

STAND. COM. REP. NO.

1689

Honolulu, Hawaii

APR 05 2007

RE: H.B. No. 1277
H.D. 2
S.D. 3

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fourth State Legislature
Regular Session of 2007
State of Hawaii

Madam:

Your Committee on Ways and Means, to which was referred H.B. No. 1277, H.D. 2, S.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO TAX CREDITS,"

begs leave to report as follows:

The purpose of this measure is to:

- (1) Repeal the attractions and educational facilities tax credit for Ko Olina Resort and Marina, and Makaha Resort; and
- (2) Establish for the Leeward Coast and nearby areas a revitalization tax credit for affordable rental housing and educational and training facilities for the visitor industry and for certain commercial projects.

The tax credit would be used against taxes incurred under chapters 235 (income tax), 237 (general excise), and 237D (transient accommodations), Hawaii Revised Statutes, and would be worth up to \$7,500,000 annually, up to an aggregate of \$75,000,000, for the period starting May 31, 2007, and ending before June 1, 2012.

Your Committee received written comments in support of this measure from the Department of Business, Economic Development, and Tourism; the Department of Taxation; and the Office of Planning. Comments were received from the Tax Foundation of Hawaii.

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Your Committee finds that the income tax credits for attractions and educational facilities for Ko Olina Resort and Marina, and the Makaha Resort, enacted by Act 100, Session Laws of Hawaii 2003, have not been claimed by any taxpayer. Your Committee determines that those tax credits of \$75,000,000 in the aggregate can be redirected to stimulate development of the Leeward Coast.

Your Committee further finds that the development of Ko Olina and the continued strength of the State's visitor industry has expanded the need for affordable workforce housing and training to prepare for the State's future economic growth. Because of the success of Ko Olina, your Committee believes that the tax credits can be redesignated and used to serve and revive the Leeward Coast through affordable rental housing, visitor industry education and training opportunities, and media, film, and music education facilities.

Accordingly, your Committee has amended this measure by:

- (1) Deleting a tax credit for commercial projects, as being overly broad;
- (2) Deleting tax credits for chapters 237 and 237D, Hawaii Revised Statutes, the general excise tax and transient accommodations tax, respectively;
- (3) Making media, film, and music educational facilities established on the Leeward Coast eligible for the tax credit;
- (4) Apportioning the maximum annual income tax credit amounts per category as follows:
 - (A) A maximum of \$5,000,000 of tax credits in the aggregate for all qualified taxpayers that may be used or refunded in any one taxable year for credits earned for affordable rental housing developments;
 - (B) A maximum of \$1,250,000 of tax credits in the aggregate for all qualified taxpayers that may be used or refunded in any one taxable year for



credits earned for educational or training facilities, or both, for the visitor industry; and

- (C) A maximum of \$1,250,000 of tax credits in the aggregate for all qualified taxpayers that may be used or refunded in any one taxable year for credits earned for media, film, and music educational facilities;
- (5) Clarifying that the qualified costs must be expended upon an educational or training facility, or both, for the visitor industry within the Leeward Coast;
- (6) Establishing that the qualified costs must be expended upon a media, film, and music educational facility within the Leeward Coast;
- (7) Providing for a refundable tax credit;
- (8) Deleting the requirement that the taxpayer identify in a certified statement the income tax liability against which the tax credits are claimed;
- (9) Changing the definition of "affordable rental housing" to require:
 - (A) Ninety per cent of the units shall be for rental to households with incomes at or below eighty per cent of the median income for the Honolulu metropolitan statistical area, adjusted for household size, as most recently determined by the United States Department of Housing and Urban Development; and
 - (B) Ten per cent of the units shall be for rental to households with incomes at or below sixty per cent of the medium income for the Honolulu metropolitan statistical area, adjusted for household size, as most recently determined by the United States Department of Housing and Urban Development;
- (10) Clarifying the definition of "Leeward Coast" to mean the geographic area encompassed by the nineteenth and twenty-first senatorial districts as of January 1, 2007, and those lands owned by the Department of Hawaiian Home



Lands within the nineteenth senatorial district as it is defined as of January 1, 2007;

- (11) Clarifying the definition of "qualified costs";
- (12) Adding a proviso that if costs are incurred for such facilities under this section, and not used as an educational facility for a period of not less than eight years, or ultimately, no such facility is constructed, and in the case of affordable rental housing, such facility is not operated as affordable rental housing for a period of not less than thirty years, the costs incurred shall not be deemed as qualified costs and any tax credit claimed shall be recaptured; and
- (13) Clarifying the purpose section.

Your Committee urges the Committee on Conference on this measure to consider keeping the land in perpetuity for affordable rental housing by exploring the concept of a land trust. A land trust would allow the selling of a structure without selling the realty upon which the structure is situated.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1277, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1277, H.D. 2, S.D. 3.

Respectfully submitted on
behalf of the members of the
Committee on Ways and Means,



ROSALYN H. BAKER, Chair



