

JAN 22 2008

A BILL FOR AN ACT

RELATING TO LOW-INCOME HOUSING TAX CREDITS.

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

1 SECTION 1. Section 235-110.8, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§235-110.8 Low-income housing tax credit.** (a) Section
4 42 (with respect to low-income housing tax credit) of the
5 Internal Revenue Code shall be operative for the purposes of
6 this chapter as provided in this section~~[-]~~, except as provided
7 otherwise in this section.

8 (b) Each taxpayer subject to the tax imposed by this
9 chapter, who has filed ~~[+]a[+]~~ net income tax return for a
10 taxable year may claim a low-income housing tax credit against
11 the taxpayer's net income tax liability. The amount of the
12 credit shall be deductible from the taxpayer's net income tax
13 liability, if any, imposed by this chapter for the taxable year
14 in which the credit is properly claimed on a timely basis. A
15 credit under this section may be claimed whether or not the
16 taxpayer claims a federal low-income housing tax credit pursuant
17 to section 42 of the Internal Revenue Code.

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1 (c) The low-income housing tax credit shall be fifty per
2 cent of the applicable percentage of the qualified basis of each
3 building located in Hawaii. The applicable percentage shall be
4 calculated as provided in section 42(b) of the Internal Revenue
5 Code.

6 (d) For the purposes of this section, the determination
7 of:

8 (1) Qualified basis and qualified low-income building
9 shall be made under section 42(c);

10 (2) Eligible basis shall be made under section 42(d);

11 (3) Qualified low-income housing project shall be made
12 under section 42(g);

13 (4) Recapture of credit shall be made under section 42(j),
14 except that the tax for the taxable year shall be
15 increased under section 42(j)(1) only with respect to
16 credits that were used to reduce state income taxes;

17 (5) Application of at-risk rules shall be made under
18 section 42(k);

19 of the Internal Revenue Code.

20 (e) As provided in section 42(e), rehabilitation
21 expenditures shall be treated as separate new building and their
22 treatment under this section shall be the same as in section

1 42(e). The definitions and special rules relating to credit
2 period in section 42(f) and the definitions and special rules in
3 section 42(i) shall be operative for the purposes of this
4 section.

5 (f) The state housing credit ceiling under section 42(h)
6 shall be zero for the calendar year immediately following the
7 expiration of the federal low-income housing tax credit program
8 and for any calendar year thereafter, except for the carryover
9 of any credit ceiling amount for certain projects in progress
10 which, at the time of the federal expiration, meet the
11 requirements of section 42.

12 (g) The credit allowed under this section shall be claimed
13 against net income tax liability for the taxable year. For the
14 purpose of deducting this tax credit, net income tax liability
15 means net income tax liability reduced by all other credits
16 allowed the taxpayer under this chapter.

17 A tax credit under this section which exceeds the
18 taxpayer's income tax liability may be used as a credit against
19 the taxpayer's income tax liability in subsequent years until
20 exhausted. All claims for a tax credit under this section must
21 be filed on or before the end of the twelfth month following the
22 close of the taxable year for which the credit may be claimed.

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1 Failure to properly and timely claim the credit shall constitute
2 a waiver of the right to claim the credit. A taxpayer may claim
3 a credit under this section only if the building or project is a
4 qualified low-income housing building or a qualified low-income
5 housing project under section 42 of the Internal Revenue Code.

6 Section 469 (with respect to passive activity losses and
7 credits limited) of the Internal Revenue Code shall be applied
8 in claiming the credit under this section.

9 (h) In the case of any qualified low-income housing
10 project placed in service beginning on January 1, 2009, section
11 42(b)(2)(B) of the Internal Revenue Code shall be modified as
12 follows: the percentages prescribed by the Secretary for any
13 month shall be percentages which will yield over a five-year
14 period amounts of credit under subsection (a) which have present
15 value equal to:

16 (1) 70 percent of the qualified basis of a building
17 described in paragraph (1)(A); and

18 (2) 30 percent of the qualified basis of a building
19 described in paragraph (1)(B).

20 (i) In the case of any qualified low-income housing
21 project placed in service beginning on January 1, 2009, section
22 42(f)(1) of the Internal Revenue Code shall be modified as

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1 follows: the term "credit period" means, with respect to any
2 building, the period of five taxable years beginning with:

3 (1) The taxable year in which the building is placed in
4 service; or

5 (2) At the election of the taxpayer, the succeeding
6 taxable year,

7 but only if the building is a qualified low-income building as
8 of the close of the first year of such period. The election
9 under paragraph (2), once made, shall be irrevocable.


10 (j) The director of taxation may adopt any rules under
11 chapter 91 and forms necessary to carry out this section."

12 SECTION 2. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 3. This Act shall take effect on January 1, 2009.

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INTRODUCED BY:


BY REQUEST

Report Title:

Low-Income Housing; Tax Credits

Description:

Reduces the period over which state low-income housing tax credits are taken from 10 years to 5 years.

JUSTIFICATION SHEET

DEPARTMENT: Business, Economic Development and Tourism

TITLE: A BILL FOR AN ACT RELATING TO LOW-INCOME HOUSING TAX CREDITS.

PURPOSE: To make state low income housing tax credits more valuable by shortening the period over which the credits can be taken from ten years to five years.

MEANS: Amend section 235-110.8, Hawaii Revised Statutes.

JUSTIFICATION: The low income housing tax credit (LIHTC) program promotes the development and rehabilitation of low-income rental housing through the use of federal and state LIHTCs. Eligible projects must either set aside 20 percent of units for tenants earning less than 50 percent of the area median income (AMI) as determined by the U.S. Department of Housing and Urban Development (HUD); or 40 percent of units for tenants earning less than 60 percent AMI. The program continues to be a powerful financing tool for affordable rental housing development, especially when awarded in conjunction with state rental housing trust funds.

Currently, both the federal and state LIHTCs are generally governed by the requirements of section 42 of the Internal Revenue Code. The State of Hawaii is allotted a per capital tax credit volume cap, currently \$2,500,000 annually. A dollar-for-dollar credit is given to eligible projects on a competitive basis. The annual federal LIHTC is either 9 percent (competitive tax credits) or 4 percent (non-competitive tax credits) of qualified development costs.

The annual state credit is equal to 50 percent of the federal credit allocation. The LITHCs are taken over a ten year period

by the project owner. The credit is available only on the portion of the project that is set-aside for low-income tenants and may be kept by the owner-developer, or sold to qualified investors/partners to raise equity for the development of the project. The federal LIHTCs are generally worth up to 95 percent of their face value when sold. However, because of the limited market for state credits, owner-developers are getting approximately 35 cents on the dollar for the state LIHTCs. Changes to the state LIHTC could improve their value to finance more affordable rental housing units.

Amending the period over which state LIHTCs are taken from ten years to five years would increase the present value of the credits when sold to investors, and provide a more attractive financing incentive to potential developers of affordable rental housing. This measure directly supports DBEDT's strategic objective to create workforce housing units to support a skilled labor force in Hawaii.

GENERAL FUND: FY2009 - No impact.
 FY2010 - \$(1.25M)
 FY2011 - \$(2.50M)
 FY2012 - \$(3.13M)
 FY2013 - \$(3.25M)

OTHER FUNDS: None.

PPBS PROGRAM
 DESIGNATION: BED 160.

OTHER AFFECTED
 AGENCIES: TAX

EFFECTIVE DATE: January 1, 2009.