
A BILL FOR AN ACT

RELATING TO HOUSING.

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

1 SECTION 1. The legislature finds that the islands of
2 Kauai, Oahu, Maui, and Hawaii have their own distinct network of
3 small towns and neighborhood business districts. These small
4 towns and neighborhoods have declined economically in recent
5 years and have been unable to adequately provide for their
6 housing needs.

7 The legislature also finds that in order to revitalize
8 existing neighborhoods, support historic preservation, and
9 create new jobs, there needs to be a new public-private
10 partnership with these communities; a partnership that can build
11 new and renovate existing low-income, transitional, elderly, and
12 homeless housing projects.

13 The purpose of this Act is to provide more and better
14 housing for Hawaii's small towns and neighborhoods by providing
15 tax incentives to the private sector to build new and renovate
16 existing housing projects, and to create county development
17 commissions and small town/neighborhood business district
18 advisory committees to administer these projects.



1 SECTION 2. Chapter 46, Hawaii Revised Statutes, is amended
2 by adding a new section to be appropriately designated and to
3 read as follows:

4 "§46- County development commissions and neighborhood
5 business district advisory committees; qualifications; purpose;
6 compensation. (a) A county development commission and
7 neighborhood business district advisory committee, consisting of
8 nine members each, no more than the minimum required for a
9 quorum of whom shall belong to the same political party at the
10 time of appointment, shall be created for the counties of Kauai,
11 Maui, Hawaii, and the city and county of Honolulu. The mayor of
12 each county shall nominate, and by and with the advice and
13 consent of the legislative body of the county, shall appoint the
14 members of the commissions and committees; provided that each
15 commission shall include among its nine members, a
16 representative from each of the following county administrative
17 departments: planning, transportation, water, and budget. The
18 mayor of each county, by and with the advice and consent of the
19 legislative body of the county, may remove from office any of
20 the members. The commission and committee shall designate one
21 of its members as chairperson. Each member shall be a citizen
22 of the United States and shall have resided in the county for



1 which appointed for at least three years immediately preceding
2 the date of the member's appointment.

3 (b) Commission and committee members shall serve a term of
4 five years, and upon the expiration of the term of each
5 commissioner or committee member, the commissioner's or
6 committee member's successor shall be appointed for a term as
7 provided in subsection (a), to expire five years from the date
8 of the expiration of the preceding term.

9 Any vacancy shall be filled by appointment for the
10 remainder of the unexpired term. No person shall be a member of
11 any commission or committee who is an elected officer of the
12 state or county government or who presents oneself as a
13 candidate for election to any public office during the term of
14 the person's appointment hereunder. This provision shall be
15 enforced by the mayor of the county by the removal of the
16 disqualified member whenever the disqualifications shall appear.

17 (c) Each commission shall establish rules, pursuant to
18 chapter 91, to administer a housing project program to construct
19 homeless shelters, transitional housing, elderly housing, low-
20 income housing, and affordable housing. The commission shall
21 also adopt rules, pursuant to chapter 91 to administer the
22 county housing development tax credit under section 235- .



1 The advisory committee of each county shall advise its
2 respective commission on issues of housing and community
3 revitalization.

4 (d) The amount of compensation and reasonable expenses for
5 travel and other costs necessarily incident to the discharge of
6 the members' duties shall be established by each county
7 commission.

8 (e) Each member of the commission or committee, before
9 entering upon the duties of the member's office, shall take and
10 subscribe to an oath that the member shall faithfully perform
11 such duties according to law, which written oath shall be filed
12 with the elected executive head of each county."

13 SECTION 3. Chapter 235, Hawaii Revised Statutes, is
14 amended by adding a new section to be appropriately designated
15 and to read as follows:

16 "§235- County housing development tax credit. (a)
17 There shall be allowed to each qualified taxpayer subject to the
18 taxes imposed by this chapter or chapter 237, a tax credit that
19 may be claimed for taxable years beginning after December 31,
20 2005, for qualified costs in the new development or improvement
21 of qualified housing projects.



1 The tax credit shall be deductible from the taxpayer's net
 2 income tax liability, if any, imposed by this chapter and, at
 3 the election of the taxpayer, from the tax liability imposed by
 4 chapter 237.

5 (b) The tax credit earned shall be equal to a percentage
 6 of the qualified costs as specified in subsection (c) that is
 7 incurred from January 1, 2006, through December 31, , up to
 8 a maximum of \$ of credits in the aggregate for all
 9 qualified taxpayers for all years; provided that notwithstanding
 10 the amount of tax credits earned in any year, a maximum of
 11 \$ of tax credits in the aggregate for all qualified
 12 taxpayers may be used in any one taxable year. The credits over
 13 \$ shall be used as provided in subsection (d).

14 (c) The tax credit is based on the following percentages
 15 of the qualified cost for the following types of housing
 16 projects:

- | | | |
|----|---------------------------------|---------------------------|
| 17 | <u>(1) Homeless housing</u> | <u>Six per cent;</u> |
| 18 | <u>(2) Transitional housing</u> | <u>Six per cent;</u> |
| 19 | <u>(3) Elderly housing</u> | <u>Four per cent;</u> |
| 20 | <u>(4) Low-income housing</u> | <u>Four per cent; and</u> |
| 21 | <u>(5) Affordable housing</u> | <u>Four per cent.</u> |



1 The development commissions of each county established under
2 section 46- shall define each type of housing project under
3 this subsection.

4 (d) In the case of a partnership, limited liability
5 company, S corporation, estate, trust, or other legal entity,
6 the tax credit allowable is for qualified costs incurred by the
7 entity. The costs upon which the tax credit is computed shall
8 be determined at the entity level.

9 (e) To qualify for the tax credit, a taxpayer shall have
10 expended qualified costs for the new development or renovation
11 of an existing qualified housing project.

12 (f) If the tax credit under this section exceeds
13 § in the aggregate for all qualified taxpayers for any
14 taxable year or exceeds the taxpayer's tax liability under this
15 chapter or chapter 237, in any year for which the credit is
16 taken, the excess of the tax credit may be used as a credit
17 against the taxpayer's tax liability for the taxes set forth in
18 this section in subsequent years until exhausted; provided that
19 the taxpayer may continue to claim the credit provided in this
20 section if the qualified costs are incurred before January 1,
21 , subject to the monetary ceilings in subsection (b).



1 (g) Every claim, including amended claims, for a tax
2 credit under this section shall be filed on or before the end of
3 the twelfth month following the close of the taxable year for
4 which the credit may be claimed. Failure to comply with the
5 foregoing provision shall constitute a waiver of the right to
6 claim the credit.

7 (h) If, at any time during the period in which tax credits
8 are earned under this section, the costs incurred no longer meet
9 the definition of qualified costs, the credits claimed under
10 this section shall be recaptured. The recapture shall be equal
11 to one hundred per cent of the total tax credits claimed under
12 this section for the preceding taxable year; provided that the
13 amount of the credits recaptured shall apply only to those costs
14 that no longer meet the definition of qualified costs. The
15 amount of the recaptured tax credits determined under this
16 subsection shall be added to the taxpayer's tax liability for
17 the taxable year in which the recapture occurs under this
18 subsection.

19 (i) If any credit is claimed under this section, then no
20 taxpayer shall claim a credit under any chapter other than
21 chapter 235 or 237 for the same qualified costs for which a
22 credit is claimed under this section.



1 (j) The director of taxation shall prepare any forms that
2 may be necessary to claim a credit under this section. The
3 director may also require the taxpayer to furnish information to
4 ascertain the validity of the claims for credits made under this
5 section and may adopt rules necessary to effectuate the purposes
6 of this section pursuant to chapter 91.

7 (k) Every qualified taxpayer, no later than March 31 of
8 each year in which qualified costs were expended in the previous
9 taxable year, shall submit a written, certified statement to the
10 director of taxation, identifying:

11 (1) Qualified costs, if any, expended in the previous
12 taxable year;

13 (2) The amount of tax credits claimed pursuant to this
14 section, if any, in the previous taxable year; and

15 (3) The tax liability under this chapter and chapter 237
16 against which the tax credits are claimed.

17 Any other law to the contrary notwithstanding, a statement
18 submitted under this subsection shall be a public document.

19 (1) The department of taxation shall maintain records of
20 the names of taxpayers eligible for the credits and the total
21 amount of qualified costs incurred from January 1, 2006, through
22 December 31, . The department of taxation shall verify all



1 "Qualified housing project" means any project that involves
 2 the new construction of renovation of an existing structure that
 3 is approved by a county development commission established under
 4 section 46-_____.

5 "Qualified taxpayer" means a person who fulfills the
 6 requirements of subsection (e)."

7 SECTION 4. New statutory material is underscored.

8 SECTION 5. This Act shall take effect upon its approval.

9

INTRODUCED BY: Calvin H. Ay
 By Request

JAN 20 2005



Report Title:

Counties; Housing; County Development Commission; Neighborhood
Business District Advisory Committee

Description:

Establishes County Development Commissions and Neighborhood
Business District Advisory Committees to construct housing.
Also creates the County Housing Development Tax Credit.

