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# A BILL FOR AN ACT

RELATING TO HOMEOWNERSHIP.

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

1           SECTION 1. The legislature finds that homeownership  
2 creates strong communities through economic growth.  
3 Homeownership helps families to build equity and enjoy  
4 stability. Homeowners have a greater sense of security,  
5 continuity, belonging, and pride in their communities. However,  
6 saving for a down payment is often cited as the biggest hurdle  
7 for first-time home buyers, particularly for young people  
8 grappling with student loan debt. The 2016 Hawaii Housing  
9 Planning Study found that twenty-eight per cent of those  
10 interested in buying a home could not afford the down payment.

11           The legislature further finds that individual housing  
12 accounts help first-time homebuyers save money for a down  
13 payment. However, due to the rising cost of buying a home in  
14 Hawaii, the current ceiling for the aggregate total that can be  
15 saved in an individual housing account is too low.



1           The purpose of this Act is to improve individual housing  
2 accounts to help lower- and moderate-income families save for a  
3 down payment to purchase a home.

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

6           "**§235-5.5 Individual housing accounts.** (a) [~~There~~] For  
7 individual housing accounts established prior to January 1,  
8 2019, there shall be allowed as a deduction from gross income  
9 the amount, not to exceed \$5,000, paid in cash during the  
10 taxable year by an individual taxpayer to an individual housing  
11 account established for the individual's benefit to provide  
12 funding for the purchase of the individual's first principal  
13 residence. A deduction not to exceed \$10,000 shall be allowed  
14 for a married couple filing a joint return. No deduction shall  
15 be allowed on any amounts distributed less than three hundred  
16 sixty-five days from the date on which a contribution is made to  
17 the account. Any deduction claimed for a previous taxable year  
18 for amounts distributed less than three hundred sixty-five days  
19 from the date on which a contribution was made shall be  
20 disallowed and the amount deducted shall be included in the  
21 previous taxable year's gross income and the tax reassessed.



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

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

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



1 under this section shall not exceed \$25,000, excluding interest  
2 paid or accrued thereon.

3 (b) For individual housing accounts established after  
4 December 31, 2018, there shall be allowed as a deduction from  
5 gross income the amount, not to exceed \$ \_\_\_\_\_, paid in cash  
6 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 from gross income not to  
10 exceed \$ \_\_\_\_\_ shall be allowed for a married couple filing a  
11 joint return. No deduction shall be allowed:

12 (1) On any amounts distributed less than three hundred  
13 sixty-five days from the date on which a contribution  
14 is made to the account; provided that any deduction  
15 claimed for a previous taxable year for amounts  
16 distributed less than three hundred sixty-five days  
17 from the date on which a contribution was made shall  
18 be disallowed and the amount deducted shall be  
19 included in the previous taxable year's gross income  
20 and the tax reassessed, and that the interest paid or



- 1 accrued within the taxable year on the account shall  
2 not be included in the individual's gross income;
- 3 (2) To any individual taxpayer, unless the taxpayer and  
4 the taxpayer's spouse, if the taxpayer is married,  
5 have in the first taxable year a deduction is claimed  
6 under this section a household income at or below one  
7 hundred twenty per cent of the area median family  
8 income established by the United States Department of  
9 Housing and Urban Development; and
- 10 (3) To any individual taxpayer, unless the taxpayer and  
11 the taxpayer's spouse, if the taxpayer is married,  
12 have in the first taxable year a deduction is claimed  
13 under this section completed homebuyer education  
14 conducted by a housing counseling agency approved by  
15 the United States Department of Housing and Urban  
16 Development.

17 For purposes of this section, the term "first principal  
18 residence" means a residential property purchased with the  
19 payment or distribution from the individual housing account  
20 which shall be owned and occupied as the only home by an  
21 individual who did not have any interest in, individually, or



1 whose spouse did not have any interest in, if the individual is  
2 married, a residential property within the last three years of  
3 opening the individual housing account.

4 In the case of a married couple filing separate returns,  
5 the sum of the deductions allowable to each of them for the  
6 taxable year shall not exceed \$ \_\_\_\_\_, for amounts paid in  
7 cash, excluding interest paid or accrued thereon.

8 The amounts paid in cash allowable as a deduction under  
9 this section to an individual for all taxable years shall not  
10 exceed \$ \_\_\_\_\_, excluding interest paid or accrued. In the  
11 case of married individuals having separate individual housing  
12 accounts, the sum of each separate account and the deduction  
13 under this section shall not exceed \$ \_\_\_\_\_, excluding  
14 interest paid or accrued thereon.

15 ~~[(b)]~~ (c) ~~[For]~~ With respect to individual housing accounts  
16 established prior to January 1, 2019, for purposes of this  
17 section, the term "individual housing account" means a trust  
18 created or organized in Hawaii for the exclusive benefit of an  
19 individual, or, in the case of a married individual, for the  
20 exclusive benefit of the individual and spouse jointly, but only



1 if the written governing instrument creating the trust meets the  
2 following requirements:

- 3 (1) Contributions shall not be accepted for the taxable  
4 year in excess of \$5,000 (or \$10,000 in the case of a  
5 joint return) or in excess of \$25,000 for all taxable  
6 years, exclusive of interest paid or accrued;
- 7 (2) The trustee is a bank, a savings and loan association,  
8 a credit union, or a depository financial services  
9 loan company, chartered, licensed, or supervised under  
10 federal or state law, whose accounts are insured by  
11 the Federal Deposit Insurance Corporation, the  
12 National Credit Union Administration, or any agency of  
13 this State or any federal agency established for the  
14 purpose of insuring accounts in these financial  
15 institutions. The financial institution must actively  
16 make residential real estate mortgage loans in Hawaii;
- 17 (3) The assets of the trust shall be invested only in  
18 fully insured savings or time deposits. Funds held in  
19 the trust may be commingled for purposes of  
20 investment, but individual records shall be maintained



- 1 by the trustee for each individual housing account  
2 holder that show all transactions in detail;
- 3 (4) The entire interest of an individual or married couple  
4 for whose benefit the trust is maintained shall be  
5 distributed to the individual or couple not later than  
6 one hundred twenty months after the date on which the  
7 first contribution is made to the trust;
- 8 (5) Except as provided in subsection [~~(g)~~] (j), the  
9 trustee shall not distribute the funds in the account  
10 unless the trustee:
- 11 (A) Verifies that the money is to be used for the  
12 purchase of a first principal residence located  
13 in Hawaii, and provides that the instrument of  
14 payment is payable to the mortgagor, construction  
15 contractor, or other vendor of the property  
16 purchased; or
- 17 (B) Withholds an amount equal to ten per cent of the  
18 amount withdrawn from the account and remits this  
19 amount to the director within ten days after the  
20 date of the withdrawal. The amount withheld





1           shall be applied to the liability of the taxpayer  
2           under subsections [~~(e)~~] (e) and [~~(e)~~] (g); 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 [~~(e)~~] (e), [~~(e)~~] (g), and [~~(f)~~] (h)  
11      shall not apply to that amount. If the trustee  
12      withholds an amount under paragraph (5) (B), then the  
13      department shall disallow the deduction under  
14      subsection (a) and subsection [~~(e)~~] (g) shall apply,  
15      but subsection [~~(e)~~] (e) shall not apply.  
16      (d) With respect to individual housing accounts  
17      established after December 31, 2018, for purposes of this  
18      section, the term "individual housing account" means a trust  
19      created or organized in Hawaii for the exclusive benefit of an  
20      individual, or, in the case of a married individual, for the  
21      exclusive benefit of the individual and spouse jointly, but only



1 if the written governing instrument creating the trust meets the  
2 following requirements:

- 3       (1) Contributions shall not be accepted for the taxable  
4       year in excess of \$                for an individual (or  
5       \$                in the case of a joint return) or in excess  
6       of \$                for all taxable years, exclusive of  
7       interest paid or accrued;
- 8       (2) The trustee is a bank, a savings bank, a savings and  
9       loan association, a credit union, a community  
10       development financial institution, or a depository  
11       financial services loan company, chartered, licensed,  
12       certified, or supervised under federal or state law,  
13       whose accounts are insured by the Federal Deposit  
14       Insurance Corporation, the National Credit Union  
15       Administration, or any agency of this State or any  
16       federal agency established for the purpose of insuring  
17       accounts in these financial institutions. The  
18       financial institution may actively make residential  
19       real estate mortgage loans in Hawaii;
- 20       (3) The assets of the trust shall be invested only in  
21       insured savings or time deposits. Funds held in the



1 trust may be commingled for purposes of investment,  
2 but individual records shall be maintained by the  
3 trustee for each individual housing account holder  
4 that show all transactions in detail and such records  
5 as necessary to qualify for pass-through deposit  
6 insurance under title 12 Code of Federal Regulations  
7 sections 330.5 and 330.7;

8 (4) The entire interest of an individual or married couple  
9 for whose benefit the trust is maintained shall be  
10 distributed to the individual or couple not later  
11 than \_\_\_\_\_ months after the date on which the first  
12 contribution is made to the trust;

13 (5) Except as provided in subsection (j), the trustee  
14 shall not distribute the funds in the account unless  
15 the trustee:

16 (A) Verifies that:

17 (i) The individual taxpayer, or the taxpayer and  
18 the taxpayer's spouse, if the taxpayer is  
19 married, have completed homebuyer education  
20 conducted by a housing counseling agency



1                   approved by the United States Department of  
2                   Housing and Urban Development; and  
3           (ii) The money is to be used for the purchase of  
4                   a first principal residence located in  
5                   Hawaii, and provides that the instrument of  
6                   payment is payable to the mortgagor,  
7                   construction contractor, or other vendor of  
8                   the property purchased; or  
9           (B) Withholds an amount equal to ten per cent of the  
10                   amount withdrawn from the account and remits this  
11                   amount to the director within ten days after the  
12                   date of the withdrawal. The amount withheld  
13                   shall be applied to the liability of the taxpayer  
14                   under subsections (e) and (g); and  
15           (6) If any amounts are distributed before the expiration  
16                   of three hundred sixty-five days from the date on  
17                   which a contribution is made to the account, the  
18                   trustee shall so notify in writing the taxpayer and  
19                   the director. If the trustee makes the verifications  
20                   required in paragraph (5) (A), then the department  
21                   shall disallow the deduction under subsection (b) and



1           subsections (e), (g), and (i) shall not apply to that  
2           amount. If the trustee withholds an amount under  
3           paragraph (5)(B), then the department shall disallow  
4           the deduction under subsection (b) and subsection (g)  
5           shall apply, but subsection (e) shall not apply.

6           ~~[(e)]~~ (e) Any contributions paid or distributed out of an  
7 individual housing account shall be included in gross income by  
8 the individual for whose benefit the account was established for  
9 the taxable year in which the payment or distribution is  
10 received, unless the amount is used exclusively in connection  
11 with the purchase of the first principal residence in Hawaii for  
12 the individual for whose benefit the account was established.

13           ~~[(e)]~~ (f) The transfer of an individual's interest in an  
14 individual housing account to a spouse under a dissolution of  
15 marriage decree or under a written instrument incident to a  
16 dissolution of marriage shall not be considered a taxable  
17 transfer made by the individual, and the interest, at the time  
18 of the transfer, shall be treated as part of an individual  
19 housing account of the transferee, and not of the transferor.  
20 After the transfer, the account shall be treated, for purposes



1 of this section, as maintained for the benefit of the  
2 transferee.

3 ~~[(e)]~~ (g) If a distribution from an individual housing  
4 account to an individual for whose benefit the account was  
5 established is made and not used in connection with the purchase  
6 of the first principal residence in Hawaii for the individual,  
7 the tax liability of the individual under this chapter for the  
8 taxable year in which the distribution is received shall be  
9 increased by an amount equal to ten per cent of the amount of  
10 the distribution which is includable in the individual's gross  
11 income for the taxable year.

12 If, during any taxable year, the individual uses the  
13 account or any portion thereof as security for a loan, the  
14 portion so used shall be treated as if it had been distributed  
15 to that individual.

16 ~~[(f)]~~ (h) If the individual for whose benefit the  
17 individual housing account was established purchases a  
18 residential property in Hawaii with the distribution from the  
19 individual housing account:

20 (1) Before January 1, 1990, and if the individual sells in  
21 any manner or method or by use of any instrument



1           conveying or transferring the residential property,  
2           the gross income of the individual under this chapter  
3           for the taxable year in which the residential property  
4           is sold, conveyed, or transferred, whichever is  
5           applicable, shall include an amount equal to the  
6           amount of the distribution from the individual housing  
7           account, and in addition, the gross income of the  
8           individual shall be increased by an amount equal to  
9           ten per cent of the total distribution from the  
10          individual housing account; or

11          (2) After December 31, 1989, the individual shall report  
12          one-tenth of the total distribution from the  
13          individual housing account used to purchase the  
14          residential property as gross income in the taxable  
15          year in which the distribution is completed and in  
16          each taxable year thereafter until all of the  
17          distribution has been included in the individual's  
18          gross income at the end of the tenth taxable year  
19          after the purchase of the residential property. If  
20          the individual sells in any manner or method or by use  
21          of any instrument conveying or transferring the



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

19 An individual who purchased a residential property in Hawaii  
20 with the distribution from an individual housing account before  
21 January 1, 1990, who is subject to paragraph (1) may elect to





1 report as provided in paragraph (2). The election shall be made  
2 before January 1, 1991. If the individual makes the election,  
3 the individual shall report one-tenth of the total distribution  
4 from the individual housing account as gross income in the  
5 taxable year in which the election occurs and in each taxable  
6 year thereafter until all of the distribution has been included  
7 in gross income as provided by paragraph (2). If the individual  
8 making the election sells the residential property in any manner  
9 as provided in paragraph (2), then the individual shall include  
10 as income the amount of the distribution not previously reported  
11 as income and increase the individual's tax liability as  
12 provided in the second sentence of paragraph (2), except when  
13 the third sentence of paragraph (2) applies.

14 In the alternative, any individual subject to paragraph (2)  
15 who established the individual housing account before January 1,  
16 1990, may elect within one year after the date of purchase, to  
17 be subject to paragraph (1).

18 This subsection shall apply to individual housing accounts  
19 established prior to January 1, 2019.

20 (i) If the individual for whose benefit an individual  
21 housing account was established after December 31, 2018 and for



1 which a deduction was claimed under this section purchases a  
2 residential property in Hawaii with the distribution from the  
3 individual housing account, and if the individual sells in any  
4 manner or method or by use of any instrument conveying or  
5 transferring the residential property, the gross income of the  
6 individual under this chapter for the taxable year in which the  
7 residential property is sold, conveyed, or transferred,  
8 whichever is applicable, shall include an amount equal to the  
9 amount of the distribution from the individual housing account,  
10 and in addition, the gross income of the individual shall be  
11 increased by an amount equal to ten per cent of the total  
12 distribution from the individual housing account; provided that  
13 the amount included in gross income shall be reduced by ten per  
14 cent for each full taxable year the individual, or the  
15 individual's spouse, occupies the residential property as a  
16 first principal residence.

17 ~~(g)~~ (j) No tax liability shall be imposed under this  
18 section if:

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



1           (2) Residential property subject to subsection [~~f~~] (h)  
2           or (i) is transferred by will or by operation of law  
3           or sold due to the death or total disability of an  
4           individual or individual's spouse,  
5 subject to the following:

6           An individual shall not be considered to be totally  
7 disabled unless proof is furnished of the total disability in  
8 the form and manner as the director may require.

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



1 that person, then the spouse or an authorized representative may  
2 elect to continue the account or terminate the account and be  
3 paid the assets.

4 ~~[(h)]~~ (k) If the individual for whose benefit the  
5 individual housing account was established subsequently marries  
6 a person who has or has had any interest in residential  
7 property~~[7]~~ within the three years prior to the marriage, the  
8 individual's housing account shall be terminated, the funds  
9 therein shall be distributed to the individual, and the amount  
10 of the funds shall be includable in the individual's gross  
11 income for the taxable year in which such marriage took place;  
12 provided that the tax liability defined under ~~[subsection (f)]~~  
13 subsections (h) and (i) shall not be imposed.

14 ~~[(i)]~~ (l) The trustee of an individual housing account  
15 shall make reports regarding the account to the director and to  
16 the individual for whom the account is maintained with respect  
17 to contributions, distributions, and other matters as the  
18 director may require under rules. The reports shall be filed at  
19 a time and in a manner as may be required by rules adopted under  
20 chapter 91. A person who fails to file a required report shall



1 be subject to a penalty of [~~\$10~~] \$ \_\_\_\_\_ to be paid to the  
2 director for each instance of failure to file."

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

5 SECTION 4. This Act shall take effect on January 1, 2050.



**Report Title:**

Homeownership; Individual Housing Accounts; Deductions

**Description:**

Changes the annual contribution amount, aggregate contribution amount, and number of taxable months for individual housing accounts established after December 31, 2018; allows Community Development Financial Institutions to administer individual housing accounts established after December 31, 2018; and requires homebuyer education. (HB2747 HD2)

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

