11 incentive to provide the mortgagor with, any
12 other financial or insurance product; and

13 (B) The mortgagor shall not be required, directly or
14 indirectly, as a condition of obtaining a
15 mortgage under this subpart, to purchase any
16 other financial or insurance product.

17 (b) All parties that participate in the origination of a
18 mortgage to be insured under this subpart shall be approved by
19 the corporation.

20 **§201H-N Prohibition against requirements to purchase**
21 **additional products.** The mortgagor or any other party shall not



1 be required by the mortgagee or any other party to purchase an
2 insurance, annuity, or other similar product as a requirement or
3 condition of eligibility for insurance under section 201H-B,
4 except for title insurance, hazard, flood, or other peril
5 insurance, or other such products that are customary and normal
6 under section 201H-B, as determined by the corporation.

7 **§201H-O Study to determine consumer protections and**
8 **underwriting standards.** The corporation shall conduct a study
9 to examine and determine appropriate consumer protections and
10 underwriting standards to ensure that the purchase of products
11 in section 201H-N is appropriate for the consumer. In
12 conducting the study, the corporation shall consult with
13 consumer advocates, including recognized experts in consumer
14 protection, industry representatives, representatives of
15 counseling organizations, and other interested parties.

16 **§201H-P Limitation on origination fees.** The corporation
17 shall establish limits on the origination fee that may be
18 charged to a mortgagor under a mortgage insured under this
19 subpart, which limitations shall:

- 20 (1) Be equal to two per cent of the maximum claim amount
21 of the mortgage, up to a maximum claim amount of



1 \$200,000 plus one per cent of any portion of the
2 maximum claim amount that is greater than \$200,000,
3 unless adjusted thereafter on the basis of an analysis
4 of:

5 (A) The cost to mortgagors; and

6 (B) The impact on the reverse mortgage market;

7 (2) Be subject to a minimum allowable amount;

8 (3) Provide that the origination fee may be fully financed
9 with the mortgage;

10 (4) Include any fees paid to correspondent mortgagees
11 approved by the corporation;

12 (5) Have the same effective date as section 201H-L(2)
13 regarding the limitation on principal obligation; and

14 (6) Be subject to a maximum origination fee of \$6,000,
15 except that the maximum limit shall be adjusted in
16 accordance with the annual percentage increase in the
17 Consumer Price Index of the Bureau of Labor Statistics
18 of the United States Department of Labor in increments
19 of \$500 only when the percentage increase in the
20 index, when applied to the maximum origination fee,
21 produces dollar increases that exceed \$500."



1 SECTION 2. In codifying the new sections added by section
2 1 of this Act, the revisor of statutes shall substitute
3 appropriate section numbers for the letters used in designating
4 the new sections in this Act.

5 SECTION 3. This Act shall take effect upon its approval.

6

INTRODUCED BY:

A handwritten signature in black ink, appearing to be "B. L.", written over a horizontal line.



S.B. NO. 843

Report Title:

HHFDC; Kupuna Home Equity Conversion Mortgage Program

Description:

Establishes the Kupuna Home Equity Conversion Mortgage Program under the Hawaii Housing Finance and Development Corporation.

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

