HAWAII ADMINISTRATIVE RULES

TITLE 17

DEPARTMENT OF HUMAN SERVICES

SUBTITLE 6 FAMILY AND ADULT SERVICES DIVISION

CHAPTER 675

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Historical Note: This chapter is based substantially upon Chapter 17-620 [Eff 7/19/82; am 11/16/82; am 12/21/82; am 6/30/83; am 11/12/83; am 2/17/84; am 8/2/84; am 10/1/84; am 11/13/84; am 12/24/84; am 4/20/85; am 8/29/85; am 12/1/85; am 1/3/86; am 4/21/86; am 9/4/86; am 5/2/87; am 8/15/87; am 10/23/87; am 4/25/88; am 6/12/90; am 12/27/90; R 3/19/93], Subchapter 1 of Chapter 17-717 [Eff 7/19/82; am 10/2/82; am 4/1/83; am 7/5/83; am 5/1/86; am 9/2/86; am 12/27/86; am 7/19/87; am 1/21/88; am 4/28/88; am 5/4/89; am 9/1/89; am 10/19/89; am 8/25/90; R 3/19/93], §17-744-2 [Eff 7/19/82; am 8/23/84; am 6/23/86; am 8/13/87; am 10/23/87; am 6/11/88; am 11/25/88; am 4/15/89; am 10/1/89; R 3/19/93], §17-744-3 [Eff 7/19/82; am 8/23/84; R 3/19/93], Subchapter 3 of Chapter 17-744 [Eff 7/19/82; am 8/20/83; am 10/14/83; am 5/18/84; am 8/23/84; am 12/21/84; am 8/9/85; am 9/7/85; am 6/23/86; am 7/23/86; am 6/18/87; am 9/28/87; am 10/23/87; am 11/25/88; am 4/15/89; am 10/1/89; am 6/12/90; am 10/4/90; am 3/21/91; R 3/19/93], Subchapter 4 of Chapter 17-744 [Eff 7/19/82; am 8/20/83; am 8/20/84; am 4/17/86; am 6/18/87; am 0/23/87; am 6/11/88; am 5/13/91; R 3/19/93], and §17-744-44 [Eff 7/19/82; am 3/28/83; am 9/29/86; am 10/23/87; am 2/22/88; am 6/6/89; am 10/1/89; am 10/4/90; R 3/19/93]

SUBCHAPTER 1

GENERAL PROVISIONS

§17-675-1 Purpose. This chapter describes the types and amount of assets that an individual or a family may retain when establishing eligibility for financial assistance or food stamps. [Eff 3/19/93; am 8/01/94] (Auth: HRS §346-53) (Imp: 7 C.F.R. §273.8; 45 C.F.R. §233.20)

§17-675-2 Definitions. For the purpose of this chapter: "Asset" means cash and any other personal property, as well as real property, that an individual or family:

(1) Owns;
(2) Has the right, authority, or power to convert to cash (if not already cash); and
(3) Is not legally restricted from using for the individual's or family's support and maintenance.

"Automobile" means a passenger car or other motor vehicle used to provide transportation of persons or goods.

"Domestic violence victim" means an individual who has been battered or otherwise subjected to extreme cruelty. Acts which constitute domestic violence include but are not limited to the following:

(1) Physical acts that resulted in, or threatened to result in, physical injury;
(2) Sexual abuse;
(3) Sexual activity involving a dependent child;
(4) Nonconsensual sexual acts;
(5) Threats of, attempts at, physical or sexual abuse;
(6) Mental or emotional abuse;
(7) Medical care deprivation or neglect; or
(8) Stalking.

"Encumbrances" means a financial claim or lien upon real or personal property.

"Equity" means fair market value minus encumbrances against the property.

"Fair market value" means the amount for which an item of real or personal property is expected to sell

on the open market in the geographic area involved and under the existing economic conditions.

"Family" means, for the financial assistance programs only, any person or persons requesting or receiving financial assistance payments.

"Financial institution" means any bank, savings and loan association, credit union, or other similar organization.

"Home" means a dwelling or shelter, including a house, building, tent, motor vehicle, boat, or trailer, which is used as the primary residence of an individual, family, or household.

"Individual development account (IDA)" is a special savings account held at a qualified financial institution which has been established as a trust by or on behalf of an individual eligible for assistance under the AFDC program. An IDA is funded through periodic contributions by the establishing individual and those contributions are matched by or through a non-profit organization. The purpose of an IDA is to enable the individual to accumulate funds that can be used only for post-secondary education, first home purchase, or business capitalization.

"Joint tenancy" means equal, undivided interst in real property by two or more persons throughout each respective owner's life. Upon the death of an owner, title automatically passes to the surviving owner or owners. An owner may sell his or her interest in the property without the consent of the others, but this will break the joint tenancy and change the property ownership to tenancy in common.

"Liquid asset" means, for the financial assistance programs, cash and any other personal property that can be quickly converted to cash. Examples are bank accounts, bonds, and stocks. For the food stamp program, "liquid asset" means cash and other assets excluding personal property that can be quickly converted to cash including, but not limited to, bank accounts, stocks, bonds, and lump sum payments.

"Motor vehicle" means any car, truck, van, camper, motorcycle, or mobile home.

"Nonliquid asset" means, for the food stamp program only, assets that cannot be quickly converted

to cash including, but not limited to personal property, vehicles, buildings, and real property.

"Personal property" means any asset that is not real property.

"Real property" means land, buildings and anything else erected on or affixed to the land or buildings.

"SSI" mean the federal supplemental security income program for the aged, blind, and disabled, administered by the Social Security Administration.

"Student" means a child under age nineteen, enrolled in a public or private elementary or secondary school, or equivalent level of vocational or technical training.

"Tenancy" means the right to possession of real property or otherwise, permanently or temporarily, with or without title to the property.

"Tenancy by the entirety" means the ownership of real or personal property jointly by husband and wife, acquired by the couple at the same time through the same legal document. The right of survivorship is automatic. Neither spouse can break the tenancy by conveying or mortgaging his or her interest without the consent of the other spouse. A lien cannot be placed against the interest of an individual spouse in this type of property ownership. The ownership changes to tenancy in common with the dissolution of the marriage.

"Tenancy in common" means ownership of property may not be equal. Each person's interest can be sold without the consent of the other owners. [Eff 3/19/93; am 2/7/94; am 8/01/94; am 12/15/95; am 11/22/96; am 01/22/02] (Auth: HRS §§346-14; 346-53) (Imp: HRS §§346-14, 346-53, 346-71; 7 C.F.R. §273.8(c); 45 C.F.R. §§233.20, 233.90)

§17-675-3 (Reserved).

SUBCHAPTER 2

PERSONAL RESERVE STANDARDS

§17-675-4 Personal reserve standards. (a) The

personal reserve standard is the maximum amount of countable assets that may be held by an individual, a family, or a household while establishing or maintaining eligibility for financial assistance or food stamps.

(b) An individual, a family, or a household whose equity in non-exempt assets exceeds the personal reserve standard for financial assistance or food stamps shall be ineligible for benefits from the respective program or programs. [Eff 3/19/93; am 8/01/94] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.8; 45 C.F.R. §233.20)

§17-675-5 Personal reserve standards for financial assistance. (a) For a family, applying for or receiving financial assistance under the aid to families with dependent children, the personal reserve standard is $5,000.

(b) For an individual or couple who receives SSI benefits or is applying for or receiving financial assistance under the general assistance or aid to the aged, blind, or disabled programs, the personal reserve standards shall be equal to standards employed by the SSI program. [Eff 3/19/93; am 1/25/97; am 9/26/97] (Auth: HRS §346-53) (Imp: HRS §346-29; 45 C.F.R. §233.20)

§17-675-6 REPEALED. [R 8/01/94]

§17-675-7 Personal reserve standards for food stamps. (a) For a household applying for food stamps, the personal reserve standards, which reflect the uniform national resource standards of eligibility, are:

(1) $2,000 per household; or

(2) $3,000 for a household in which one or more members are age sixty or older. If the only member of the household who is age sixty or older is disqualified, the personal reserve standard of the household shall be $2,000.

(b) Households that are categorically eligible

for food stamps, as defined in chapter 17-663, are not subject to the food stamp personal reserve standards defined in subsection (a).

(c) A household member who is receiving general assistance (GA), supplemental security income (SSI) or aid to families with dependent children (AFDC) benefits shall be considered to be categorically asset eligible for the food stamp program and that member's assets shall not be included when the household's total assets are calculated. [Eff 3/19/93; am 2/7/94; am 8/19/96] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.8(a),(b))

§§17-675-8 to 17-675-12 (Reserved).

SUBCHAPTER 3

EVALUATION OF ASSETS

§17-675-13 Purpose. This subchapter describes the individuals whose assets will be considered and when those assets will be evaluated for eligibility determination purposes. [Eff 3/19/93] (Auth: HRS §§346-14, 346-53) (Imp: HRS §§346-29, 346-53; 45 C.F.R. §233.20)

§17-675-14 Evaluating assets for financial assistance. (a) The assets of a recipient shall be evaluated as of the first of the month for which eligibility is being determined.

(b) The assets of an applicant shall be evaluated as of the date of application for eligibility determination purposes.

(c) The amounts used to determine the equity value of non-exempt assets shall not be rounded off.

(d) The assets of an SSI recipient shall not be considered in determining eligibility for the AFDC category for remaining members of the household.

(e) The assets of an SSI recipient shall be considered in determining the recipient's eligibility for the General Assistance and state-funded assistance for aged, blind, and disabled individuals.

(f) When individuals in the household are eligible for financial assistance in different categories of assistance, the equity value of the asset shall be assigned to the individual who has legal ownership of the asset.

(g) Assets shall be considered part of the personal reserve both when actually available and when the applicant or recipient has a legal interest in a liquidated sum and has the legal ability to make such sum available for support and maintenance.

(h) Assets of both parents, natural, legal, or adoptive, shall be considered available for each other and the support of their children. The natural parent, with no legal duty to support, who is not included in the financial assistance payment shall be counted as a member of the assistance household in determining whether the assets are below the personal reserve standard.

(i) Assets that are jointly held by an applicant or recipient and other persons shall be considered available, unless prohibited by the legal terms of ownership or evidence is presented to confirm the assets are not available to the applicant or recipient.

(j) All individuals shall apply for and develop potential sources of assets. When the individual fails to apply for or develop sources of assets, the department shall:

(1) Consider the amount the individual is entitled to receive in determining eligibility for financial assistance when the individual provides the department with verification of the amount; or

(2) Deny or terminate financial assistance when the individual fails to provide the department with verification to determine the amount of the asset.

(k) An individual or household who fails to provide verification of the value of their assets shall be ineligible for financial assistance.

(1) An individual or household shall be allowed ten days to provide the necessary verification of the value of the individual's or household's assets; and

(2) The deadline may be extended because of factors beyond the individual's or household's control. [Eff 3/19/93; am 9/26/97; am 1/17/08] (Auth: HRS §§346-29, 346-53, 346-71) (Imp: HRS §§346-29, 346-71; 45 C.F.R. §233.20)

§17-675-15 Special provision for financial assistance programs only - assets of sponsor of an alien. (a) The assets of a sponsor of an alien and sponsor's spouse living with the sponsor shall be deemed to be the assets of the alien requesting financial assistance until such time as the alien becomes a United States citizen.

(b) The amount of a sponsor's assets deemed available to the alien shall be determined by:

(1) Establishing a value of all of the sponsor's assets according to department standards; and

(2) Exempting $1,500 from the total value of the sponsor's assets.

(c) If the amount deemed available to the alien exceeds the alien's personal reserve standard according to alien's family size, the alien shall be ineligible for financial assistance.

(d) The alien's failure to provide information and verification regarding the alien sponsor or alien sponsor's assets shall disqualify the alien from receiving financial assistance.

(e) Assets which are deemed to a sponsored alien shall not be considered in determining the need of other unsponsored members or the alien's family except to the extent the assets are actually available to the unsponsored aliens.

(f) The provisions of subsections (a),(b),(c), and (d) do not apply to an alien who is:

(1) Admitted as a conditional entrant refugee to the United States as a result of the application prior to April 1, 1980, under the provisions of section 203(a)(7) of the Immigration and Nationality Act;

(2) Admitted to the United States as a result of an application after March 31, 1980 under the

provisions of section 207(c) of the Immigration and Nationality Act;

(3) Paroled into the United States as a refugee under section 212(d)(5) of the Immigration and Nationality Act;

(4) Granted political asylum by the Attorney General under section 208 of the Immigration and Nationality Act;

(5) A Cuban or Haitian entrant as defined in section 501(e) of the Refugee Education Act of 1980, (Pub. L. No. 96-422);

(6) The dependent child of the sponsor or sponsor's spouse when residing in the same household as the sponsor; or

(7) A domestic violence victim as defined in section 17-675-2 and the alleged perpetrator of the violence is the alien's sponsor. [Eff 3/19/93; am 9/26/97; am 01/22/02] (Auth: HRS §346-53) (Imp: HRS §346-29; 45 C.F.R. §233.51)

§17-675-16 REPEALED. [R 8/1/94]

§17-675-17 REPEALED. [R 8/1/94]

§17-675-18 Evaluating assets for food stamps. (a) The assets of all members of a food stamp applicant household shall be considered as of the time of the application interview. The household shall be given an opportunity to update any changes in its assets at the time of the application interview. A determination that the household did not transfer assets to become eligible for food stamp shall be made. The updated information shall be used to determine whether the household's assets are below the maximum allowable asset retention limits. In the instance when the asset level at the time of application is above the maximum allowable level and the asset level at the time of interview is below the maximum level, and the dates of application and interview are in two different months, the household will be denied for the month of

application and certified eligible for the following month.

(b) The assets of all members of a food stamp recipient household are evaluated as of the first day of the corresponding issuance month.

(c) The assets of the non-household members shall not be counted as available to the household.

(d) The assets of excluded household member shall be counted as available to the remaining household members.

(e) Assets owned jointly by separate households shall be considered available in their entirety to each household, unless the household can demonstrate that the assets are inaccessible to the household. If the household can demonstrate that it has access to only a portion of the assets, that portion of the assets shall be counted toward the household's personal reserve. The assets shall be considered inaccessible to the household if the assets cannot be practically subdivided and the household's access to the value of the assets is dependent on the agreement of the joint owner who refuses to comply. For the purpose of this provision, ineligible aliens or disqualified individuals residing with the household shall be considered household members.

(f) The branch shall, in situations where the household has received a nonrecurring lump sum payment as specified in section 17-675-36(c), review the case file to determine if the amount received in addition to the amount of assets already listed in the case file will exceed the asset limit for the household. If the amount does not exceed the limit, the case file shall be documented with the information received. No further action shall be required. If the total amount exceeds the allowable asset limitation, the household shall be given an opportunity to update its entire asset statement. If the household declines to do so or the amount of assets still exceeds the limit, the branch shall take action to terminate the household's certification.

(g) Households who are categorically eligible as defined in section 17-663-143 shall be considered to have satisfied the resource eligibility criteria for the food stamp program. The assets of any household

member who receives general assisstance (GA) benefits, supplemental security income (SSI) benefits under Title XVI of the Social Security Act, or benefits under Part A of Title IV of the Social Security Act (AFDC benefits) shall not be considered when determining the household's total assets. Jointly owned assets, which are considered accessible to all of the owners and which are jointly owned by members of a mixed food stamp household where one or more of the owners are categorically asset eligible and the rmaining owner or owners are not recipients of AFDC, GA, or SSI benefits, shall be prorated by the number of owners listed on the asset. The prorated amount that is attributed to the owners who are nonrecipients of AFDC, GA, or SSI benefits shall be considered a countable asset when determining the household's total assets. [Eff 3/19/93; am 2/7/94; am 8/19/96] (Auth: HRS §346-14) (Imp: 7 C.F.R. §§273.8(d),(j), 273.10(b))

§17-675-19 Special provisions for food stamps - commingled funds. (a) Liquid assets, as defined in section 17-675-2 that are listed in sections 17-675-26 and 17-675-29, which are kept in a separate account and are not commingled in an account with other nonexcluded funds, shall retain the exclusion for an unlimited period in spite of interest accruing. The interest shall be counted as unearned income in the month received and after that month, the interest shall be counted as assets.

(b) The assets of students and self-employed households which have been prorated, counted as income, and commingled with nonexcluded funds shall retain the exemption for the period over which the assets have been prorated as income.

(c) Those excluded moneys which are commingled in an account with nonexcluded funds shall retain their exemption for six months from the date the moneys are commingled. After six months from the date of commingling, all funds in the commingled account shall be counted as assets. Once excluded funds are commingled their exemption shall last only six months, even when the funds are subsequently placed in a

separate account. [Eff 3/19/93; am 8/18/94] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.8(f))

§§17-675-20 to 17-675-24 (Reserved).

SUBCHAPTER 4

ASSETS TO BE EXEMPTED

§17-675-25 Purpose. This subchapter describes assets which are exempt in the determination of eligibility for financial assistance and food stamps. [Eff 3/19/93; am 8/1/94] (Auth: HRS §346-53) (Imp: HRS §346-53)

§17-675-26 Assets to be exempted. (a) The following assets shall be exempted from consideration in the individual or family personal reserve:

(1) Basic maintenance items of limited value essential to day-to-day living including but not limited to clothing, furniture, stove, refrigerator, or washing machine;
(2) All or a portion of the equity or market value of an automobile as described in subchapter 7;
(3) Any equity in the home which is the usual residence of the individual, family, or household;
(4) The value of the food stamp payments under the Food Stamp Act of 1977 (7 U.S.C. §§2011-2027);
(5) The value of the U. S. Department of Agriculture donated foods (surplus commodities);
(6) Any payment received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. §§4601-4655);
(7) Payments distributed per capita to or held in trust for a member of any Indian tribe under

25 U.S.C. §§1179, 1261-1265, 1305, 1401-1407, 459-459e, and 1626 and Pub. L. No. 94-540. Effective October 17, 1975, pursuant to Pub. L. No. 94-114, §6 (89 Stat. 577, 25 U.S.C. 459(e) receipts distributed to members of certain Indian tribes which are referred to in Pub. L. No. 94-114, §5 (89 Stat. 577, 25 U.S.C. 459d);

(8) Certain Indian judgment funds, as provided under Pub. L. No. 83-134, §7 and amended by Pub. L. No. 458, §4 (25 U.S.C. §1407), including those funds:

(A) Held in trust by the Secretary of the Interior (including interest and investment income accrued while such funds are so held in trust); or

(B) Distributed per capita to a household or member of an Indian tribe in accordance with a plan prepared by the Secretary of the Interior and not disapproved by a joint resolution of the Congress; and

(C) Initial purchases made with such funds. This exclusion does not apply to the proceeds from the sale of initial purchases or to funds or initial purchases which are inherited or transferred;

(9) All funds held in trust (including interest and investment income accrued while the funds were held in trust) by the Secretary of the Interior for an Indian tribe, distributed per capita to a household or member of an Indian tribe and initial purchases made with such funds as provided by Pub. L. No. 98-64, §2 (25 U.S.C. §1179). This exclusion does not apply to proceeds from the sale of initial purchases, subsequent purchases made with funds derived from the sale or conversion of initial purchases, or to funds or initial purchases which are inherited or transferred;

(10) As provided by Pub. L. No. 100-241, §15 (43 U.S.C. §1626), any of the following distributions made to a household, an individual Native, or a descendant of a

Native by a Native Corporation established in accordance with the Alaska Native Claims Settlement Act (Pub. L. No. 92-203 as amended):

(A) Cash distributions (including cash dividends on stock from a Native Corporation) received by an individual to the extent that such cash does not, in the aggregate, exceed $2,000 in a year. Cash which, in the aggregate, is in excess of $2,000 in a year is not subject to the above exclusion;

(B) Stock, including stock issued or distributed by a Native Corporation as a dividend or distribution of stock;

(C) A partnership interest;

(D) Land or an interest in land, including land or an interest in land received by a Native Corporation as a dividend or distribution of stock; and

(E) An interest in a settlement trust;

(11) Payments made to volunteers under the Domestic Volunteer Service Act of 1973 (Volunteers In Service to America (VISTA)), student volunteers enrolled in institutions of higher education who participate in the University Year for Action (UYA) program, foster grandparents, senior health aides, senior companions (42 U.S.C. §§4951-5085) and under the Small Business Act (Service Corps of Retired Executives (SCORE), and Active Corps of Executives (ACE) (15 U.S.C. §637);

(12) Value of free school lunches, provided under the Child Nutrition Act of 1966 and the National School Lunch program (42 U.S.C. §§1771-1789);

(13) Any meals provided to senior citizens, such as congregate meals or home delivered meals funded by the Older Americans Act of 1965 (42 U.S.C. §§3001-3057);

(14) Effective October 17, 1975, pursuant to Pub. L. No. 94-114, §6 (89 Stat. 577, 25 U.S.C. §459e) receipts distributed to members of certain Indian tribes which are referred to

in Pub. L. No. 94-114, §5 (89 Stat. 577, 25 U.S.C. §459d);

(15) Refunds of utility and rental deposits paid by the department;

(16) Cash payments to the assistance unit responsible for household bills by a non-unit household member for his or her share of common household expenses;

(17) Restitution payments provided under the Civil Liberties Act of 1988, Title I of Pub. L. No. 100-383, and the Aleutian and Pribilof Islands Restitution Act, Title II of Pub. L. No. 100-383;

(18) Payments made from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the In Re Agent Orange product liability litigation, M.D.L. No. 381 (E.D.N.Y.) effective to January 1, 1989;

(19) All student educational assistance benefits, such as but not limited to, educational grants, loans, scholarships, fellowships, and deferred student loans;

(20) Assistance payments received as a result of a declared federal major disaster or emergency from the federal emergency management agency (FEMA) and other comparable disaster assistance provided by any state or local government agency or disaster assistance organizations;

(21) Payments received under the Radiation Exposure Compensation Act (Pub. L. No. 101-426) to compensate individuals for injuries or deaths resulting from the exposure to radiation from nuclear testing or uranium mining;

(22) Payments made to individuals because of their status as victims of Nazi persecution (Pub. L. 103-286);

(23) Payments made to a victim of a crime by the Criminal Injuries Compensation Commission. If the compensation is kept in a separate account and not commingled in an account with other non-excluded funds it shall retain the

exclusion for an unlimited period, even if interest is accruing; and

(24) All funds held in an individual development account (IDA) as defined in section 17-675-2.

(b) The following shall be exempted from consideration in the individual or family personal reserve for the financial assistance programs:

(1) Foster care payments to the foster care provider;

(2) The assets of the foster child; and

(3) Bonafide loans from any source shall be exempt from consideration in the individual's or family's personal reserve. A bonafide loan is a debt that the borrower has an obligation to repay; and

(4) Earned income tax credits (EITC) for the month in which an EITC payment is received and for the following month.

(c) For the GA and AABD programs, the following shall be exempt from consideration in the individual or family personal reserve:

(1) One wedding ring and one engagement ring; and

(2) Payments received by aged, blind, or disabled individuals under paragraphs 500 to 506 of the Austrian General Insurance Act.

(d) All of the funds in a checking or savings account jointly held with one or more SSI recipients, shall be exempt for federally funded AFDC purposes if the funds in the account were counted for SSI purposes. [Eff 3/19/93; am 2/7/94; am 8/1/94; am 12/15/95; am 9/26/97; am 7/16/99; am 01/22/02] (Auth: HRS §346-53) (Imp: HRS §346-29; 7 C.F.R. §273.8(e); 45 C.F.R. §233.20)

§17-675-27 <u>Exemption of burial spaces and funeral plans.</u> (a) In the financial assistance programs, one burial space, including plots, vaults, and niches, per family member is exempt. In addition, bonafide funeral plans or agreements up to a total of $1,500 of equity value for each family member is exempt.

(b) In the food stamp program, one burial plot per household member, except any amount that can be withdrawn from a prepaid burial plan without a

contractual obligation to repay, shall be excluded. Funds from a prepaid burial plan that are borrowed or used with an agreement to repay shall be considered a loan. [Eff 3/19/93; am 8/01/94] (Auth: HRS §346-53) (Imp: HRS §346-29; 7 C.F.R. §273.8; 45 C.F.R. §233.20)

§17-675-28 Special provision for financial assistance programs only - temporary exemption of real property other than the home. Real property not used as a family home may be exempted for a period of six months during which the family is making a good faith effort to sell subject to the following provisions:

(1) The family shall sign a written agreement to sell the real property and to repay the amount of financial assistance received during the six months that would not have been paid had the real property been sold at the beginning of the period;
(2) The family has five working days from the date it realizes cash from the sale of the property to repay the overpayment; and
(3) If the property was intentionally sold at less than fair market value or if it is otherwise determined that a good faith effort to sell the property is not being made, the overpayment amount shall be computed using the fair market value determined at the beginning of the conditional six-month eligibility period. [Eff 3/19/93; am 3/14/94; am 9/26/97] (Auth: HRS §§346-29; 346-53) (Imp: HRS §§346-29.5, 346-53; 45 C.F.R. §233.20)

§17-675-29 Special provisions for the food stamp program - other excluded assets. The following assets are excluded in the food stamp program.

(1) Household goods, such as appliances, furniture, and televisions;
(2) Personal effects, such as clothes, shoes, and jewelry not intended for investments;
(3) The cash value of life insurance policies;

(4) The cash value of pension plans or funds, except for Keogh plans which involve no contractual relationship with individuals who are not household members;

(5) Property which annually produces income consistent with its fair market value, even if only used on a seasonal basis;

(6) Property such as farm land and rental homes, except certain vacation homes, which is essential to the employment or the self-employment of a household member. Property essential to the self-employment of a household member engaged in farming shall continue to be excluded for one year from the date the household member stopped farming;

(7) Rental homes which are used by households for vacation purposes at some time during the year which annually produces income consistent with the home's fair market value. The equity value of a vacation home used part of the year by the household which does not produce income consistent with the home's fair market value shall be counted as a resource;

(8) Work related equipment, such as the tools of a tradesperson or the machinery of a farmer, which is essential to the employment or self-employment of a household member;

(9) Installment contracts or an agreement of sale for the sale of land or buildings if the contract or agreement is producing income consistent with its market value. The value of the property sold under contract or held as security in exchange for a purchase price consistent with the fair market value of that property is also excluded;

(10) Non-liquid assets against which a lien has been placed as a result of taking out a business loan and the household is prohibited by the security or lien agreement with the lien holder from selling the asset;

(11) Property, real or personal, to the extent that it is directly related to the mainte

nance or use of a vehicle excluded in subchapter 7;

(12) Any governmental payments which are designated for the restoration of a home damaged in a disaster, if the household is subject to a legal sanction if the funds are not used as intended. For example, payments include those made by the Department of Housing and Urban Development through the Individual and Family Grant Program, or disaster loans or grants made by the Small Business Administration;

(13) Assets, such as those of students or self-employed persons, which have been prorated and counted as income;

(14) Monthly income including, but not limited to, 1earnings, SSI, or retirement, survivors, and disability insurance (RSDI) payments directly assigned to the banks. The income received for that month shall be excluded in determining the resource amount for that month;

(15) Indian lands held jointly with the tribe, or land that can be sold only with the approval of the Bureau of Indian Affairs;

(16) Any benefits received in the form of earned income tax credits (EITC) shall be considered as excluded assets in the first two months of the household's receipt of the EITC. The first two months are defined as the month of receipt and the following month. Any remaining balance that is still available to the household after these two months shall be considered countable assets to the household. Effective September 1, 1994, the EITC shall be considered as excluded assets for a period of twelve months from the month of receipt if the individual receiving the EITC is participating in the food stamp program when the EITC is received and participates continuously during the twelve month period. Breaks of one month or less due to administrative reasons, such as delayed recertification, shall not be considered as nonparticipation

in determining the twelve month exclusion;

(17) The assets of any household member who receives supplemental security income (SSI) benefits under Title XVI of the Social Security Act, aid to the aged, blind or disabled under Title I, X, XIV, or XVI of the Social Security Act, or benefits under Part A of Title IV of the Social Security Act (AFDC benefits); and

(18) Retirement funds in a plan, contract, or account, described in sections 401(a), 403(a), 403(b), 408, 408A, 457(b), and 501(c)(18) of the Internal Revenue Code of 1986, and the value of funds in a Federal Thrift Savings Plan count as provided in section 8439 of title 5, United States Code;

(19) Any successor retirement programs or accounts that are exempt from tax under the Internal Revenue Code of 1986; and

(20) The value of any funds in a qualified tuition program described in section 529 of the Internal Revenue Code of 1986 or in a Coverdell education savings account under section 530 of the Internal Revenue Code of 1986. [Eff 3/19/93; am 2/7/94; am 8/18/94; am 11/22/08] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.8; Pub. L. No. 110-246)

§17-675-30 <u>Special provision for the food stamp program - inaccessible assets.</u> (a) If the cash value of an asset is not accessible to the household, including, but not limited to, irrevocable trust funds, security deposits on rental property or utilities, property in probate, and real property which the household is making a good faith effort to sell at a reasonable price, then the personal or real property shall be exempted as an asset. The branch shall verify that the property is for sale and the household has not declined a reasonable offer. Verification shall be obtained through a collateral contact or documentation, such as an advertisement for public sale in a newspaper of general circulation or a listing with a real estate broker.

(b) Any funds in a trust or funds transferred to a trust, and the income produced by that trust to the extent it is not available to the household shall be considered inaccessible to the household if:

(1) The trust arrangement is not likely to cease during the certification period and no household member has the power to revoke the trust arrangement or change the name of the beneficiary during the certification period;

(2) The trustee administering the funds is either a court or an institution, corporation, or organization, not under the direction or ownership of any household member, or an individual appointed by the court who has court imposed limitations placed on the individual's use of the funds which meet the requirement of this paragraph;

(3) The trust investments made on behalf of the trust do not directly involve or assist any business or corporation under the control, direction, or influence of a household member; and

(4) The funds held in irrevocable trust are either:

(A) Established from a household's own funds, if the trustee uses the funds solely to make investments on behalf of the trust or to pay the educational or medical expenses of any person named by the household creating the trust; or

(B) Established from nonhousehold funds by a nonhousehold member.

(c) Assets shall be considered inaccessible to persons residing in shelters for battered women and children if:

(1) The assets are jointly owned by such persons and by members of their former household;

(2) The shelter resident's access to the value of the assets is dependent on the agreement of a joint owner who still resides in the former household.

(d) An asset shall also be considered inacces sible if the household is unable to sell the asset for any significant return to the household because the

household's interest is relatively slight or because the costs of selling the household's interest would be relatively great. An asset shall be so identified if its sale or any other disposition taken against that asset is unlikely to produce any significant amount of funds for the support of the household. The assets affected by this subsection are all nonliquid assets, except vehicles, as defined in section 17-675-2, and does not apply to financial instruments such as stocks, bonds, and negotiable financial instruments. In determining whether the asset is to be exempted based on this subsection, the following standard shall be used:

(1) "Significant return" shall be any return, after estimated costs of sale or disposition, and taking into account the ownership interest of the household, that is estimated to be one-half or more of the applicable resource limit for the household; and

(2) "Any significant amount of funds" shall be funds amounting to one-half or more of the applicable resource limit for the household. [Eff 3/19/93; am 2/7/94; am 4/1/96] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.8(e)(8))

§17-675-31 REPEALED. [R 8/1/94]

§§17-675-32 to 17-675-35 (Reserved).

SUBCHAPTER 5

ASSETS TO BE CONSIDERED

§17-675-36 Assets to be considered. (a) Unless exempted in subchapter 4, the following assets shall be considered in the individual or family personal reserve:

(1) Cash on hand;

(2) Cash in savings and checking accounts;

(3) Stocks and bonds. The individual shall obtain verification of the value of stocks and bonds from a stock brokerage firm;
(4) Time deposits and savings certificates. The individual shall obtain verification of the value of assets from the financial institution where the funds are deposited;
(5) State tax refunds, including state excise tax credits and state income tax credits;
(6) Governmental debenture bonds, such as savings bonds, treasury notes, or municipal bonds. The individual shall obtain verification of the value of these assets from financial institutions or stock brokerage firms;
(7) Mutual fund shares. The individual shall obtain verification of the value of the mutual fund shares from a stock brokerage firm;
(8) The equity in burial plots, funeral plans or agreements, or burial vaults, not exempt in section 17-675-27. Equity shall be determined by subtracting all encumbrances from the market value. The individual shall provide verification of the equity value of burial plots, funeral plans or agreements, or burial vaults;
(9) The nonexempt value of motor vehicles;
(10) Any equity in real property not used as the family home, not exempt in section 17-675-26 or 17-675-48;
(11) Moneys or assets in trust funds;
(A) For the financial assistance program only, if an irrevocable trust is involved or there is a legal impediment to the current availability of money or assets of the trust, the applicant, recipient, or trust owner shall execute an agreement to allow the department of human services to institute proceedings for disbursement of moneys from the trust. The department of attorney general shall represent the department of human services in the proceedings. The applicant, recipient, or trust owner's failure to execute the agreement

to obtain moneys or assets from the trust shall make the applicant, recipient, or trust owner ineligible for financial assistance.

(B) The provision in subparagraph (A) does not apply to the food stamp program;

(12) Stocks or equity in any profit sharing plan.

(A) The value of any profit sharing plan shall not be counted as an asset as long as the individual continues to be employed by the firm which controls the profit sharing plan. Any payments made to the individual or family from the profit sharing plan shall be counted as part of the personal reserve.

(B) For the food stamp program, profit sharing plan shall be counted as a resource if the cash value is accessible. The cash value of any profit sharing plan shall not be counted as a resource if the cash value is inaccessible as specified in section 17-676-30(a).

(C) For the food stamp program, if the individual has terminated employment and receives the profit sharing funds as a nonrecurring lump sum payment, then the payment shall be counted as resource as specified in section 17-676-36(c).

(13) Money received by the individual or family from the sale of assets shall be counted as part of the personal reserve;

(14) Investments in diamonds, gold, silver, or other precious metals;

(15) The equity value of any assets not exempt under sections 17-675-26, 17-675-27, 17-675-28, and 17-675-29. The individual shall submit verification of the value of these assets;

(16) Federal tax refunds;

(17) Refunds of utility and rental deposits not paid by the department.

(b) For the financial assistance programs, the following assets shall be considered in the individual or family personal reserve:

(1) The equity value of life insurance policies. Equity value of a life insurance policy shall be determined by subtracting any outstanding loans or encumbrances from the cash value of the policy. The individual shall obtain verification of the equity value of the policy from the insurance company;

(2) Any equity in personal property, such as jewelry, a boat, or boat trailer, not exempt in subchapter 4;

(3) Any equity in any business;

(4) The dollar value of interest received by the family or credited to any accounts for the family from banks, loans, or other sources; and

(5) Cash dividends from stocks, life insurance, or other sources.

(c) For the food stamp program only, all nonrecurring lump sum payments, such as, but not limited to the following, shall be considered as countable assets to the food stamp household in the month received unless specifically excluded from consideration as an asset by other federal law:

(1) Retroactive payments for past months, such as social security, SSI, public assistance, railroad retirement benefits, unemployment compensation benefits, Department of Housing and Urban Development rental refund payments, or other payments;

(2) Retroactive annual adjustment payments in the veteran administration's (VA) disability pensions; and

(3) Lump sum insurance settlements.

Nonrecurring lump sum payments are defined as one-time payments to the food stamp household. [Eff 3/19/93; am 2/7/94; am 8/1/94; am 2/10/97; am 01/22/02] (Auth: HRS §§346-53, 346-71) (Imp: HRS §§346-29, 346-71; 7 C.F.R §273.8; 45 C.F.R. §233.20)

§17-675-37 Determining equity in any business for the financial assistance programs. (a) Equity in a business shall be determined by subtracting current liabilities from the current book value of the assets.

(b) The department shall exempt the following assets essential to the production of goods or services in determining equity in a business:

(1) Stock and inventory;

(2) Tools and equipment; and

(3) Motor vehicles required for use in the business.

(c) The applicant or recipient shall be responsible for submitting the applicant's or recipient's information to the department.

(d) Failure on the part of the applicant or recipient to provide information to determine the interest in a business shall disqualify the individual from receiving financial assistance. [Eff 3/19/93; am 2/7/94; am 8/1/94] (Auth: HRS §346-53; 45 C.F.R. §233.20) (Imp: HRS §§346-29, 346-53; 7 C.F.R. §273.8; 45 C.F.R. §233.20)

§§17-675-38 to 17-675-42 (Reserved).

SUBCHAPTER 6

EVALUATION OF REAL PROPERTY

§17-675-43 Equity value of real property. (a) The equity value of real property shall be determined by subtracting all encumbrances from the fair market value.

(b) The equity value of any real property not designated within this chapter to be exempt shall be considered assets countable toward the family's or household's personal reserve. [Eff 3/19/93] (Auth: HRS §346-53) (Imp: HRS §346-29; 7 C.F.R §273.8 (c); 42 C.F.R. §431.10; 45 C.F.R. §233.20)

§17-675-44 Treatment of some special forms of ownership of real or personal property. (a) The fair market value of the individual's interest in property shall be determined on a case-by-case basis by considering the following variables:

(1) Geographic location;
(2) Land use (developed, undeveloped, income-producing, etc.);
(3) Amenities (utility hookups, access to public roads, etc.);
(4) Land configuration (flag lot, landlocked, etc.);
(5) Marketability; and
(6) Type of ownership.

(b) Acceptable verification of the fair market value includes:

(1) A current sales agreement provided the selling price reflects the current property appraisal or an accurate valuation of the property;
(2) A licensed realtor's written statement which reflects an asessment of each of the variables in paragraph (a);
(3) A licensed appraiser's current valuation of the property; or
(4) The current property tax assessment if the applicant or recipient feels that it represents an accurate valuation of the property.

(c) The value of the individual's share in property shall be determined as a separate unit, on a case-by-case basis by considering the variables listed in subsection (a).

(1) The current value of property under an agreement of sale shall be allocated between the buyer and seller in accordance with their respective interests as follows:
    (A) The buyer's interest shall be the fair market value of the real property minus the balance due on the agreement of sale; and
    (B) The seller's interest shall be the balance on the agreement of sale.

(2) The current value of property subject to life estates with remainder interest shall be allocated between the life tenant and the remaindermen by determining the present worth of their respective interests using the Social Security Life Estate and Remainder Interest Table (attached at the end of this chapter).

(3) For the financial assistance programs only, the treatment provided in this section is complemented by the procedures set forth in this chapter for providing financial assistance pending removal of legal impediments to ownership of real property and through use of real property liens. [Eff 3/19/93; am 5/27/97] (Auth: HRS §346-53) (Imp: HRS §346-53; 7 C.F.R. §273.8; 42 C.F.R §435.851; 45 C.F.R. §233.20)

§17-675-45 Special provision for financial assistance programs - real property liens. (a) The department shall require a lien on real property not used as a home by the applicant or recipient, pursuant to section 346-29.5, H.R.S., when financial assistance is provided pursuant to section 17-675-28.

(b) The lien shall be for all amounts of financial assistance provided to the family, subject to all the provision of section 346-29.5, HRS. [Eff 3/19/93] (Auth: HRS §346-29.5) (Imp: HRS §346-29.5)

§17-675-46 Special provision for financial assistance programs - eligibility pending removal of legal impediments to ownership of real property. (a) Financial assistance shall be provided to an otherwise eligible individual or family while legal impediments to ownership of real property not used as a home are being removed, on condition the individual or family:

(1) Agrees, within thirty days of the date the family is notified of the requirement, to execute a lien on the property as required by paragraph (3);

(2) Submits a plan of action, within thirty days of the date the family is notified of the requirement, to remove the legal impediments to ownership of real property; and

(3) Executes the real property lien within ninety days of the date the family is notified of the requirement.

(b) Failure to meet these deadlines shall disqualify the individual or family from receiving further financial assistance, and financial assistance provided shall constitute an ineligible payment recoverable by the department.

(c) The department shall periodically review the plan of action and a recipient's failure to take appropriate action shall disqualify the recipient from further financial assistance. [Eff 3/19/93; am 1/30/95] (Auth: HRS §§346-53, 346-29.5) (Imp: HRS §§346-53, 346-29.5; 45 C.F.R. §233.20)

§17-675-46.01 Special provisions for financial assistance programs only - temporary exemption of real property other than the home. Real property not used as a family home may be exempted for a period of six months during which the family is making a good faith effort to sell subject to the following provisions:

(1) The family shall sign a written agreement to sell the real property and to repay the amount of financial assistance received during the six months that would have been paid had the real property been sold at the beginning of the period;

(2) The family has five working days from the date it realizes cash from the sale of the property to repay the overpayment; and

(3) If the property was intentionally sold at less than fair market value or if it is otherwise determined that a good faith effort to sell the property is not being made, the overpayment amount shall be computed using the fair market value determined at the beginning of the conditional six-month eligibility period. [Eff 9/26/97] (Auth:

HRS §§346-29; 346-53) (Imp: HRS §§346-29.5, 346-53; 45 C.F.R. §233.20)

§17-675-47 REPEALED. [R 8/01/94]

§17-675-48 Real property used as a home. (a) Real property, which is considered the home or usual place of residence of the applicant or recipient family or household, is generally exempt from consideration as a countable asset.

(b) For the financial assistance programs, the exemption of home property is limited to the parcel of land and a single structure, which is considered the usual residence of the family. Any other structure or structures on the parcel of land are not included in the home property exemption.

(1) For the purposes of this subsection, whether an applicant or recipient is living on or away from real property shall determine whether the real property is to be considered home property or not, irrespective of the form of the individual's interest such as a life tenant, remainderman, a buyer or seller under an agreement of sale, settler or beneficiary under a trust, or any other form of lesser or divided interest.

(2) Any interest in any real property owned by an individual living in a domiciliary care home shall be considered as real property not used as the family home.

(c) For the food stamp program, home property generally consists of the structure in which the household resides and the land immediately surrounding the structure. Land, separated from the home by intervening property, not public rights of way but land owned by other parties, shall not be considered part of the home.

(1) Provided the household members intend to return, the home property shall remain exempt when temporarily not occupied for reasons of employment, training for future employment,

illness, or uninhabitability caused by casualty or natural disaster.

(2) If any part of the home property is rented, the income producing test normally required to exempt such real property shall not apply. The entire parcel of real property, provided it remains the home of the household, shall continue to be exempt.

(3) If a household does not already own a home, the value of land purchased for the purpose of building a structure to be the home of the household shall be exempted. If the building which will be the household's home is partially completed, the value of the structure shall be exempt.

(4) Other structures, which are located either on the same or on a contiguous lot as the household's first home, that are designed, converted, or remodeled into a dwelling unit that is or can be used in whole or in part as a home, residence, or sleeping place by one or more individuals shall be counted towards the household's assets unless the structure can be excluded under one of the other asset exemptions listed in this section.

(A) These other structures, excluding vehicles, can be permanent or mobile in nature;

(B) The structure shall be considered exempt if a member of the food stamp household is residing in this other structure because of space limitations in the household's first home. [Eff 3/19/93; am 8/01/94; am 12/9/94] (Auth: HRS §346-53) (Imp: HRS §346-53; 7 C.F.R §273.8(e); 45 C.F.R. §233.20)

§17-675-49 <u>Special provision for the food stamp program - income producing property.</u> (a) For the food stamp program, equity in real property which annually produces income consistent with its fair market value, even if only used on a seasonal basis are exempt assets.

(1) Property such as farm land and rental home, except certain vacation homes, which is essential to the employment or self-employment of a household member are exempt. Property essential to the self-employment of a household member engaged in farming shall continue to be excluded for one year from the date the household member stopped farming.

(2) Rental homes which are used by households for vacation purposes at some time during the year which annually produces income consistent with the home's fair market value shall be exempt. The equity value of a vacation home used part of the year by the household which does not produce income consistent with the home's fair market value shall be counted as part of the household's personal reserve.

(b) When it is necessary to determine if property is producing income consistent with its fair market value, the branch shall contact local realtors, local assessors, the Small Business Administration, the Farmer's Home Administration, or other similar sources to determine the prevailing rate of return, for example, square foot rental for similar usage of real property in the area.

(c) If the branch determines that the property is not producing income consistent with its fair market value, for example, the property is being leased for a token payment, the equity amount of the property shall be counted as an asset. However, if the property is leased for a return that is comparable to other property in the area leased for similar purposes, it shall be considered as producing income consistent with its fair market value and shall not be considered an asset.

(d) All findings shall be thoroughly documented in the case file.

(e) Property exempt as essential to employment need not be producing income consistent with its fair market value. For instance, the land of a farmer is essential to the farmer's employment and a good or bad crop year shall not affect the exemption of the

property as an asset. [Eff 3/19/93] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.8(e))

§§17-675-50 to 17-675-54 (Reserved).

SUBCHAPTER 7

EVALUATION OF MOTOR VEHICLES

§17-675-55 Evaluation of automobiles and treatment of the values in the financial assistance programs. (a) For those eligible for GA or AABD, one automobile owned by the individual shall be exempt if it is:

(1) Necessary for employment;
(2) Necessary for the treatment of a specific or regular medical problem;
(3) Utilized to transport a disabled person; or
(4) Necessary for daily use.

(b) If no automobile is exempt under the provisions of subsection (a), the first $4,500 of the fair market value of one automobile is excluded. Equity value is not a consideration for purposes of this exclusion.

(c) For those eligible for AFDC, one automobile regardless of value shall be disregarded and not included in the personal reserve.

(d) The equity value of any other automobile owned by the individual or family shall be considered in the individual's or family's personal reserve.

(e) The equity value of an automobile shall be determined by subtracting all encumbrances from the fair market value of the vehicle. If an automobile is equipped with apparatus for the handicapped, the apparatus shall not increase the value of the vehicle.

(f) The fair market value of the automobile shall be determined by considering:

(1) The Kelly blue book retail value;
(2) Newspaper advertisements on the retail value for the same make, model, size, year, and condition of the automobile; or

(3) Opinions of retail value by qualified automobile appraisers.

(g) The equity value of automobiles owned or registered jointly by a member of the assistance unit and non-members, including SSI recipients, shall be determined by dividing the equity value by the number of legal or registered owners. If a legal impediment exists, the equity value shall be exempt. [Eff 3/19/93; am 8/1/94; am 12/15/95; am 1/25/97; am 9/26/97] (Auth: HRS §346-53) (Imp: HRS §346-29; 45 C.F.R. §233.20; 47 Fed. Reg. 5674; Waiver Terms and Conditions, August 16, 1996, Administration for Children and Families - Department of Human Services)

§17-675-56 REPEALED. [R 8/1/94]

§17-675-57 Exempt motor vehicles in the food stamp program. (a) The entire value of any licensed vehicle, including, but not limited to, a taxi, tractor, or fishing boat, shall be totally exempt if the vehicle:

(1) Is used primarily (over fifty per cent of the time the vehicle is used) for income producing purposes. Licensed vehicles which have previously been used by a self-employed household member engaged in farming but are no longer used over fifty percent of the time in farming because of the termination of the member's self-employment from farming shall continue to be excluded as a resource for one year from the date of termination of the household member's self-employment from farming;

(2) Annually produces income consistent with its fair market value, even if used only on a seasonal basis;

(3) Is necessary for long distance travel, other than daily commuting, that is essential to the employment of a household member (or an ineligible alien or disqualified person whose resources are being considered available to the household). For example, the vehicle of

a traveling sales person or a household member who would be fired or not hired if a vehicle could not be provided shall be exempted;

(4) Is necessary for subsistence, hunting, or fishing, such as a snowmobile in the remote areas of Alaska;

(5) Is currently used as the household's home;

(6) Is necessary to transport a physically disabled household member (or an ineligible alien or disqualified person whose resources are being considered available to the household) regardless of the purpose of the transportation.

(A) One vehicle shall be excluded for each physically disabled person.

(B) A vehicle is excluded if the vehicle is specially equipped to meet the specific needs of the disabled person or if the vehicle is a special type of vehicle that makes it possible to transport the disabled person.

(C) The personal vehicle need not be specially equipped or used for particular purposes.

(D) The vehicle need not be exclusively or primarily used by the physically disabled household member since a vehicle may be necessary for a physically disabled person even if other household members also use the vehicle.

(E) A household with a member who has a temporary physical disability is also entitled to the resource exclusion of the value of a vehicle used to transport the disabled member. If the disabled person loses the disability during the certification period, the household shall be required to report the change in circumstances; or

(7) Is necessary to transport fuel for heating or water for home use when such transported fuel or water is the primary source of fuel or water for the household.

(b) The vehicle exemption shall also apply during temporary periods of unemployment when the vehicle is not in use. For example, when a taxi driver is ill or a fishing boat is frozen in the harbor, the vehicles shall be exempted.

(c) Vehicles exempt for equity value shall include:

(1) One licensed vehicle for each household other than those exempted in subsection (a);

(2) Any additional licensed vehicle necessary for household members (or an ineligible alien or disqualified person whose resources are being considered available to the household) to accept or continue employment, seek employment, or to attend training or school preparatory to employment. A vehicle customarily used to commute to and from employment shall be excluded by this provision during temporary periods of unemployment; and

(3) Vehicles excluded in subsection (a). [Eff 3/19/93; am 8/18/94] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.8(h))

§17-675-58 Evaluation of non-income producing licensed motor vehicles in the food stamp program. (a) All licensed vehicles, except boats, not excluded under section 17-675-57 shall individually be evaluated for fair market value, as discussed in subsection (d). That portion of the value of an individual vehicle which exceeds $4,650 shall be attributed in full toward the household's resource level, regardless of any encumbrances on the vehicle, unless the vehicle has both fair market value and equity value. The value of two or more vehicles shall not be added together to obtain a total fair market value in excess of $4,650. For example, a household may own a car with a fair market value of $5,500. Since the value of the car is in excess of $4,650, the amount in excess, $850, shall be added to the household's resource level. A household may own two cars and no other resource. One car has a fair market value of $3,000 and the other $4,000. If both cars are exempt for equity value, then

the household has no resource according to the fair market value test.

(b) All non-income producing licensed vehicles shall be individually evaluated for the equity value except for the vehicles exempted in section 17-675-57.

(c) If a licensed vehicle is assigned both a fair market value in excess of $4,650, as in subsection (a), and an equity value, only the greater of the two amounts shall be counted as a resource. For example, a household has two cars. The second car is not used for commuting to work. The fair market value is $5,000 and the household has paid $1,000 on the loan. The excess fair market value is $450 and the equity value is $1,000. The $1,000 which is the greater of the two shall be counted towards the household's resource level and the $450 excess fair market value shall not be counted.(

d) The fair market value of licensed automobiles, trucks, and vans shall be determined by the wholesale value of those vehicles as listed in publications written for the purpose of providing guidance to automobile dealers and loan companies. Publications listing the value of vehicles are usually referred to as "blue books." The blue book shall be used and updated every six months.

(1) The branch shall assign the wholesale value to vehicles. If the term "wholesale value" is not used in a particular blue book, the branch shall assign the listed value which is comparable to the wholesale value. The basic value of a vehicle shall not be increased by adding the low mileage, or other factors such as optional equipment. A household may indicate that for some reason, such as body damge or inoperability, a vehicle is in less than average condition. Any household which claims that the blue book value does not apply to its vehicle shall be given the opportunity to acquire verification of the true value from a reliable source such as a used car dealer.

(2) Households shall be asked to acquire verification of the value of licensed antique, cus

tom made, or classic vehicles, if the branch is unable to make an accurate appraisal.

(3) If a vehicle is specially equipped with apparatus for the handicapped, the apparatus shall not increase the value of the vehicle. The blue book value shall be assigned as if the vehicle was not so equipped.

(4) If a vehicle is no longer listed in the blue book, the household's estimate of the value of the vehicle shall be accepted, unless the branch has reason to believe that the estimate is incorrect. If it appears that the vehicle's value will affect eligibility, the household shall obtain an appraisal or produce other evidence of its value, such as a tax assessment or a newspaper advertisement indicating the sale price of similar vehicles.

(5) If a new vehicle is not yet listed in the blue book, the branch shall determine the wholesale value through some other means such as contacting a new car dealer which sells that make of vehicle. [Eff 3/19/93; am 8/18/94; am 4/1/96; am 10/28/96] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.8(g) and (h); Pub. L. No. 104-193 (1996))

§17-675-59 Unlicensed vehicles in the food stamp program. Unlicensed vehicles, unless exempt as described in section 17-675-57(a) shall be evaluated for equity value. The equity value shall be attributed toward the household's resource level. If an unlicensed vehicle is a "junker," not running, half the frame and parts not intact, etc., thus having no fair market value, then the vehicle shall have no equity value and therefore, no value as assets. [Eff 3/19/93; am 12/9/94] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.8(c)(2))

§§17-675-60 to 17-675-64 (Reserved).

SUBCHAPTER 8

DISPOSAL OF ASSETS

§17-675-65 Disposal of assets for less than fair market value in financial assistance programs. (a) Any applicant who disposed of any assets valued at an aggregate of more than $5,000, for less than fair market value, within the preceding twenty-four months shall be ineligible for financial assistance if the applicant disposed of the assets for the purpose of establishing eligibility for financial assistance.

(1) Any such disposal shall be presumed to be for the purpose of establishing eligibility for financial assistance unless the applicant proves by a preponderance of evidence that the transfer was for some other purpose;

(2) The value of the asset shall be the fair market value at time of disposal less the amount of compensation received for the asset, if any; and

(3) The period of ineligibility shall be determined by dividing the proceeds for the liquidated property that would have been used to meet the applicant's needs by two hundred per cent of the department's standard of assistance for the family in the month of application. The standard of assistance shall be 62.5 per cent of the standard of need as defined in section 17-678-4. The period of ineligibility shall be not more than twenty-four months.

(b) Any recipient who disposes of any assets valued at an aggregate of more than $5,000 for less than fair market value, shall be ineligible for financial assistance for the period of time the proceeds for the liquidated property would have been used to meet two hundred per cent of the family's needs according to the department's standard of assistance for the family. The period of ineligibility shall be not more than twenty-four months. [Eff 3/19/93; am 9/26/97] (Auth: HRS §346-53) (Imp: HRS §§346-34, 346-53)

§17-675-66 REPEALED. [R 8/1/94]

§17-675-67 Disposal of assets for less than fair market value in the food stamp program. (a) At the time of application, households shall be asked to provide information regarding any resources which any household members (or ineligible alien or disqualified person whose resources are being considered available to the household) had transferred, including, but not limited to, bank accounts, title on a car, a trust, or property which is not producing income equal to the fair market value, within the three-month period immediately preceding the date of application. Households which have knowingly transferred resources for the purpose of qualifying or attempting to qualify for food stamp benefits shall be disqualified from participation in the FSP for up to one year from the date of the discovery of the transfer. This disqualification period shall be applied if the resources were transferred knowingly in the three-month period prior to application or if the resources were transferred knowingly after the household was determined eligible for benefits.

(b) Eligibility for the program shall not be affected by the following transfers:

(1) Resources which do not otherwise affect eligibility;

(2) The sale or trade of resources at or near fair market value; and

(3) Resources transferred between members of the same household (including ineligible aliens or disqualified persons whose resources are being considered available to the household) or transferred for reasons other than attempting to qualify for FSP benefits.

(c) The length of the disqualification period for a household determined to have knowingly transferred resources for the purpose of qualifying or attempting to qualify for FSP benefits shall be based on the amount by which the transferred resources, when added to other countable resources, exceeds the allowable resource limits. The following amounts shall be used to determine the period of disqualification:

Amount in Excess of the Resource Limit	Period of Disqualification
$ 0 - 249.99	1 month
250 - 999.99	3 months
1,000 - 2,999.99	6 months
3,000 - 4,999.99	9 months
5,000 and up	12 months

For example, if a one person household with $1,750 in a bank transferred ownership of a car worth $5,000, only $250 would be considered as in excess of the resource limit. The first $4,500 of the car's fair market value is exempt, then $250 of the transferred asset is applied toward the $2,000 resource limit which leaves $250 as the amount in excess of the resource limit. The household shall be disqualified for three months for transferring a resource of $250.

(d) If the branch establishes that an applicant household knowingly transferred resources for the purpose of qualifying or attempting to qualify for food stamp benefits, the branch shall send the household a notice of denial explaining the reason for and length of the disqualification. The period of disqualification shall begin in the month of application. If the household is participating at the time of the discovery of the transfer, a notice of adverse action explaining the reason for and length of the disqualification shall be sent. The period of disqualification shall be effective with the first allotment issued after the adverse action notice period has expired, unless the household requests a fair hearing and continued benefits. [Eff 3/19/93; am 8/18/94] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.8(i))

SOCIAL SECURITY LIFE ESTATE AND
REMAINDER INTEREST TABLES
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AGE	LIFE ESTATE	REMAINDER
0	.97188	.02812
1	.98988	.01012
2	.99017	.00983
3	.99008	.00992
4	.98981	.01019
5	.98938	.01062
6	.98884	.01116
7	.98822	.01178
8	.98748	.01252
9	.98663	.01337
10	.98565	.01435
11	.98453	.01547
12	.98329	.01671
13	.98198	.01802
14	.98066	.01934
15	.97937	.02063
16	.97815	.02185
17	.97700	.02300
18	.97590	.02410
19	.97480	.02520
20	.97365	.02635
21	.97245	.02755
22	.97120	.02880
23	.96986	.03014
24	.96841	.03159

AGE	LIFE ESTATE	REMAINDER
25	.96678	.03322
26	.96495	.03505
27	.96290	.03710
28	.96062	.03938
29	.95813	.04187
30	.95543	.04457
31	.95254	.04746
32	.94942	.05058
33	.94608	.05392
34	.94250	.05750
35	.93868	.06132
36	.93460	.06540
37	.93026	.06974
38	.92567	.07433
39	.92083	.07917
40	.91571	.08429
41	.91030	.08970
42	.90457	.09543
43	.89855	.10145
44	.89221	.10779
45	.88558	.11442
46	.87863	.12137
47	.87137	.12863
48	.86374	.13626
49	.85578	.14422
50	.84743	.15257
51	.83674	.16126
52	.82969	.17031
53	.82028	.17972
54	.81054	.18946

AGE	LIFE ESTATE	REMAINDER
55	.80046	.19954
56	.79006	.20994
57	.77931	.22069
58	.76822	.23178
59	.75675	.24325
60	.74491	.25509
61	.73267	.26733
62	.72002	.27998
63	.70696	.29304
64	.69352	.30648
65	.67970	.32030
66	.66551	.33449
67	.65098	.34902
68	.63610	.36390
69	.62086	.37914
70	.60522	.39478
71	.58914	.41086
72	.57261	.42739
73	.55571	.44429
74	.53862	.46138
75	.52149	.47851
76	.50441	.49559
77	.48742	.51258
78	.47049	.52951
79	.45357	.54643
80	.43659	.56341
81	.41967	.58033
82	.40295	.59705
83	.38642	.61358
84	.36998	.63002

AGE	LIFE ESTATE	REMAINDER
85	.35359	.64641
86	.33764	.66236
87	.32262	.67738
88	.30859	.69141
89	.29526	.70474
90	.28221	.71779
91	.26955	.73045
92	.25771	.74229
93	.24692	.75308
94	.23728	.76272
95	.22887	.77113
96	.22181	.77819
97	.21550	.78450
98	.21000	.79000
99	.20486	.79514
100	.19975	.80025
101	.19532	.80468
102	.19054	.80946
103	.18437	.81563
104	.17856	.82144
105	.16962	.83038
106	.15488	.84512
107	.13409	.86591
108	.10068	.89932
109	.04545	.95455