

JAN 25 2006

S.B. NO. 3040

A BILL FOR AN ACT

RELATING TO STATE MORTGAGE CREDIT CERTIFICATES.

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

1 SECTION 1. The purpose of this Act is to assist low and
2 moderate income persons with purchasing a principal residence by
3 providing qualified buyers with a state income tax credit equal
4 to or up to twenty per cent of the annual mortgage interest
5 payment.

6 SECTION 2. Chapter 235, Hawaii Revised Statutes, is
7 amended by adding a new part to be appropriately designated and
8 to read as follows:

9 **"PART . MORTGAGE CREDIT CERTIFICATES**

10 **§235-A Definitions.** As used in this part:

11 "Certificate credit rate" means the rate of the credit
12 allowable by this part that is specified in the mortgage credit
13 certificate.

14 "Certified indebtedness amount" means the amount of
15 indebtedness that is incurred by the taxpayer to acquire the
16 principal residence of the taxpayer and specified in the
17 mortgage credit certificate.



1 "Mortgage credit certificate" means any certificate that is
2 issued under a qualified mortgage credit certificate program to
3 the taxpayer in connection with the acquisition of the
4 taxpayer's principal residence, specifies the certificate credit
5 rate and the certified indebtedness amount, and is in a form as
6 the director may prescribe.

7 "Principal residence" has the same meaning as used in
8 section 121 of the federal Internal Revenue Code of 1986, as
9 amended.

10 "Qualified mortgage credit certificate program" means any
11 program:

12 (1) Under which the indebtedness certified by mortgage
13 credit certificates meets the following requirements:

14 (A) The residence financed by the indebtedness is a
15 single-family residence in the State that can
16 reasonably be expected to become the principal
17 residence of the mortgagor within a reasonable
18 time after the financing is provided;

19 (B) The mortgagor had no present ownership interest
20 in the mortgagor's principal residence at any
21 time during the three-year period ending on the
22 date that the mortgage is executed;



1 (C) The purchase price of the residence financed by
2 the indebtedness does not exceed , and

3 (D) The income of the mortgagor does not exceed
4 \$;

5 (2) Under which no mortgage credit certificate may be
6 issued with respect to any residence for which any of
7 the financing is provided from the proceeds of a
8 qualified mortgage bond or a qualified veterans'
9 mortgage bond;

10 (3) Except to the extent provided in rules, that is not
11 limited to indebtedness incurred from particular
12 lenders; and

13 (4) Except to the extent provided in rules, that provides
14 that a mortgage credit certificate is not
15 transferable.

16 **§235-B Allowance of credit.** (a) There shall be allowed
17 as a credit against the tax imposed by this chapter, for the
18 taxable year, an amount equal to the product of:

19 (1) The certificate credit rate; and

20 (2) The interest paid or accrued by the taxpayer during
21 the taxable year on the remaining principal of the
22 certified indebtedness amount.



1 (b) If the certificate credit rate exceeds twenty per
2 cent, the amount of the credit allowed to the taxpayer under
3 this section for any taxable year shall not exceed \$2,000.

4 (c) If two or more persons hold interests in any
5 residence, the limitation of subsection (b) shall be allocated
6 among the persons in proportion to their respective interests in
7 the residence.

8 **§235-C Determination of certificate credit rate.** For
9 purposes of this part, the certificate credit rate specified in
10 any mortgage credit certificate shall not be less than ten per
11 cent or more than fifty per cent.

12 **§235-D Aggregate limit on certificate credit rates.** In
13 the case of each qualified mortgage credit certificate program,
14 the sum of the products determined by multiplying the certified
15 indebtedness amount of each mortgage credit certificate issued
16 under the program, by the certificate credit rate with respect
17 to the certificate, shall not exceed the amount authorized by
18 the legislature for that year by adoption of a concurrent
19 resolution.

20 **§235-E Carry forward of unused credit.** (a) If the credit
21 allowable under this part for any taxable year exceeds the
22 applicable tax limit for the taxable year, the excess shall



1 carryover to each of the three succeeding taxable years and,
2 subject to the limitations of subsection (b), shall be added to
3 the credit allowable by this part for the succeeding taxable
4 year.

5 (b) The amount of the unused credit that may be taken into
6 account under this section for any taxable year shall not exceed
7 the amount, if any, by which the applicable tax limit for the
8 taxable year exceeds the sum of:

9 (1) The credit allowable under this part for the taxable
10 year determined without regard to this section; and

11 (2) The amounts that, by reason of this section, are
12 carried to the taxable year and are attributable to
13 taxable years before the unused credit year.

14 **§235-F Indebtedness not treated as certified where certain**
15 **requirements not, in fact, met.** (a) This part shall not apply
16 to any indebtedness if all the requirements of section 235- ,
17 were not, in fact, met with respect to the indebtedness.

18 (b) Except to the extent otherwise provided in rules
19 adopted by the director, the requirements under this part shall
20 be treated as met if there is a certification, under penalty of
21 perjury, that the requirements are met.



1 **§235-G Period for which certificate in effect.** (a)

2 Except as otherwise provided in this part, a mortgage credit
3 certificate shall be treated as in effect with respect to
4 interest attributable to the period:

5 (1) Beginning on the date the certificate is issued; and

6 (2) Ending on the earlier of:

7 (A) The date that is specified in the certificate; or

8 (B) The date on which the residence to which the
9 certificate relates ceases to be the principal
10 residence of the individual to whom the
11 certificate relates.

12 (b) A certificate shall not apply to any indebtedness that
13 is incurred after the close of the second calendar year
14 following the calendar year in which the certificate is issued.

15 **§235-H Interest paid or accrued to related persons.** No
16 credit shall be allowed under this part for any interest paid or
17 accrued to a person who is a related person to the taxpayer,
18 within the meaning of section 144(a)(3)(A) of the federal
19 Internal Revenue Code of 1986, as amended.

20 **§235-I Reporting requirements.** (a) Each person who makes
21 a loan that is a certified indebtedness amount under any



1 mortgage credit certificate shall file a report with the
2 director containing:

- 3 (1) The name, address, and social security account number
4 of the individual to which the certificate was issued;
- 5 (2) The certificate's issuer, date of issue, certified
6 indebtedness amount, and certificate credit rate; and
- 7 (3) Any other information as the director may require by
8 rules.

9 (b) Each person who issues a mortgage credit certificate
10 shall file a report showing the information as the director
11 shall prescribe by rules. Any report shall be filed at a time
12 and in a manner as the director may require by rules.

13 **§235-J Rules.** The director shall adopt rules pursuant to
14 chapter 91 as may be necessary to carry out the purposes of this
15 part, including rules that may require recipients of mortgage
16 credit certificates to pay a reasonable processing fee to defray
17 the expenses incurred in administering the program."

18 SECTION 3. There is appropriated out of the general
19 revenues of the State of Hawaii the sum of \$, or so
20 much thereof as may be necessary for fiscal year 2006-2007, for
21 the purposes of this Act.



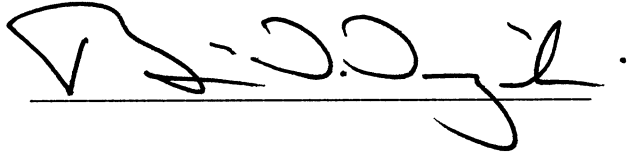
1 SECTION 4. The sum appropriated shall be expended by the
2 department of taxation for the purposes of this Act.

3 SECTION 5. In codifying the new sections added by section
4 2 of this Act, the revisor of statutes shall substitute
5 appropriate section numbers for the letters used in designating
6 the new sections in this Act.

7 SECTION 6. This Act shall take effect upon its approval
8 and shall apply to taxable years beginning after December 31,
9 2005; provided that sections 3 and 4 shall take effect on
10 July 1, 2006.

11

INTRODUCED BY:

A handwritten signature in black ink, appearing to read "V. D. O'Connell", is written over a horizontal line. The signature is stylized and includes a period at the end.



Report Title:
State Mortgage Credit Certificates

SB. NO. 3048

Description:
Assists low and moderate income home buyers by providing a state income tax credit equal to or up to 20% of the annual mortgage interest payment.

