

## Calendar No. 262

110TH CONGRESS } <i>1st Session</i>	SENATE	{ REPORT 110–126
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### TO REAUTHORIZE THE PROGRAMS OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT FOR HOUS- ING ASSISTANCE FOR NATIVE HAWAIIANS

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JULY 9, 2007.—Ordered to be printed

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Mr. DORGAN, from the Committee on Indian Affairs,  
submitted the following

### R E P O R T

[To accompany H.R. 835]

The Committee on Indian Affairs, to which was referred the bill (H.R. 835) to reauthorize programs in the Department of Housing and Urban Development for housing assistance for Native Hawaiians, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

#### PURPOSE

The Hawaiian Homeownership Opportunity Act of 2007 would reauthorize the Native Hawaiian Housing Block Grant program in Title VIII of the Native American Housing and Self-Determination Act of 1996 (NAHASDA) and the Section 184A individual loan guarantee program for low-income Native Hawaiian families. The bill would also authorize the Department of Hawaiian Home Lands to utilize Title VI of NAHASDA to leverage its future housing block grant funds to provide housing services to low-income Native Hawaiian families living on Hawaiian home lands.

#### BACKGROUND

The Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.) reorganized the system of housing assistance provided to tribes through the Department of Housing and Urban Development (HUD). Tribal eligibility for several housing programs was eliminated and the funding from those programs was instead consolidated into the Indian Housing Block Grant (IHBG). The Indian Housing Block Grant provides direct

funding to tribes for various housing activities authorized by NAHASDA. In 2000, NAHASDA was amended to include Title VIII so that Native Hawaiians could also receive funding through a separate block grant, the Native Hawaiian Housing Block Grant (NHHBG), which funds affordable housing activities on Hawaiian home lands.

Title VIII of NAHASDA was originally authorized for five years, through Fiscal Year 2005, and has not been formally reauthorized since, although Congress has continued to provide annual appropriations to carry out the program. H.R. 835 reauthorizes Title VIII of NAHASDA for five years, for Fiscal Years 2008 through 2012.

H.R. 835 also makes two substantive changes to current law by expanding Native Hawaiians' access to two loan guarantee programs: Section 184A (12 U.S.C. 1715z–13b) and NAHASDA Title VI.

Section 184A. H.R. 835 amends the Section 184A loan guarantee program for single-family homes on Native Hawaiian home lands to allow for refinancing; to strike requirements that a homebuyer be turned down for a loan before applying for a Section 184A loan; and to eliminate the requirement to report on anticipated applications in the annual housing plan.

NAHASDA Title VI. H.R. 835 authorizes the Department of Hawaiian Home Lands (DHHL) to become eligible for loan guarantees authorized under Title VI of NAHASDA. This program, modeled on the Section 108 Loan Guarantee Program that works in conjunction with HUD's Community Development Block Grant program (CDBG), would authorize the Department of Hawaiian Home Lands to borrow or issue bonded debt for large-scale housing and infrastructure development with the security of the federal government. The funding stream provided by the Department of Housing and Urban Development would be used as collateral.

#### LEGISLATIVE HISTORY

On March 28, 2007, the House of Representatives voted 272–150 to pass H.R. 835, and upon receipt in the Senate, the bill was referred to the Committee on Indian Affairs. The bill is identical to a bill Senator Inouye introduced in February, 2007 (S. 710).

On May 10, 2007, the Committee on Indian Affairs convened a business meeting to consider H.R. 835 and other measures that had been referred to it, and ordered the bill favorably reported.

#### COMMITTEE RECOMMENDATION AND TABULATION OF VOTE

On May 10, 2007, the Committee on Indian Affairs convened a business meeting to consider H.R. 835 and other measures, and voted to have the bill favorably reported to the full Senate, without amendment, with the recommendation that the bill do pass.

#### SECTION-BY-SECTION ANALYSIS

##### *Section 1. Short title*

Hawaiian Homeownership Opportunity Act of 2007.

*Section 2. Authorization of appropriations for housing assistance*

Makes Title VIII of NAHASDA (25 U.S.C. 4221 et seq.) applicable for fiscal years 2008 through 2012.

*Section 3. Loan guarantees for Native Hawaiian housing*

Reauthorizes Section 184A, the Native Hawaiian Housing Loan Guarantee Fund (12 U.S.C. 1715z–13b), for fiscal years 2008 through 2012.

Amends Section 184A to conform to the provisions of the Section 184 Indian Housing Loan Guarantee Program as follows:

Strikes language contained in Section 184A(b), “or as a result of a lack of access to private financial markets,” which has been interpreted by HUD to require potential borrowers to apply to private market lenders and be turned down before requesting a loan under Section 184A.

Strikes the language of the entire subparagraph 184A(c)(2)(B), “HOUSING PLAN.” This language ties any housing or infrastructure development, new construction, acquisition or substantial rehabilitation of housing to the annual Native Hawaiian Housing Plan (NHHP) submitted by the Department of Hawaiian Home Lands (DHHL), the sole grant recipient. This had proven impractical in the Section 184 program, as longer-term planning is required for many projects, and there are instances where the Section 184A guarantees will not be used in conjunction with Native Hawaiian Housing Block Grant funds. For individual Native Hawaiian homebuyers applying for a Section 184A loan, this provision is not relevant. Submitting this information in the annual Native Hawaiian Housing Plan of the Department of Hawaiian Home Lands would still be required if any Native Hawaiian Housing Block Grant funds were involved in the project.

Adds the word “refinance” to Section 184A(c)(2)(A), “Eligible Housing,” thereby permitting Section 184A borrowers to take advantage of lower interest rates and better terms, should market conditions warrant. It would also permit eligible borrowers with existing mortgage loans from other sources to refinance those obligations under this program.

*Section 4. Eligibility of Department of Hawaiian Home Lands for Title VI loan guarantees*

Makes the Department of Hawaiian Home Lands eligible to participate in Title VI of NAHASDA, Federal Guarantees for the Financing of Tribal Housing Activities. This would allow the Department of Hawaiian Home Lands to borrow or issue bonded debt for up to five (5) times their annual allocation under Title VIII, with the full faith and credit of the federal government, and to use such funds for affordable housing activities and other purposes allowed under Title VIII.

COST AND BUDGETARY CONSIDERATIONS

The following cost estimate, as provided by the Congressional Budget Office, dated May 17, 2007, was prepared for H.R. 835:

*H.R. 835—Hawaiian Homeownership Opportunity Act of 2007*

Summary: H.R. 835 would reauthorize the Native Hawaiian Housing Block Grant and Loan Guarantee programs and would authorize the appropriation of such sums as necessary for those programs for each of the fiscal years 2008 through 2012. In addition, the act would reauthorize loans provided under Title VI of the Native American Housing Assistance and Self-Determination Act of 1996 for fiscal years 2008 through 2012 and would expand eligibility to include the Department of Hawaiian Home Lands (DHHL).

CBO estimates that appropriation of the amounts necessary to implement H.R. 835 would cost \$39 million over the 2008–2012 period. Enacting H.R. 835 would not affect direct spending or revenues.

H.R. 835 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA); the act would benefit the state of Hawaii.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 835 is shown in the following table. The costs of this legislation fall within budget functions 600 (income security) and 370 (commerce and housing credit).

	By fiscal year, in millions of dollars—					
	2007	2008	2009	2010	2011	2012
SPENDING SUBJECT TO APPROPRIATION						
Spending Under Current Law for Hawaiian Housing Programs:						
Budget Authority <sup>1</sup> .....	12	0	0	0	0	0
Estimated Outlays .....	4	2	2	2	2	1
Proposed Changes:						
Native Hawaiian Housing Block Grants:						
Estimated Authorization Level .....	0	9	9	10	10	10
Estimated Outlays .....	0	1	3	5	7	9
Native Hawaiian Loan Guarantees:						
Estimated Authorization Level .....	0	1	1	1	1	1
Estimated Outlays .....	0	1	1	1	1	1
Title VI Loan Guarantees:						
Estimated Authorization Level .....	0	2	2	2	2	2
Estimated Outlays .....	0	2	2	2	2	2
Total:						
Estimated Authorization Level .....	0	12	12	13	13	13
Estimated Outlays .....	0	4	6	8	10	12
Spending Under H.R. 835 for Hawaiian Housing Programs:						
Estimated Authorization Level <sup>1</sup> .....	12	12	12	13	13	13
Estimated Outlays .....	4	6	8	10	12	13

<sup>1</sup> The 2007 level is the amount appropriated in that year for Native Hawaiian Housing Block Grants, Native Hawaiian Housing Loan Guarantees, and Title VI Loan Guarantees.

*Basis of estimate*

*Native Hawaiian Housing Block Grants*

Section 2 would authorize the appropriation of such sums as necessary for the Native Hawaiian Housing Block Grant program from 2008 through 2012. Program grants are used to assist affordable housing activities for eligible low-income Native Hawaiian families. In 2007, \$9 million was appropriated for this program. Assuming appropriation of similar amounts (and adjusting for anticipated inflation), CBO estimates that implementing this section would cost \$23 million through 2012.

*Native Hawaiian Housing Loan Guarantees*

Section 3 would authorize the appropriation of such sums as necessary for the Native Hawaiian Housing Loan Guarantee program from 2008 through 2012. This program guarantees loans made to eligible Native Hawaiian families who reside on the Hawaiian Home Lands and who otherwise could not acquire private financing because of the unique legal status of the Hawaiian Home Lands. In 2007, \$1 million was appropriated for this program. Assuming appropriation of similar amounts (and adjusting for anticipated inflation), CBO estimates that implementing this section would cost \$5 million through 2012.

*Title VI loan guarantees*

Section 4 would extend the authorization of the Title VI loan guarantee program through 2012 and expand eligibility to include the DHHL. Such guarantees allow Native American Block Grant recipients to leverage their funding by pledging future grants as security for the repayment of a loan. A private lender provides the financing and the Department of Housing and Urban Development (HUD) provides a 95 percent guarantee of the principal and interest due in the case of a default. The size of the Title VI loans can be no larger than five times the grant recipient's annual grant amount. HUD estimates this program currently has a subsidy rate of about 12 percent. In 2007, \$2 million for subsidy costs was appropriated for the program, which would support about \$17 million in loans. Assuming appropriation of similar amounts and adjusting for the expansion of eligibility to include DHHL, CBO estimates that implementing this section would cost \$11 million through 2012. CBO assumes that loans to DHHL that are paid off using Native Hawaiian Housing Block Grants would have a similar loan-to-grant ratio as those Title VI loans backed by Native American Block Grants.

There have been few losses to date in the Title VI program; however, repayment of these loans have been funded by federal grants. As a result, the actual cost to the government is borne by the grant program. It is uncertain what the cost of these loans would be in the absence of the grant program but it likely would be higher, perhaps substantially.

Intergovernmental and private-sector impact: H.R. 835 contains no intergovernmental or private-sector mandates as defined in UMRA and would benefit the state of Hawaii. The act would allow certain state and tribal entities in the state of Hawaii to continue helping native Hawaiians with low income purchase, construct, or refinance homes.

Previous CBO estimate: On February 21, 2007, CBO transmitted a cost estimate for H.R. 835 as ordered reported by the House Committee on Financial Services on February 14, 2007. The House and Senate versions of the act are identical, as are CBO's estimates.

Estimate prepared by: Federal Costs: Chad Chirico and Susanne S. Mehlman; Impact on State, Local, and Tribal Governments: Lisa Ramirez-Branum; Impact on the Private Sector: Paige Piper/Bach.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

## EXECUTIVE COMMUNICATIONS

The Committee has received no communications from the Executive Branch regarding H.R. 835.

## REGULATORY AND PAPERWORK IMPACT STATEMENT

Paragraph 11(b) of rule XXVI of the Standing Rules of the Senate requires that each report accompanying a bill evaluate the regulatory and paperwork impact that would be incurred in carrying out the bill. The Committee has concluded that the regulatory and paperwork impacts of H.R. 835 should be de minimis.

## CHANGES IN EXISTING LAW

In compliance with subsection 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill H.R. 835, as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new language to be added in italic, existing law to which no change is proposed is shown in roman):

**NATIVE AMERICAN HOUSING ASSISTANCE  
AND SELF-DETERMINATION ACT OF 1996**

\* \* \* \* \*

**TITLE VI—FEDERAL GUARANTEES FOR FI-  
NANCING FOR TRIBAL AND NATIVE HAWAII-  
IAN HOUSING ACTIVITIES**

**SEC. 601. AUTHORITY AND REQUIREMENTS.**

(a) **AUTHORITY.**—To such extent or in such amounts as provided in appropriations Acts, the Secretary may, subject to the limitations of this title (including limitations designed to protect and maintain the viability of rental housing units owned or operated by the recipient that were developed under a contract between the Secretary and an Indian housing authority pursuant to the United States Housing Act of 1937), and upon such terms and conditions as the Secretary may prescribe, guarantee and make commitments to guarantee, the notes or other obligations issued by Indian tribes or tribally designated housing entities with tribal approval, *or by the Department of Hawaiian Home Lands*, for the purposes of financing affordable housing activities described in section 202 *or 810, as applicable*, and housing related community development activity as consistent with the purposes of this Act.

\* \* \* \* \*

(c) **LIMITATION ON OUTSTANDING GUARANTEES.**—No guarantee or commitment to guarantee shall be made with respect to any note or other obligation if the total outstanding notes or obligations of the issuer guaranteed under this title (excluding any amount defeased under the contract entered into under section 602(a)(1)) would thereby exceed an amount equal to 5 times the amount of

the grant approval for the issuer pursuant to title III or VIII, as applicable.

\* \* \* \* \*

**SEC. 602. SECURITY AND REPAYMENT.**

(a) **REQUIREMENTS ON ISSUER.**—To assure the repayment of notes or other obligations and charges incurred under this title and as a condition for receiving such guarantees, the Secretary shall require the Indian tribe [or housing entity], *housing entity*, or *Department of Hawaiian Home Lands* issuing such notes or obligations to—

(1) \* \* \*

\* \* \* \* \*

(3) demonstrate that the extent of such issuance and guarantee under this title is within the financial capacity of the tribe or *Department* and is not likely to impair the ability to use grant amounts under title I or VIII, as applicable, taking into consideration the requirements under section 203(b) or 811(b), as applicable; and

\* \* \* \* \*

(b) **REPAYMENT FROM GRANT AMOUNTS.**—Notwithstanding any other provision of this Act—

\* \* \* \* \*

(2) grants allocated under this Act for an Indian tribe [or housing entity], *housing entity*, or *the Department of Hawaiian Home Lands* (including program income derived therefrom) may be used to pay principal and interest due (including such servicing, underwriting, and other costs as may be specified in regulations issued by the Secretary) on notes or other obligations guaranteed pursuant to this title.

\* \* \* \* \*

**SEC. 603. PAYMENT OF INTEREST.**

The Secretary may make, and contract to make, grants, in such amounts as may be approved in appropriations Acts, to or on behalf of an Indian tribe [or housing entity], *housing entity*, or *the Department of Hawaiian Home Lands* issuing notes or other obligations guaranteed under this title, to cover not to exceed 30 percent of the net interest cost (including such servicing, underwriting, or other costs as may be specified in regulations of the Secretary) to the borrowing entity or agency of such obligations. The Secretary may also, to the extent approved in appropriations Acts, assist the issuer of a note or other obligation guaranteed under this title in the payment of all or a portion of the principal and interest amount due under the note or other obligation, if the Secretary determines that the issuer is unable to pay the amount because of circumstances of extreme hardship beyond the control of the issuer.

\* \* \* \* \*

**SEC. 605. LIMITATIONS ON AMOUNT OF GUARANTEES.**

(a) \* \* \*

(b) **AUTHORIZATION OF APPROPRIATIONS FOR CREDIT SUBSIDY.**—There are authorized to be appropriated to cover the costs (as such term is defined in section 502 of the Congressional Budget Act of

1974) of guarantees under this title such sums as may be necessary for each of fiscal years **【1997 through 2007】** *2008 through 2012*.

\* \* \* \* \*

## **TITLE VIII—HOUSING ASSISTANCE FOR NATIVE HAWAIIANS**

\* \* \* \* \*

### **SEC. 824. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to the Department of Housing and Urban Development for grants under this title such sums as may be necessary for each of **【fiscal years 2001, 2002, 2003, 2004, and 2005.】** *fiscal years 2008, 2009, 2010, 2011 and 2012*.

\* \* \* \* \*

## **SECTION 184A OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1992**

### **SEC. 184A. LOAN GUARANTEES FOR NATIVE HAWAIIAN HOUSING.**

\* \* \* \* \*

(b) **AUTHORITY.**—To provide access to sources of private financing to Native Hawaiian families who otherwise could not acquire housing financing because of the unique legal status of the Hawaiian Home Lands **【or as a result of a lack of access to private financial markets】**, the Secretary may guarantee an amount not to exceed 100 percent of the unpaid principal and interest that is due on an eligible loan under subsection (c).

(c) **ELIGIBLE LOANS.**—Under this section, a loan is an eligible loan if that loan meets the following requirements:

(1) \* \* \*

**【(2) ELIGIBLE HOUSING—**

**【(A) IN GENERAL.**—The loan will be used to construct, acquire, or rehabilitate not more than 4-family dwellings that are standard housing and are located on Hawaiian Home Lands for which a housing plan described in subparagraph (B) applies.

**【(B) HOUSING PLAN.**—A housing plan described in this subparagraph is a housing plan that—

**【(i)** has been submitted and approved by the Secretary under section 803 of the Native American Housing Assistance and Self-Determination Act of 1996; and

**【(ii)** provides for the use of loan guarantees under this section to provide affordable homeownership housing on Hawaiian Home Lands.**】**

(2) *ELIGIBLE HOUSING.*—*The loan will be used to construct, acquire, refinance, or rehabilitate 1- to 4-family dwellings that are standard housing and are located on Hawaiian Home Lands.*

\* \* \* \* \*

(j) **HAWAIIAN HOUSING LOAN GUARANTEE FUND.**—



(1) \* \* \*

\* \* \* \* \*

(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Guarantee Fund to carry out this section such sums as may be necessary for each of **the** fiscal years 2001, 2002, 2003, 2004, and 2005. *fiscal years 2008, 2009, 2010, 2011 and 2012.*

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