

---

---

## A BILL FOR AN ACT

RELATING TO INDIVIDUAL HOUSING ACCOUNTS.

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

1           SECTION 1. The Hawaii Revised Statutes is amended by  
2 adding a new chapter to be appropriately designated and to read  
3 as follows:

4                                   "CHAPTER

5                                   INDIVIDUAL HOUSING ACCOUNTS SAVINGS PROGRAM

6           § -1 Definitions. As used in this chapter:

7           "Board" means the individual housing accounts savings  
8 board.

9           "Employee" means a person who is eligible to participate in  
10 the program established in section -4.

11           "Employer" includes any individual, partnership,  
12 association, joint-stock company, trust, corporation, the  
13 personal representative of the estate of a deceased individual  
14 or the receiver, trustee, or successor of any of the same,  
15 employing any person, but shall not include the State or any  
16 political subdivision thereof or the United States.



1 "Program" means the individual housing accounts savings  
2 program.

3 § -2 Individual housing accounts savings board. (a)

4 There is established within the department of budget and finance  
5 for administrative purposes the individual housing accounts  
6 savings board.

7 (b) The board shall consist of eight members as follows:

- 8 (1) The director of finance or the director's designee,  
9 who shall serve as chairperson of the board;
- 10 (2) The director of human services or the director's  
11 designee;
- 12 (3) The director of commerce and consumer affairs or the  
13 director's designee;
- 14 (4) A representative of employers, to be appointed by the  
15 governor;
- 16 (5) A representative with experience in the field of  
17 investments, to be appointed by the governor;
- 18 (6) A representative of an association representing  
19 employees, to be appointed by the governor;



1 (7) A member of the senate, to be appointed by the  
2 president of the senate as a nonvoting advisory member  
3 of the board; and

4 (8) A member of the house of representatives, to be  
5 appointed by the speaker of the house of  
6 representatives as a nonvoting advisory member of the  
7 board.

8 (c) Members of the board appointed by the governor shall  
9 be subject to the advice and consent of the senate.

10 (d) The term of office of each member of the board  
11 appointed by the governor shall be four years, but the members  
12 shall serve at the pleasure of the governor. A member shall be  
13 eligible for reappointment. If there is a vacancy for any  
14 reason, the governor shall make an appointment to become  
15 immediately effective for the unexpired term. The senate member  
16 shall serve at the pleasure of the president of the senate. The  
17 member of the house of representatives shall serve at the  
18 pleasure of the speaker of the house of representatives. The  
19 directors of finance, human services, and commerce and consumer  
20 affairs, or their designees, shall serve in an ex officio  
21 capacity.



1 (e) A majority of the voting members of the board shall  
2 constitute a quorum for the transaction of business.

3 (f) The members of the board shall serve without  
4 compensation but shall be reimbursed for travel and other  
5 necessary expenses in the performance of their official duties.

6 (g) The board may employ, without regard to chapter 76,  
7 staff necessary for the performance of its functions and fix  
8 their compensation.

9 § -3 Duties of the board. (a) The board shall:

10 (1) Establish, implement, and maintain the individual  
11 housing accounts savings program pursuant to section  
12 -4;

13 (2) Adopt rules pursuant to chapter 91 for the general  
14 administration of the program as provided in section  
15 -5;

16 (3) Direct the investment of the funds contributed to  
17 accounts in the plan consistent with the investment  
18 restrictions established by the board. The investment  
19 restrictions shall be consistent with the objectives  
20 of the plan, and the board shall exercise the judgment  
21 and care then prevailing that persons of prudence,



1 discretion, and intelligence exercise in the  
2 management of their own affairs with due regard to the  
3 probable income and level of risk from certain types  
4 of investments of money, in accordance with the  
5 policies established by the board;

6 (4) Collect application, account, or administrative fees  
7 to defray the costs of administering the plan;

8 (5) Make and enter into contracts, agreements, or  
9 arrangements, and retain, employ, and contract for any  
10 of the following considered necessary or desirable for  
11 carrying out the purposes of this chapter:

12 (A) Services of private and public financial  
13 institutions, depositories, consultants,  
14 investment advisers, investment administrators,  
15 and third-party plan administrators;

16 (B) Research, technical, and other services; and

17 (C) Services of other state agencies to assist the  
18 board in its duties;

19 (6) Evaluate the need for, and procure as needed, pooled  
20 private insurance of the plan; and



1           (7) Develop and implement an outreach plan to gain input  
2           and disseminate information regarding the plan and  
3           individual housing account savings in general.

4           §   -4 Establishment of the individual housing accounts  
5 savings program. (a) There is established the individual  
6 housing accounts savings program to be administered by the  
7 board. The program shall:

- 8           (1) Allow employees in the State to contribute to an  
9           account established under the program through payroll  
10          deduction;
- 11          (2) Require an employer to offer its employees the  
12          opportunity to contribute to an account in the program  
13          through payroll deductions;
- 14          (3) Provide for automatic enrollment of employees and  
15          allow employees to opt out of the program;
- 16          (4) Offer a default contribution rate set by the board;
- 17          (5) Offer default escalation of contribution levels that  
18          can be increased or decreased within the limits  
19          established by the board;



- 1 (6) Provide for contributions to accounts in the program  
2 to be deposited directly with the investment  
3 administrator for the program;
- 4 (7) Whenever possible, use existing employer and public  
5 infrastructure to facilitate contributions to the  
6 program, recordkeeping, and outreach;
- 7 (8) Allow no employer contributions to employee accounts;
- 8 (9) Have its records and its program accounts maintained  
9 and accounted for separately;
- 10 (10) Provide reports on the status of program accounts to  
11 program participants at least annually;
- 12 (11) Allow account owners to both maintain an account  
13 regardless of their place of employment and to roll  
14 over funds into other savings accounts;
- 15 (12) Pool accounts established under the program for  
16 investment;
- 17 (13) Be professionally managed;
- 18 (14) Provide that the State and employers that participate  
19 in the program have no proprietary interest in the  
20 contributions to or earnings on amounts contributed to  
21 accounts established under the program;



1 (15) Provide that the investment administrator for the  
2 program shall be the trustee of all contributions and  
3 earnings on amounts contributed to accounts  
4 established under the program;

5 (16) Not impose on employers any duties that are otherwise  
6 prohibited under state or federal law;

7 (17) Keep administration fees in the program low; and

8 (18) Allow the use of private sector partnerships to  
9 administer and invest the contributions to the program  
10 under the supervision and guidance of the board.

11 (b) The program, board, each board member, and State shall  
12 not guarantee any rate of return or any interest rate on any  
13 contribution; provided that the program, board, each board  
14 member, and State shall not be liable for any loss incurred by  
15 any person as a result of participating in the program.

16 § -5 Rules. The board shall adopt rules, pursuant to  
17 chapter 91, necessary for the purposes of this chapter.

18 § -6 Confidentiality. Individual housing account  
19 information for accounts under this program, including but not  
20 limited to names, addresses, telephone numbers, personal  
21 identification information, amounts contributed, and earnings on





1 amounts contributed, shall be confidential and shall be  
2 maintained as confidential:

3 (1) Except to the extent necessary to administer the  
4 program in a manner consistent with this chapter, the  
5 tax laws of the State, and the Internal Revenue Code  
6 of 1986, as amended; or

7 (2) Unless the person who provides the information or is  
8 the subject of the information expressly agrees in  
9 writing that the information may be disclosed.

10 **§ -7 Individual housing accounts savings program**

11 **administrative fund.** (a) There is established in the state  
12 treasury a special fund to be known as the individual housing  
13 accounts savings program administrative fund, into which shall  
14 be deposited:

15 (1) All interest collected under this chapter on and after  
16 the establishment of the program;

17 (2) Appropriations made by the legislature to the fund;

18 (3) All fees collected as provided in section -3; and

19 (4) Moneys transferred to the fund from the federal  
20 government, other state agencies, or local  
21 governments.



1 (b) The director of finance shall be the treasurer and  
2 custodian of the administrative fund.

3 (c) Moneys in the individual housing accounts savings  
4 program administrative fund shall be used to pay the  
5 administrative costs and expenses of the board and program and  
6 for any other purpose described in this chapter.

7 § -8 Annual report. The board shall prepare an annual  
8 report detailing the board's activities for the previous fiscal  
9 year. The annual report shall be submitted to the governor and  
10 legislature no later than twenty days prior to the convening of  
11 each regular session."

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

14 "§235-5.5 Individual housing accounts. (a) There shall  
15 be allowed as a deduction from gross income the amount, not to  
16 exceed \$5,000, paid in cash during the taxable year by an  
17 individual taxpayer to an individual housing account established  
18 for the individual's benefit to provide funding for the purchase  
19 of the individual's first principal residence[-], or to provide  
20 assistance during economic hardships, for capital improvements  
21 for homeownership, cemetery and mortuary services, or senior



1 housing. A deduction not to exceed \$10,000 shall be allowed for  
2 a married couple filing a joint return. No deduction shall be  
3 allowed on any amounts distributed less than three hundred  
4 sixty-five days from the date on which a contribution is made to  
5 the account. Any deduction claimed for a previous taxable year  
6 for amounts distributed less than three hundred sixty-five days  
7 from the date on which a contribution was made shall be  
8 disallowed, and the amount deducted shall be included in the  
9 previous taxable year's gross income and the tax reassessed. In  
10 addition, the taxpayer shall pay a ten per cent penalty on any  
11 amounts distributed less than three hundred sixty-five days from  
12 the date on which the amounts were made as a contribution. The  
13 interest paid or accrued within the taxable year on the account  
14 shall not be included in the individual's gross income. For  
15 purposes of this section, the term "first principal residence"  
16 means a residential property purchased with the payment or  
17 distribution from the individual housing account which shall be  
18 owned and occupied as the only home by an individual who did not  
19 have any interest in, individually, or whose spouse did not have  
20 any interest in, if the individual is married, a residential



1 property within the last five years of opening the individual  
2 housing account.

3 In the case of a married couple filing separate returns,  
4 the sum of the deductions allowable to each of them for the  
5 taxable year shall not exceed \$5,000, or \$10,000 for a joint  
6 return, for amounts paid in cash, excluding interest paid or  
7 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 \$25,000, excluding interest paid or accrued. In the case  
11 of married individuals having separate individual housing  
12 accounts, the sum of the separate accounts and the deduction  
13 under this section shall not exceed \$25,000, excluding interest  
14 paid or accrued thereon.

15 (b) There shall be allowed as a deduction from gross  
16 income the amount, not to exceed \$ \_\_\_\_\_, paid in cash  
17 during the taxable year by an individual taxpayer to an  
18 individual housing account established for the individual's  
19 benefit to provide funding for the first month's rent or a  
20 rental deposit on a dwelling place that is to be used by the  
21 individual or the individual's immediate family as the principal



1 residence, or to provide funding for downpayment assistance or  
2 closing costs on a principal residence. No deduction shall be  
3 allowed on any amounts distributed within twenty-four months  
4 from the date on which the first contribution is made to the  
5 account. The interest paid or accrued within the taxable year  
6 on the account shall not be included in the individual's gross  
7 income.

8 If the individual for whose benefit the individual housing  
9 account was established uses the account as provided by this  
10 subsection with the distribution from the individual housing  
11 account, the individual shall report \_\_\_\_\_ of the total  
12 distribution from the individual housing account used to obtain  
13 the rental housing or provide downpayment assistance or closing  
14 costs as gross income in the taxable year in which the  
15 distribution is completed and in each taxable year thereafter  
16 until all of the distribution has been included in the  
17 individual's gross income.

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



1 individual and spouse jointly, but only if the written governing  
2 instrument creating the trust meets the 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, [~~e~~] a depository financial services  
9 loan company, or a community development financial  
10 institution, chartered, certified, licensed, or  
11 supervised under federal or state law, whose accounts  
12 are insured by the Federal Deposit Insurance  
13 Corporation, the National Credit Union Administration,  
14 or any agency of this State or any federal agency  
15 established for the purpose of insuring accounts in  
16 these financial institutions. The financial  
17 institution must actively make residential real estate  
18 mortgage loans in Hawaii;
- 19 (3) The assets of the trust shall be invested only in  
20 fully insured savings or time deposits. Funds held in  
21 the trust may be commingled for purposes of



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

4 (4) The entire interest of an individual or married couple  
5 for whose benefit the trust is maintained shall be  
6 distributed to the individual or couple ~~[not]~~ no later  
7 than one hundred twenty months after the date on which  
8 the first contribution is made to the trust;

9 (5) Except as provided in subsection ~~[(g),]~~ (h), the  
10 trustee shall not distribute the funds in the account  
11 unless the trustee:

12 (A) Verifies that the money is to be used for the  
13 purchase of a first principal residence located  
14 in Hawaii, to provide assistance during economic  
15 hardships, for capital improvement for  
16 homeownership, cemetery and mortuary services, or  
17 senior housing, or for the uses authorized under  
18 subsection (b), and provides that the instrument  
19 of payment is payable to the ~~[mortgagor,]~~ :

20 (i) Mortgagor, construction contractor, or other  
21 vendor of the property purchased; or



1           (ii) Landlord or landlord's assignee or owner or  
2                           owner's assignee; or

3           (B) Withholds an amount equal to ten per cent of the  
4                           amount withdrawn from the account and remits this  
5                           amount to the director within ten days after the  
6                           date of the withdrawal. The amount withheld  
7                           shall be applied to the liability of the taxpayer  
8                           under subsections ~~[(e)]~~ (d) and ~~[(e)+]~~ (f); and

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





1        [~~(e)~~] (d) Any contributions paid or distributed out of an  
2 individual housing account shall be included in gross income by  
3 the individual for whose benefit the account was established for  
4 the taxable year in which the payment or distribution is  
5 received, unless the amount is used exclusively in connection  
6 with the purchase of the first principal residence in Hawaii, to  
7 provide assistance during economic hardships, for capital  
8 improvement for homeownership, cemetery and mortuary services,  
9 or senior housing, or for the uses authorized under subsection  
10 (b) for the individual for whose benefit the account was  
11 established.

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



1        [~~e~~] (f) If a distribution from an individual housing  
2 account to an individual for whose benefit the account was  
3 established is made and not used in connection with the purchase  
4 of the first principal residence in Hawaii, to provide  
5 assistance during economic hardships, for capital improvement  
6 for homeownership, cemetery and mortuary services, or senior  
7 housing, or for the uses authorized under subsection (b) for the  
8 individual, the tax liability of the individual under this  
9 chapter for the taxable year in which the distribution is  
10 received shall be increased by an amount equal to ten per cent  
11 of the amount of the distribution which is includable in the  
12 individual's gross income for the taxable year.

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

17        [~~f~~] (g) If the individual for whose benefit the  
18 individual housing account was established purchases a  
19 residential property in Hawaii with the distribution from the  
20 individual housing 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)~~] (h) No tax liability shall be imposed under this  
2 section 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)~~] (g)  
6            is transferred by will or by operation of law or sold  
7            due to the death or total disability of an individual  
8            or 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       ~~[(h)]~~ (i) If the individual for whose benefit the  
9 individual housing account was established subsequently marries  
10 a person who has or has had any interest in residential  
11 property, the individual's housing account shall be terminated,  
12 the funds therein shall be distributed to the individual, and  
13 the amount of the funds shall be includable in the individual's  
14 gross income for the taxable year in which ~~[such]~~ the marriage  
15 took place; provided that the tax liability defined under  
16 subsection ~~[(f)]~~ (g) shall not be imposed.

17       (j) A taxpayer may establish an individual housing account  
18 in the name of a dependent of the taxpayer upon providing the  
19 dependent's birth certificate and social security number to the  
20 director of taxation. The individual housing account  
21 established pursuant to this section may be opened upon the



1 birth of the dependent. Any contributions to the individual  
2 housing account, subject to the limitations in subsection (b),  
3 shall be deductible by the taxpayer until the child reaches  
4 age \_\_\_\_\_.

5 The director of taxation shall prepare any forms that may  
6 be necessary to establish an individual housing account in the  
7 name of a dependent of the taxpayer and may require proof of  
8 claim of the dependent.

9 ~~[(i)]~~ (k) The trustee of an individual housing account  
10 shall make reports regarding the account to the director and to  
11 the individual for whom the account is maintained with respect  
12 to contributions, distributions, and other matters as the  
13 director may require under rules. The reports shall be filed at  
14 a time and in a manner as ~~[may be]~~ required by rules adopted  
15 under chapter 91. A person who fails to file a required report  
16 shall be subject to a penalty of \$10 to be paid to the director  
17 for each instance of failure to file.

18 (1) The director of taxation may adopt rules pursuant to  
19 chapter 91 necessary to effectuate the purposes of this section,  
20 including defining the terms "economic hardship" and "capital  
21 improvement for home ownership".





1 SECTION 3. There is appropriated out of the general  
2 revenues of the State of Hawaii the sum of \$ or so  
3 much thereof as may be necessary for fiscal year 2019-2020 and  
4 the same sum or so much thereof as may be necessary for fiscal  
5 year 2020-2021 to be deposited into the individual housing  
6 accounts savings program administrative fund.

7 SECTION 4. There is appropriated out of the individual  
8 housing accounts savings program administrative fund the sum of  
9 \$ or so much thereof as may be necessary for fiscal  
10 year 2019-2020 and the same sum or so much thereof as may be  
11 necessary for fiscal year 2020-2021 for administrative and  
12 operating expenses of the individual housing accounts savings  
13 board.

14 The sums appropriated shall be expended by the department  
15 of budget and finance for the purposes of this Act.

16 SECTION 5. Statutory material to be repealed is bracketed  
17 and stricken. New statutory material is underscored.

18 SECTION 6. This Act shall take effect on July 1, 2050.



**Report Title:**

Individual Housing Accounts Savings Program; Individual Housing Accounts Savings Board; Appropriation

**Description:**

Establishes the individual housing accounts savings board to administer the individual housing accounts savings program and individual housing accounts savings program administrative fund. Requires the board to annually report to the governor and legislature. Requires a taxpayer to pay a penalty of ten per cent of any amounts distributed before three hundred sixty-five days from the date the amounts were made as a contribution. Allows taxpayers to open an individual housing account in the name of the taxpayer's dependent upon birth. Authorizes the use of an individual housing account to provide assistance during economic hardships or for capital improvement for homeownership, cemetery and mortuary services, and senior housing. Authorizes the establishment an individual housing account to make payments for first month's rent or a rental deposit or to provide funding for downpayment assistance or closing costs on a principal residence. Includes community development financial institutions as authorized trustees of individual housing accounts. Authorizes the director of taxation to adopt rules to implement the individual housing accounts deduction. Makes an appropriation. Effective 7/1/2050. (SD2)

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

