

Linda Lingle  
GOVERNOR



ORLANDO "DAN" DAVIDSON  
EXECUTIVE DIRECTOR

## STATE OF HAWAII

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND TOURISM  
HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION  
677 QUEEN STREET, SUITE 300  
Honolulu, Hawaii 96813  
FAX: (808) 587-0600

IN REPLY REFER TO

Statement of  
**Orlando "Dan" Davidson**  
Hawaii Housing Finance and Development Corporation  
Before the

### SENATE COMMITTEE ON HUMAN SERVICES AND PUBLIC HOUSING

March 11, 2008, 2:30 p.m.  
Room 016, State Capitol

In consideration of  
**H.B. 3059, H.D. 1**  
**RELATING TO LOW-INCOME HOUSING TAX CREDITS.**

The HHFDC strongly supports H.B. 3059, H.D. 1, which reduces the period over which state low-income housing tax credits are taken from 10 years to 5 years. The low income housing tax credit (LIHTC) program promotes the development and rehabilitation of low-income rental housing by providing equity to developers of eligible affordable housing projects. The program is a powerful financing tool for affordable rental housing development, especially when leveraged with state rental housing trust funds.

The LIHTCs provide a dollar-for-dollar credit against annual income tax liability over a 10 year period. Developers typically sell the tax credits to tax payers/investors to raise equity for the development of a rental housing project. Unfortunately, the sale of State LIHTCs generates less than half of the "equity" than that of the federal LIHTC, or approximately \$0.35 to \$0.50 for every \$1.00 of state credit. By shortening the time period over which the State credits can be taken (i.e., from 10 years to 5 years), the value of the State LIHTC could be enhanced and more equity could be generated for the development of rental housing.

The HHFDC agreed to an amendment to the Senate companion measure, S.B. 2981, S.D. 2, that would modify the applicable percentage of the qualified basis of each qualified low-income building that is placed in service beginning on January 1, 2009. This amendment makes the state housing credit one hundred per cent of the applicable percentage of the qualified basis of each building located in Hawaii; provided that the applicable percentage shall be calculated as provided in section 42(b) of the Internal Revenue Code. The HHFDC respectfully requests that the Committee consider adopting this amendment in this bill. The proposed S.D. 1 is attached for your consideration.

Thank you for the opportunity to testify.

# H.B. NO. 3059

Proposed S.D. 1

---

## 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 42  
4 (with respect to low-income housing tax credit) of the Internal  
5 Revenue Code shall be operative for the purposes of this chapter  
6 as provided in this section~~[-]~~, except as provided in subsections  
7 (h) and (i).

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.

18           (c) The low-income housing tax credit shall be fifty per  
19 cent of the applicable percentage of the qualified basis of each

# H.B. NO.3059

Proposed S.D. 1

1 building located in Hawaii. The applicable percentage shall be  
2 calculated as provided in section 42(b) of the Internal Revenue  
3 Code.

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

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

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

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

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

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

16 of the Internal Revenue Code.

17 (e) As provided in section 42(e), rehabilitation  
18 expenditures shall be treated as separate new building and their  
19 treatment under this section shall be the same as in section  
20 42(e). The definitions and special rules relating to credit  
21 period in section 42(f) and the definitions and special rules in  
22 section 42(i) shall be operative for the purposes of this  
23 section.

**H.B. NO.3059**

Proposed S.D. 1

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

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

13           A tax credit under this section which exceeds the taxpayer's  
14 income tax liability may be used as a credit against the  
15 taxpayer's income tax liability in subsequent years until  
16 exhausted. All claims for a tax credit under this section must  
17 be filed on or before the end of the twelfth month following the  
18 close of the taxable year for which the credit may be claimed.  
19 Failure to properly and timely claim the credit shall constitute  
20 a waiver of the right to claim the credit. A taxpayer may claim  
21 a credit under this section only if the building or project is a  
22 qualified low-income housing building or a qualified low-income  
23 housing project under section 42 of the Internal Revenue Code.

# H.B. NO.3059

Proposed S.D. 1

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

4 (h) In the case of any qualified low-income housing project  
5 placed in service beginning on January 1, 2009, section  
6 42(b)(2)(B) of the Internal Revenue Code shall be modified as  
7 follows: the percentages prescribed by the Secretary for any  
8 month shall be percentages which will yield over a ten-year  
9 period amounts of credit under subsection (a) which have present  
10 value equal to:

11 (1) Seventy per cent of the qualified basis of a building  
12 described in section 42(c) (1) (A) (with respect to  
13 low-income housing credit) of the Internal Revenue  
14 Code; and

15 (2) Thirty per cent of the qualified basis of a building  
16 described in section 42(c) (1) (B) (with respect to  
17 low-income housing credit) of the Internal Revenue  
18 Code.

19 For the purposes of this subsection the state housing credit  
20 shall be one hundred per cent of the applicable percentage of the  
21 qualified basis of each building located in Hawaii; provided that  
22 the applicable percentage shall be calculated as provided in  
23 section 42(b) of the Internal Revenue Code.

# H.B. NO.3059

Proposed S.D. 1

1        (i) In the case of any qualified low-income housing project  
2 placed in service beginning on January 1, 2009, section 42(f)(1)  
3 of the Internal Revenue Code shall be modified as follows: the  
4 term "credit period" means, with respect to any building, the  
5 period of five taxable years beginning with:

6        (1) The taxable year in which the building is placed in  
7        service; or

8        (2) At the election of the taxpayer, the succeeding taxable  
9        year;

10 provided that the building is a qualified low-income building as  
11 of the close of the first year of such period. The election  
12 under paragraph (2), once made, shall be irrevocable.

13        [~~h~~] (j) The director of taxation may adopt any rules  
14 under chapter 91 and forms necessary to carry out this section."

15        SECTION 2. Statutory material to be repealed is bracketed  
16 and stricken. New statutory material is underscored.

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

18

19

# TAXBILLSERVICE

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Low-income housing credit

BILL NUMBER: HB 3059, HD-1

INTRODUCED BY: House Committee on Finance

BRIEF SUMMARY: Amends HRS section 235-110.8 to provide that a low-income housing project placed in service beginning on January 1, 2009, pursuant IRC section 42(b)(2)(B), shall be eligible for the low-income housing credit taken over a five-year period instead of the current 10-year period.

EFFECTIVE DATE: January 1, 2020

STAFF COMMENTS: This is an administration measure submitted by the department of business, economic development, and tourism BED-06(08). The legislature by Act 216, SLH 1988, adopted the federal low-income rental housing credit which was part of the Tax Reform Act of 1986. The credit was enacted to offset the repeal of tax shelters and other incentives to build rental housing under prior law, such as accelerated depreciation, capital gains preference, certain tax-exempt bonds, etc., and to specifically target low-income rentals.

The federal credit is a 70% present value credit for qualified new construction and rehabilitation expenditures which are not federally subsidized, and 30% for those which are federally subsidized. While the existing state credit allows for a credit of 50% of the "applicable percentage of the qualified basis" allowed under federal law taken over a period of 10 years, the proposed measure would shorten it to five years. The justification sheet submitted with this measure states that by shortening the time period over which the low-income housing tax credits are taken it would increase the present value of the credits when sold to investors. This would, the justification argues, provide a more attractive alternative financing incentive to potential developers of affordable rental housing.

While this is just one incentive to encourage developers to build affordable housing, consideration should be given to a number of strategies including debt financing, partnerships with financial institutions who could then turn around and sell the credits, and the use of federal debt financing.

Digested 3/10/08



**Hawaii  
Association of  
REALTORS®**  
www.hawaiiirealtors.com

The REALTOR® Building  
1136 12<sup>th</sup> Avenue, Suite 220  
Honolulu, Hawaii 96816

Phone: (808) 733-7060  
Fax: (808) 737-4977  
Neighbor Islands: (888) 737-9070  
Email: har@hawaiiirealtors.com

---

March 8, 2008

**The Honorable Suzanne Chun Oakland, Chair**  
Senate Committee on Human Services and Public Housing  
State Capitol, Room 229  
Honolulu, Hawai'i 96813

**RE: H.B. 3059, HD1 Relating to Low-Income Housing Tax Credits**  
**Hearing Date: March 11, 2008 @ 2:30 p.m., Room 016**

On behalf of our 10,000 members in Hawai'i, the Hawai'i Association of REALTORS® (HAR) **supports H.B. 3059, HD1** which reduces the period over which state low-income housing tax credits are taken from 10 years to 5 years.

We believe Smart Growth is our road map to sustaining and enhancing the quality of life in our communities and we believe that this bill aligns with our core principle of *providing housing opportunities*.

HAR has historically supported mechanisms to help increase the supply of low and moderate income affordable housing such as the Rental Housing Trust Fund Program which can help integrate the use of mixed-income and mixed-use projects, special purpose revenue bonds, low-interest loans, block grants, low-income housing tax credit programs and deferred loan programs to provide rental housing opportunities.

Amending the period over which state low-income housing tax credits 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.

HAR looks forward to working with our state lawmakers in building better communities by supporting quality growth, seeking sustainable economies and housing opportunities, embracing the cultural and environmental qualities we cherish, and protecting the rights of property owners.

Mahalo for the opportunity to testify.

Sincerely,

Craig Hirai, Member  
Subcommittee on Taxation and Finance  
HAR Government Affairs Committee



**Castle & Cooke**  
Hawai'i



100 Kahalu Avenue  
Mililani, Hawaii 96789-3997  
P.O. Box 898900  
Mililani, Hawaii 96789-8900  
(808) 548-4811 Fax (808) 548-6670

March 11, 2008

To: Honorable Suzanne Chun Oakland, Chair  
Senate Committee on Human Services and Public Housing

Fr: Bruce Barrett, Executive Vice President of Residential Operations  
Castle & Cooke Homes Hawaii

Re: **HB 3059, HD1- Relating to Low-Income Housing Tax Credits – SUPPORT**

**Senate Committee on Human Services and Public Housing**  
**Tuesday, March 11, 2008 - 2:30 p.m., Conference Room 016**

On behalf of Castle and Cooke Homes Hawaii, we would like to offer our testimony in support and our comments in regards to HB 3059, HD1.

The lack of housing inventory and supply for a wide range of housing needs plagues the industry. By providing an important financing tool, this bill supports the production of low income rental housing, which is a vital component for the overall housing supply.

The Low-Income Housing Tax Credit program is a critical tool of the State's program to produce low income affordable rental housing. Along with federal tax credits, this credit offers a significant boost in helping to finance the development of lower rent affordable rental projects.

For these reasons we ask you to support the passage of HB 3059, HD1.

Should you have any questions, feel free to contact me at 548-3746 or Carleton Ching, Vice President of Government and Community Relations, at 548-3793.