

DEPARTMENT OF AGRICULTURE AND BIOSECURITY

Amendment and Compilation of Chapter 4-8

Hawaii Administrative Rules

August 28, 2025

1. Chapter 4-8, Hawaii Administrative Rules, entitled
"Agricultural Loan Program Rules"

is amended and compiled to read as follows:

"HAWAII ADMINISTRATIVE RULES TITLE 4 DEPARTMENT OF
AGRICULTURE AND BIOSECURITY
SUBTITLE 2 AGRICULTURAL LOAN DIVISION CHAPTER 8
AGRICULTURAL LOAN PROGRAM RULES

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Subchapter 2 Applications

§4-8-1 Definitions. As used in this chapter:

"Board" means the board of agriculture of the department of agriculture.

"Chairperson" means the chairperson of the board of agriculture.

"Consolidation" means to reorganize the financing of two or more debts.

"Department" means the department of agriculture.

"Division" means the agricultural loan division of the department of agriculture.

"Division head" means the agricultural loan division head.

"Extension" means extending the time within which the installments of principal may be paid.

"Extra payment" means that portion of total prepayments made during the course of the loan through liquidation or sale of secured assets.

"Food hub" means a business or organization that actively manages the aggregation, distribution, and marketing agricultural products from local and regional producers' operations.

"Import replacement loans" means loans that provide credit for qualified farmers to participate with crop expansion programs initiated by the state on a large-scale basis with the specific intent to compete with or replace imported crops into the State.

"Line of credit" means a secured revolving loan with a preset credit limit for farm operational expenses and to improve farm operations.

"Loan officer" means the agricultural loan division officer.

"Refinancing" means to renew or reorganize the financing of a debt.

"Refund" means that portion of loan funds which was deposited into a supervised checking account and returned to the State.

"Workout" means a plan to solve a delinquent or problem loan. [Eff 1/31/85; comp 9/20/86; am and Comp] (Auth: HRS §155-4) (Imp: HRS §155-4)

§4-8-2 Administration of agricultural loan program. Responsibility for administration of the agricultural loan program shall be placed within the agricultural loan division. [Eff 1/31/85; comp 9/20/86; 9/20/86; comp] (Auth: HRS §155-4) (Imp: HRS §155-4)

§4-8-3 Qualified farmer applicants. (a) Qualified

farmer applicants shall have two or more years of experience in operating the applicant's own farm, of which most of the time shall have been spent on farming or most of the income shall have been derived from farming.

(b) The qualified farmer applicant's ability to repay the loan shall be based substantially on the operating results of the applicant's prior farming experience.

(c) Qualified farmer applicants shall provide satisfactory proof of farming, including but not limited to, tax returns and general excise tax license.

(d) Qualified farmer applicants shall authorize the department in writing to confirm the applicant's qualifications and any other information. [Eff 1/31/85; comp 9/20/86; comp] (Auth: HRS §§155-2, 155-4) (Imp: HRS §155-1)

§4-8-4 New farmer applicants. (a) When a new farmer applicant's qualifications are based on farming experience, the experience shall be relevant and contribute significantly towards the new farmer loan project.

(b) New farmer applicants shall provide satisfactory proof of qualifications, including but not limited to, a diploma, college transcripts, and general excise tax license.

(c) New farmer applicants shall authorize the department in writing to confirm the applicant's qualifications and any other information.

(d) The new farmer applicant's equity contribution towards the cost of the project may be by means other than cash. Non-cash equity contribution shall be reasonably valued and contribute significantly towards the project requirement as determined by the division.

(e) In accepting cash from loans as equity contribution, these loans shall be placed on standby, and repayment shall require the approval of the department. [Eff 1/31/85; [Eff 1/31/85; comp 9/20/86;

comp] (Auth: HRS §155-4) (Imp: HRS §155-10)

§4-8-5 Sound credit risk. To be eligible for a loan, the applicant shall be a sound credit risk with the ability to repay the money borrowed, as determined by the department. The department's determination may be based on projections of income and expense with reasonable assumptions submitted by the applicant. Income from the applicant's farming activities shall be the sole criterion for the department's determination of the applicant's ability to repay the money borrowed. [Eff 1/31/85; comp 9/20/86; comp] (Auth: HRS §155-4) (Imp: HRS §155-10)

§4-8-6 Application for loans. (a) The applicant for a loan shall file an application with the department at any of the following locations:

- 1) Agricultural Loan Division
State Department of Agriculture And
Biosecurity
1428 South King Street
Honolulu, Hawaii 96814
P.O. Box 22159,
Honolulu, Hawaii 96822
- 2) Agricultural Loan Division
State Department of Agriculture And
Biosecurity
P.O. Box 226
Captain Cook, Hawaii 96704
- 3) Agricultural Loan Division
State Department of Agriculture And
Biosecurity
P.O. Box 700
Wailuku, Maui, Hawaii 96793
- 4) State Department of Agriculture And
Biosecurity
P. O. Box 1671
Lihue, Kauai, Hawaii 96766

The application shall be filed on forms prescribed and furnished by the division. The division requires a

completed application for review. Financial statements prepared by an accountant in a format acceptable to the division may be provided as part of the application. The division may require the applicant to provide supporting documentation for the information submitted in the application. The division may require the applicant to provide written authorization to verify or otherwise secure relevant information from third parties such as other creditors of the applicant. The application and any prepared financial statements shall be signed by the applicant or the applicant's authorized representative. [Eff 1/31/85; comp 9/20/86; comp] (Auth: HRS §155-4) (Imp: HRS §155-4)

§4-8-7 Filing fee. The department does not charge a filing fee for any application. However, the applicant shall pay for any actual expenses incurred, as provided in section 4-8-18. [Eff 1/31/85; comp 9/20/86; comp] (Auth: HRS §155-4) (Imp: HRS §155-4)

§4-8-8 Letters of decline. a) The division requires that each direct loan application shall include letters of decline as follows:

- 1) The applicant's bank of account (private lender);
- 2) One other private lender;
- 3) Federal Land Bank Association of Hawaii for classes "A" and "B" loans and for classes "D" and "F" loans where loans are primarily for class "A" purposes;
- 4) Hawaii Production Credit Association for class "C" loans and for classes "D" and "F" loans where loans are primarily for class "C" purposes; ~~Sacramento Bank for Cooperatives or their authorized representative for class "E" loans; and~~
- 5) ~~Farmers Home Administration of the United States Department of Agriculture.]~~

a) Loans authorized by this chapter shall require one credit denial. This requirement shall be waived

for new farmer loans for \$100,000 or less for farm trainees and recent college graduates with a degree in agriculture. This requirement may also be waived by the board of agriculture for emergency loans. Credit denials may be accepted from any of the following:

- (1) Private lending institutions.
- (2) Members of the Farm Credit System; or
- (3) The United States Department of Agriculture.

(b) ~~[The division requires letters of decline for participating loans]~~ To be considered for a participation loan, applicant must receive a credit denial from the participating private lender, Farm Credit System, [and] or from the [Farmers Home Administration] Farm Service Agency of the United States Department of Agriculture. If a substantial part of a proposed participating loan is to refinance a debt held by another private lender who also has a participating agreement with the State, a letter of decline will be required from that lender. [also.]

(c) To facilitate processing of class "D" emergency loans, the division may accept a blanket letter of decline from a lender to cover a specific commodity group or area which the lender will not finance because of the lender's policy or where the financial situation will not warrant extension of credit by the lender. [Eff 1/31/85; comp 9/20/86; am and comp] (Auth: HRS §155-4) (Imp: HRS §§155-3, 155-6, 155-8)

§4-8-9 Restrictions on loan purpose. (a) The applicant's reasons for requesting the loan shall be relevant to encouraging the growth, development, and well-being of agriculture in the State.

(b) Loan funds for vehicle purchase may be provided by the department, but only for vehicles which are clearly suitable for agricultural purposes, such as trucks, pickup and panel trucks, jeeps and other multi-purpose vehicles. Loan funds for vehicle purchase shall not be provided for passenger cars.

(c) Loan funds shall not be provided by the department if funds are to be used in any way for the production or keeping of:

- (1) Any animal that will be sold, kept, or used for fighting or baiting as defined and prohibited under section 711-1109, Hawaii Revised Statutes;
- (2) Any animal that will be sold, kept, or used as a pet, including but not limited to, a dog, cat, canary, parakeet, or any other animal life not used as work stock or for agricultural production; or
- (3) Any plants whose possession, use, or products are prohibited by law. [Eff 1/31/85; comp 9/20/86; comp] (Auth: HRS §155-4) (Imp: HRS §§155-2, 155- 10, 155-12)

§4-8-10 Restrictions on participating loans.

a) Except where there is an unusual danger of natural catastrophe or economic hardship, the State's share of a loan in participation with a private lender shall not exceed seventy-five per cent of the principal amount of the loan made to a qualified farmer. The State's share of a participating loan may be the legal maximum of ninety per cent when the loan applicant operates in a danger area (such as the Puna-rift zone) or when the major portion of the borrower's income is from a commodity affected by prolonged or severe economic difficulties such as depressed prices, disease, weather, or other circumstances of fairly wide impact on the commodity group. Ninety per cent participation shall be for class "C" and "D" loans only, since it is not the intent of the department to encourage permanent expansion in danger areas or uneconomic commodity groups.

b) Out of the interest collected, the department shall pay the participating private lender a service fee as follows:

<u>Private Lender's Share of Loan</u>	<u>Allowable Service Fee</u>
29% or less participation	1/2 of 1% on the State's unpaid principal balance.

30% to 39% participation	3/4 of 1% on the State's unpaid principal balance.
40% or more participation	1% on the State's unpaid principal balance.

c) Where all or any portion of a participating loan is to be used to refinance existing loans from participating lenders, the State's share of the amount to be refinanced shall not exceed fifty per cent. In a situation where it is in the best interest of the state as determined by the department, the chairperson may waive this restriction. [Eff 1/31/85; comp 9/20/86; comp HRS §§155-4, §155-6] (Auth: HRS §155-4) (Imp: HRS §§155-4, §155-6)

§4-8-11 Repayment term of loan. The department shall determine the repayment term of the loan based on factors such as the loan's purpose, the useful life of the items being financed, the applicant's repayment ability, and the financial condition of the applicant. [Eff 1/31/85; comp 9/20/86; comp SHRS 155-4) (Imp: HRS §155-13)] (Auth: HRS §155-4) (Imp: HRS §155-13)

§4-8-12 Interest rates. ~~[The date of loan approval by the chairperson or the board of agriculture shall be used in determining the applicable interest rate for a similar type loan made by the appropriate farm credit bank.]~~ Loans shall bear simple interest on the unpaid principal balance, charged on the actual amount disbursed to the borrower. The interest rate on loans of class "A", "B", "C", "E", "G", and "J" shall be at a rate of four per cent a year. The interest rate of class "D", "F", "H", "I", and "K" loans shall be three per cent a year. [Eff 1/31/85; comp 9/20/86; am and comp HRS §155-8)] (Auth: HRS §155-4) (Imp: HRS §155-8)

§4-8-13 Collateral. (a) Adequacy of collateral shall be determined by the department. For purposes of

land purchase and improvements, the department shall require a real estate mortgage recordable at the bureau of conveyances or the land court of the State of Hawaii. A non-farm recordable real estate mortgage with adequate value may be substituted, at the department's discretion. Chattels, using a security agreement and a financing statement, shall be used as primary collateral for farm operating loans.

(a) Where it is determined by the department that there is adequate collateral but questionable repayment history, limited life on security such as crops and livestock, or where the borrower has outstanding loan from several sources, a third or fourth mortgage may be taken as additional collateral to secure the loan. But in no event shall a third or fourth mortgage be the primary collateral.

(b) The department may require an appraisal for real estate and improvements. Whenever practicable, an independent appraiser shall be utilized. The applicant shall be responsible for hiring an independent appraiser at the applicant's own expense, and the applicant shall pay for all costs incurred in the appraisal.

(c) Appraisals made by bank, [~~farmers home administration~~] Farm Service Agency, and other mortgage lenders may be accepted.

(d) Loan officers may appraise chattels, crops, and other assets.

(e) In the event of a dispute, a second appraisal shall be required. [Eff 1/31/85; comp 9/20/86; am and comp] (Auth: HRS §155-4) (Imp: HRS §§155-10, 155-11)

§4-8-14 Equity contribution. (a) The department may require a reasonable cash contribution from an applicant to purchase equipment or other capital items or to complete the project. The department may modify the repayment term based on the amount of applicant's equity contribution.

(b) Cash, real property, farm equipment, crops, and other assets which contribute significantly toward the project may be accepted as equity contribution.

The division shall determine whether non-cash equity contribution contributes significantly toward the project. [Eff 1/31/85; comp 9/20/86; comp _____] (Auth: HRS §155-4) (Imp: HRS §§155-10, 155-11)

§4-8-15 Emergency loans. The board may implement an emergency loan program under the following circumstances:

- (1) The emergency shall involve significant Economic loss of an agricultural commodity or significant damage to agriculture in a county or an island;
- (2) Loans are not available from any other agency of the state, federal, or county governments, and private lenders are unwilling to lend under emergency conditions; and
- (3) The governor has proclaimed an emergency. [Eff 1/31/85; comp 9/20/86; comp _____] (Auth: HRS §155-4) (Imp: HRS §155-9)

§4-8-16 Scope of emergency loans. (a) An emergency loan is intended to allow the applicant to continue farming at a level comparable to the applicant's activities immediately prior to losses from the emergency. Replacements for losses of facility and equipment must contribute significantly to farming and shall be reasonably similar to damaged or loss items.

- (b) An emergency loan shall not be provided to:
 - (1) Establish an applicant in farming nor to expand substantially the operations of the applicant carried on immediately prior to the emergency;
 - (2) Enable an applicant to reorganize farm or Ranching operations; or
 - (3) An applicant not affected by the emergency.
- (c) Since an emergency loan involves higher than normal credit risk, the loan shall be made only where a sound basis for credit exists and if there is reasonable assurance that the loan will be repaid in full. [Eff 1/31/85; comp 9/20/86; comp _____] (Auth: HRS §155-

Imp: HRS §§155-4, 155-11, 155-12)

§4-8-17 Review, analysis, and recommendation.

(a) The applicant shall be responsible for completing the application. Information shall be current with necessary supporting documents or exhibits. The loan officer shall inform the applicant of any deficiency. If the applicant fails to complete the application within a reasonable period of time, the incomplete application may be canceled by the department. The applicant may submit a new application with completed information.

(b) Each application shall be subject to assessment of credit factors such as management ability, credit history, repayment ability, financial position, adequacy of security, and past performance. A loan recommended for approval by the loan officer may include approval conditions and shall be submitted to the division head for review.

(c) The division head shall review each application for compliance with this chapter and chapter 155, Hawaii Revised Statutes.

(d) A loan application recommended for approval by the division head shall be submitted to the chairperson for approval by the board only if there are funds available. Should it become necessary because of a scarcity of funds to restrict loan activities, the first priority shall be given to participating loans.

(e) The board may approve or disapprove a submitted application and may modify or add to its approval conditions. The chairperson may approve or disapprove a submitted application and may modify or add to its approval conditions, where the requested amount plus any principal balance on existing loans to the applicant does not exceed [~~\$25,000~~] \$50,000 of State funds. [Eff 1/31/86; comp 9/20/86; am and comp] (Auth: HRS §155-4) (Imp: HRS §155-4)

§4-8-18 Loan closing. (a) The applicant whose loan has been approved shall be responsible for:

- (1) Providing necessary documents, such as assignment of insurance, and compliance with

- the loan approval conditions;
- (2) Providing the department with a preliminary report and a certificate of title, lien letter, or title insurance covering the real property being used as security showing lien position as approved by the board. A title company or escrow company shall be utilized, whenever applicable, and the applicant shall be responsible for the costs;
 - (3) Hiring an attorney at the applicant's own expense to draft the real estate mortgage (in fee or leasehold) and other documents, as required. Mortgages shall be submitted to the department of the attorney general for review and approval as to form; and
 - (4) Paying for the actual costs incurred in closing the loan, such as appraisals, lien searches, title searches, document preparation, and any work in connection with the loan that is outside the department's scope of activities.

(b) Direct loans shall be closed by the division staff. The borrower shall execute documents before a notary public where required. Execution of other documents shall be acknowledged by the loan officer.

(c) The applicable approval conditions of the loan shall be met to the satisfaction of the department. The borrower is responsible for compliance with the approval conditions.

(d) The private lender shall be responsible for closing participating and insured loans. [Eff 1/31/85; comp 9/20/86; comp _____] (Auth: HRS §155-4) (Imp: HRS §§155-4, 155-11, 155-12)

§4-8-19 Disbursement of loan funds. (a) Loan funds shall be disbursed only after the lien instruments have been recorded at the bureau ~~[of]~~ of conveyances of the State of Hawaii.

(b) The request for funds shall be initiated by the borrower and is subject to approval by the loan officer.

(c) Disbursements shall be made according to

approved loan purpose. The borrower may request single or multi-disbursements, subject to approval by the loan officer.

(d) For multi-disbursements, loan funds shall be disbursed through a supervised account opened at a bank or a savings and loan institution. A deposit agreement shall be executed by the borrower, the financial institution, and the State.

(e) When disbursement of loan funds involve single or only a few payments that are easily acknowledgeable such as for purchase of land or equipment, direct disbursement can be made to the escrow company or vendor. Acknowledgement shall be required.

(f) Any change in the use of loan funds requires the prior written approval of the department.

(g) The borrower shall provide the division with copies of invoices or statements prior to disbursements. [Eff 1/31/85; am and comp 9/20/86; am and comp] (Auth: HRS §155-4) (Imp: HRS § 155-4, 155-12)

§4-8-20 Line of credit loans. (a) Line of Credit Loans requires monthly interest only payments. Monthly interest only payments may be waived if it can be demonstrated to division satisfaction that funds are used to fund crops or livestock and repayment of the Line of Credit Loan will be made upon sale of said crop or livestock. Approval of such waiver may be made by the Board.

(b) If the line of credit has been delinquent for 6 months, the department, at its sole discretion, may convert the line to an operating term loan.

(c) The Division will conduct annual reviews of the line of credit borrowers which may include year-end financial statements, annual tax returns or credit reports.

(d) The borrower must request for drawings on the line of credit to the division on the prescribed forms and include the purpose or use of the funds being drawn. A check of the principal balance of the credit line to ensure no drawings are made in excess of the authorized limits. [Eff] (Auth:

HRS §155-4)

Subchapter 2 Loan Servicing

§4-8-25 Administration. (a) The division shall have the following powers:

- (1) To accept and process applications for all Types of loan applications as provided in chapter 155, Hawaii Revised Statutes;
- (2) To disapprove loan applications in all cases Where disapproval is based upon the applicant's inability to meet the requirements, purposes, and policies of the agricultural loan program;
- (3) To make personal risk investigations in connection with loan applications;
- (4) To close loans and disburse loan proceeds;
- (5) To collect amounts due on loans;
- (6) To have borrowers maintain insurance policies and coverage in sufficient amounts to protect the State's security interests in the loans;
- (7) To determine when to file claim against estates of deceased borrowers and to file proper claims;
- (8) To recommend for board action final determination as to foreclosure of direct loans and to determine the date of call in such cases; and
- (9) To invest idle funds in time certificates of Deposit and other investments authorized by the department of budget and finance[+].

(b) The chairperson shall have the following powers:

- (1) To execute legal documents on the board's behalf after official policy-making determinations have been decided by the board;
- (2) To approve applications for release of Personal liability;
- (3) To approve change in use of loan funds and installment dates, loan transfers, assignment of loans, loan workouts and

- assumptions, partial releases, and subordinations;
- (4) To approve sales of repossessed real estate and chattels, or offers of settlement, purchase of State-owned real estate, or purchase of crops, livestock and other chattels;
 - (5) To waive and extend loan payments, except in Unusual circumstances involving forbearance for specific commodity groups; and
 - (6) To dispose of insurance proceeds for building, replacement, or repayment on loans, or by release to borrower if for loss of personal property. [Eff 1/31/85; comp 9/20/86; comp] (Auth: HRS §155-4) (Imp: HRS §§155-4, 155-13, 155-14)

§4-8-26 Right to inspect. The division or its authorized representative has the right to inspect, at reasonable hours, the mortgaged property, the farm, the security, crops, livestock, equipment, chattels, the books, and the records of the borrower in connection with the administration of the loan. [Eff 1/31/85; comp 9/20/86; comp] (Auth: HRS §155-4) (Imp: HRS §§155-4, 155-12)

§4-8-27 Borrower's responsibilities. Each borrower or guarantor shall:

- (1) Submit to the division an annual financial
- (2) statement during the life of the loan and interim statements and reports as may be requested by the division;
- (3) Comply with the term loan agreement, which may be amended from time to time with approval by the division;
- (4) Keep the division informed on any and all changes on security and other major changes in the operation;
- (5) Promptly provide information and documents to The division upon request; and
- (6) Repay loans made under the agricultural loan Program in accordance with the terms of the

promissory note. [Eff 1/31/85; comp 9/20/86;
comp] Auth: HRS §155-4) (Imp: HRS §§155-
4, 155-12, 155-13)

§4-8-28 Assumption of indebtedness. Assumption of indebtedness may be considered if the person which proposes to assume the indebtedness is eligible under section 155-10, Hawaii Revised Statutes. The maker of the note cannot be released on the assumption of the indebtedness by others. [Eff 1/31/85; comp 9/20/86; comp] (Auth: HRS §155-4) (Imp: HRS §§155-4, 155-10, 155-11)

§4-8-29 Waiver of payment and extension. (a) When inability to meet a scheduled payment is caused by a natural catastrophe, depressed prices, or other external factors beyond the borrower's control, the borrower may request the department for a waiver of payment. In its discretion, the department may grant the waiver. A waiver is normally for a limited period of six months or less at which time the borrower's situation shall be reviewed by the division. The department shall not grant a waiver where reasonable assurance of repayment in the future is lacking, collateral for the loan will be jeopardized, or where the borrower otherwise has not complied with the loan requirements.

(b) Upon request for waiver, the chairperson may grant an extension for more than six months where the division finds that:

- (1) The borrower cannot meet payment schedule even after a waiver of six months, because of prolonged natural or economic disaster;
- (2) The borrower cannot meet more than fifty per cent of its annual payment; and
- (3) The borrower would require a period of one year or longer to recover from the effects of depressed prices, natural catastrophe, or other external factors beyond borrower's control.

(c) If the department grants an extension, the extension may be subject to any one or more of the

following conditions:

- (1) The borrower shall agree to special conditions with regard to extension.
- (2) The interest on the borrower's existing loans from the department shall be brought to current status.
- (3) The borrower shall make monthly payments on the existing loans from the department through an assignment of income.
- (4) There shall be a year end analysis and review of the borrower's financial status.
[Eff 1/31/85; comp 9/20/86;
comp _____] (Auth: HRS §155-4) (Imp:
HRS §§155-4, 155-13)

§4-8-30 Subordination and partial release. (a) A direct loan borrower may apply to the division for a subordination or partial release of collateral. The division will review such requests on a case-by-case basis.

(b) The chairperson may approve a request for subordination or partial release if the borrower meets any one or more of the following conditions:

- (1) The borrower shall reduce its loan balance;
- (2) The borrower is current on loan payments and there is sufficient security to cover requests;
- (3) The borrower shall add to or substitute the Security with other security of better value (especially for borrowers with average or below average performance); and
- (4) The borrower shall strengthen the State's Security position by assigning payments to the department through a person, a bank, a wholesaler, or a cooperative, and the borrower shall bring all its delinquent loans to current status. [Eff 1/31/85; comp 9/20/86;
comp _____] (Auth: HRS §155-4) (Imp:
HRS §155-4)

§4-8-31 Application of payment. (a) Refund and canceled undisbursed funds shall be applied to the

principal and returned to the loan revolving fund.

(b) The department may apply payment to any loan outstanding in the case of a borrower with multiple loans from the department. [Eff 1/31/85; comp 9/20/86; comp] (Auth: HRS §155-4) (Imp: HRS §§155-4,155-13)

§4-8-32 Refinancing and consolidation.

Refinancing and consolidation may be considered when the loan meets the following criteria:

- (1) The loan is delinquent, and part of the Workout requires a new loan. Refinancing will cure delinquency or improve the cash flow situation, or both;
- (2) The borrower's financial condition will be improved; and
- (3) The adequacy of the security will be unimpaired, or it may be improved. [Eff 1/31/85; comp 9/20/86; comp] (Auth: HRS §155-4) (Imp: HRS §§155-4, 155-13)

§4-8-33 Changes in participating loan. On all participating loans, any request for changes shall be initiated by the private lender, with recommendation for concurrence from the loan officer through the division head and disposition by the chairperson. [Eff 1/31/85; comp 9/20/86; comp] (Auth: HRS §155-4) (Imp: HRS §§155-4, 155-6)

§4-8-34 Default. (a) Default, whether in the payment of any debt or in the performance of any covenant or agreement, shall constitute default under all instruments evidencing a debt from the borrower to the State.

(b) Upon such a default, the State, at its option, may declare all or any part of that indebtedness immediately due and payable.

(c) Failure of the State to exercise this option shall not constitute a waiver of the State's right to exercise the option in the event of any subsequent default. [Eff 1/31/85; comp 9/20/86; comp] (Auth: HRS §155-4) (Imp: HRS §§155-

4, 155-12)

§4-8-35 Delinquent and problem loans. The division shall review delinquent and problem accounts to determine whether or not defaults are being satisfactorily resolved, acceptable repayment arrangements are in effect, or if a satisfactory repayment arrangement can be worked out. Any workout repayment plan shall be subject to periodic review, normally every six months. If the division determines that there is no satisfactory workout of a delinquent account or remedies to other defaults, the account shall be referred to the board for appropriate action. The board may refer the delinquent account to the attorney general for appropriate action where:

- (1) The borrower has failed to maintain workout arrangements or otherwise remedy defaults; or
- (2) Legal action is required to protect the State's interest; or
- (3) The division's security position is threatened by the borrower or by the actions of the borrower's other creditors or vendors; or
- (4) there is no financial or other remedy to solve the borrower's breach or default. [Eff 1/31/85; comp 9/20/86; comp]
Auth: HRS §155-4) (Imp: HRS §§155-4, 155- 12)

§4-8-36 Attorney general accounts. (a) The attorney general may act on behalf of the department to protect its interest in security for loan provided to borrowers and to otherwise pursue legal measures to effect collection on delinquent accounts.

(b) The attorney general shall provide the board with timely reports on the status of delinquent accounts. [Eff 1/31/85; comp 9/20/86; comp] (Auth: HRS §155-4) (Imp: HRS §§155-4, 155-12)

§4-8-37 Loans paid in full. Upon payment in full, the collateral shall be released by the department through its chairperson unless the collateral is

pledged to secure another debt to the State or department. [Eff 1/31/85; comp 9/20/86; comp] (Auth: HRS §155-4) (Imp: HRS §§155-4, 155-11)

[Subchapter 3

~~NORTH KOHALA LOAN AND GRANT PROGRAM LOAN SERVICING~~

~~Historical Note: This subchapter is based substantially upon Regulation No. 1, entitled "North Kohala Loan and Grant Program," of the Department of Agriculture.] [Eff 3/12/73; R] 9/20/86]~~

~~§4-8-43 Administration. Responsibility for the administration of the North Kohala loan and grant program shall be placed within the department of agriculture.] [Eff and comp 9/20/86; R] (Auth: SLH 1972, Act 197, §3) (Imp: SLH 1972, Act 197, §3)~~

~~§4-8-44 Right to inspect. The department or its authorized representative shall have the right to inspect, at reasonable hours, the physical facilities, the books and records of the borrower in connection with the administration of the loan under the North Kohala loan and grant program.] [Eff and comp 9/20/86; R] (Auth: SLH 1972, Act 197, §3) (Imp: SLH 1972, Act 197, §3)~~

~~[§4-8-45 Borrower's responsibilities. The borrower or guarantor shall: Submit to the department an annual financial statement during the life of the loan and such interim statements and reports as may be requested by the department;~~

- ~~(1) Comply with the term loan agreement, which may be amended from time to time with approval by the department and concurred by the authorized representative of the county of Hawaii;~~
- ~~(2) Keep the department informed on any and all changes concerning security and other major~~

~~changes in the operation;~~

- ~~(3) Promptly provide information and documents to the department upon request; and~~
- ~~(4) Repay loans made under the North Kohala loan and grant program in accordance with the terms of the promissory note.] [Eff and comp 9/20/86; R] (Auth: SLH 1972, Act 197, §3) (Imp: SLH 1972, Act 197, §3)~~

~~§4-8-46 Repayment. (a) Loans made shall be repaid in accordance with the terms of the note and payments shall be applied first to interest then to principal.~~

~~(b) The department shall transmit repayments to the State and County of Hawaii in accordance with appropriate contractual agreements.~~

~~(c) Additional payments in any sums, or the payment of the entire principal may be made at any date within the time period of the loan without penalty. [Eff and comp 9/20/86; R] (Auth: SLH 1972, Act 197, §3) (Imp: SLH 1972, Act 197, §3)~~

~~[§4-8-47 Waiver of payment and extension. (a) The department, with the concurrence of the county of Hawaii, may defer payment of the installments of principal for a period not to exceed two years.~~

~~(b) The borrower shall agree to keep interest payments current.] [Eff and comp 9/20/86; R] (Auth: SLH 1972, Act 197, §3) (Imp: SLH 1972, Act 197, §3)~~

~~[§4-8-48 Refinancing. The department may require the borrower to refinance the balance owed on any direct loan as soon as the borrower is able to obtain credit from other sources at standard rates and terms.] [Eff and comp 9/20/86; R] (Auth: SLH 1972, Act 197, §3) (Imp: SLH)~~

2. Material, except source notes and other notes, to be repealed is bracketed and stricken. New material is underscored.

3. Additions to update source notes and other notes to reflect these amendments and compilation are not underscored.

4. These amendments to and compilation of chapter 16-23, Hawaii Administrative Rules shall take effect ten days after filing with the Office of the Lieutenant Governor; provided that the implementation of the amendments relating to the Hawaii Joint Underwriting Plan rules and rates contained herein shall occur on October 1, 1982 for renewal policies effective on or after that date; provided further that implementation of the amendments to section 16-23-11 relating to required optional additional coverage shall occur on December 1, 1982.

I certify that the foregoing are copies of the rules, drafted in the Ramseyer format pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on August 2, 1982 and filed with the Office of the Lieutenant Governor.

MARY G. F. BITTERMAN
Director of Commerce and
Consumer Affairs

APPROVED AS TO FORM:

Deputy Attorney General